Committee Members Present

John Garamendi, Lieutenant Governor, Chair
Michael Genest, Department of Finance, represented by
   Tom Sheehy, Commissioner
John Chiang, State Controller, Commissioner

Staff Present

Paul Thayer, Executive Officer
Curtis Fossum, Chief Counsel
Mary Hays, Land Management Division
Judy Brown, Land Management Division
Eric Gillies, Staff Environmental Scientist, Division
   Of Environmental Planning and Management
Barbara Dugal, Chief, Land Management Division
Greg Scott, Chief, Mineral Resources and Management
   Division
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CHAIRMAN GARAMENDI: Good morning, all. I'm Lieutenant Governor John Garamendi, current Chair of the State Lands Commission. We have an interesting schedule for the day. We just had a discussion about how to modify that schedule, and so let me start with some instructions about how we're going to proceed.

We're going to take up the consent file first after hearing from Mr. Thayer, as is our normal practice, and then around 11:00 o'clock, no earlier than 11:00, possibly 11:15, we'll take up the PXP issue. And, so, for those of you that are interested in that issue, and judging from the number of cards I've received in sign-in, there are significant numbers of you that would like to discuss that PXP proposal. So, we will start, as is our normal practice.

I call this meeting to order. All the representatives of the Commission are present. I'm Lieutenant Governor John Garamendi. Controller John Chiang is here and also Tom Sheehy, Chief Deputy Director of the Department of Finance.

For those of you in the audience that are not aware, the State Lands Commission administers properties owned by the state, the people of California as well as its mineral interest. Today we will hear proposals
concerning the leasing and management of those public properties.

ITEM II CONFIRMATION OF MINUTES OF THE APRIL 9, 2009 MEETING

The first item of business will be the adoption of minutes from the Commission's last meeting. I assume we've all read those, and if there's a motion, we will adopt those minutes.

MR. SHEEHY: Move approval.

MR. CHIANG: Second.

CHAIRMAN GARAMENDI: Without objection, those are approved. The next order of business is, as normal, our executive officer, Mr. Thayer, could you please give us your report.

ITEM III EXECUTIVE OFFICER’S REPORT

MR. THAYER: Thank you and good morning, Mr. Chair and members of the Commission. I only have two items to report on.

First, as we discussed both at our last meeting and I think between our offices and staff over the intervening time, we've been concerned about obtaining a signature and the proper amount of revenue or rental from Chevron to the Richmond Long Wharf. I'm happy to report on Friday that the lease was signed and the money was
wired, so the state has another $8 million now that we've settled that transaction.

CHAIRMAN GARAMENDI: Excuse me. They actually sent the money?

MR. THAYER: Yes, sir.

CHAIRMAN GARAMENDI: Any idea why they delayed so long?

MR. THAYER: But I would almost want them to answer that question. I think it's a case of the real estate department (inaudible) and they wanted their attorneys to look at it or whatever.

CHAIRMAN GARAMENDI: Nothing to do with the fact that at least two or three members of this Commission decided they were going to pull the lease if we didn't get the money?

MR. THAYER: That point had been made very strongly to them in the last month, and it was clear that that had an impact.

CHAIRMAN GARAMENDI: Thank you. Continue on, please.

MR. THAYER: The second item I'll point out is that this is being webcast, this Commission meeting. It's not our 100 percent practice to do so. It costs a fair amount of money to do it but -- thank you -- but in light of the interest in the Venoco matter on the calendar, as
well as the resolution in regard to the May revision to
the budget that would deal with the Commission's decision
in January regarding the PXP proposal for a lease at
Tranquillon Ridge. We decided to go ahead and do this and
so AGP is here in the room and is webcasting. Copies of
this will always be available at the State Lands
Commission as well as at the AGP website, and it's being
live cast, as well, through all three Commissioners'
websites as well as the State Lands Commission.

MR. SHEEHY: Question of staff?

MR. THAYER: Yes.

MR. SHEEHY: Are we going to broadcast all of
our meetings in the future?

MR. THAYER: I would like to do that, but we're
still not sure that we've got the funds to do that, so at
this point we're mostly -- this is only the second one
we've done, and we've looked to the ones where it would
appear there would be the broadest public interest.

MR. SHEEHY: Well, I think it's an excellent
opportunity for us to be transparent in our dealings and
I'm not sure I know how this thing works.

UNIDENTIFIED SPEAKER: Button on the left,
bottom of the microphone.

MR. SHEEHY: Can you hear me now?

UNIDENTIFIED SPEAKER: Yeah.
MR. SHEEHY: It's this one, right? Am I on?

Testing.

All right. Is it on? Red light means it's on, but it's not on.

UNIDENTIFIED SPEAKER: I'm not hearing you. All right. Try the next -- it's this button right here.

MR. SHEEHY: Okay. So this one works. I'll just have to use this one.

Any ways, I think it's great that we're doing it. It shows a lot of transparency. My only request would be since it's going to be hit and miss, some are going to be televised and some aren't, I think the Commissioners and their offices should have a heads up on what the plans are going forward. I think it's great, just took me by surprise today, but I think it's good that we're doing it.

MR. THAYER: Good point, and we'll make sure that we consult with the commissioners' offices before the meeting.

CHAIRMAN GARAMENDI: Very good. Continue on, Paul.

MR. THAYER: And that -- those are the two items that I wanted to bring up during the executive officer's report.
CHAIRMAN GARAMENDI: Okay. I notice there are other items from previous meetings that will be taken up a little later as we get into the agenda.

MR. CHIANG: But, I'd like to add --

CHAIRMAN GARAMENDI: Yes.

MR. CHIANG: Paul, I’m just very interested in the issue of the rise in sea levels and the -- I'm very interested in having a survey conducted to see the state of preparedness for the State of California, so if you can engage and go forward with some type of survey, and I'd appreciate it if you'd work with my office and certainly any other members' offices who are interested, I think it has tremendous implications for California's economic and social future. Clearly it has implications globally, and I just think we need to be better prepared.

MR. THAYER: Your staff, Ms. Aronberg had raised this issue with me as well a couple days ago, and we'll look towards doing a survey. I think -- I see a couple of good purposes for that. The first would be to see what the state of readiness is amongst the grantees, with your own Commission staff and also to see if there's some innovative ideas of the different reports we're taking deal with the sea level rise, what sort of engineering accommodation are they doing, that kind of thing, and if we can put it together in a staff report, which we would
bring back to the Commission as a public hearing, it would
provide an opportunity to publicize those and of course
we’d send a copy of that report around to the different
grantees.

MR. CHIANG: Thank you, Paul.

MR. THAYER: I would anticipate probably in
December. This isn't going to be a small matter. We want
to do this one right.

CHAIRMAN GARAMENDI: Controller Chiang, thank
you. That's a very, very good point. The Ocean
Protection Council has done a lot of work on this, and a
good starting point. I know, Paul, you were there at the
hearing when that came up. Good.

ITEM IV CONSENT CALENDAR C01-C64

CHAIRMAN GARAMENDI: Okay. We now have before
us the consent calendar. Does any member want to remove
or talk about any item on the consent calendar?

Tom?

MR. SHEEHY: Mr. Chairman, I would move approval
of the consent calendar if there's no public comment.

MR. CHIANG: I will second.

CHAIRMAN GARAMENDI: We have a motion with a
second. Without objection, it will be a unanimous vote.
And so be it, unanimous vote on the consent calendar.
Now on to the regular agenda items. The first one up is Venoco, and so let's deal with that. There are several things we want to talk about here, first the staff presentation and then speakers. I'd like to hear from Venoco on this one and then we will see in the meantime if we have anybody from the audience that wants to take it up. So, let's go on to the staff presentation. Paul?

MR. THAYER: Thank you, Mr. Chair. Judy Brown will lead off with a presentation from the Land Management Division and Eric Gillies will review the environmental impact report that was done for that.

MS. BROWN: Good morning, Mr. Chairman and Commissioners.

Let's see. I'm not sure if I'm on.

CHAIRMAN GARAMENDI: We're all going to learn how to use these microphones by the end of the day.

MS. BROWN: Is it the top one here? These are different.

MR. THAYER: While they're working on that, Mr. Chair, I wanted to acknowledge the City of Santa Monica for making their City Hall Chambers available to us. We've only met here once before, and it's a great location for us in that it's not far from the airport and also gives folks an opportunity from Santa Barbara who are interested in the Venoco matter to come down.
MS. BROWN: Okay. We'll try it again. Good morning, Mr. Chairman and Commissioners. My name is Judy Brown, and I'm a member of the Commissions Land Management Division.

Alicia, the first slide, please.

Calendar Item 65 is the consideration of a lease renewal to Venoco, Inc. for operation, use and maintenance of the existing Venoco Ellwood Marine terminal, located off-shore Goleta in Santa Barbara County.

Staff understands that there has been some uncertainty with regard to the complex legal status of the lease. The final EIR correctly reflects that Venoco has exercised its last ten-year renewal option to extend the lease term for the period of March 1, 2003, through February 28th, 2013.

What is before the Commission is the consideration of new terms and conditions to be added to the lease as provided under the renewal provisions of the lease. The Ellwood Marine Terminal consists of the 2,530 foot long submarine loading pipeline, petroleum product pipeline and a six-point industrial mooring system that has been previously approved by the Commission and in operation since the 1930's.

The Ellwood Marine Terminal handles all of the oil produced by Venoco from wells on Platform Holly, which
is transported through the existing sub-sea pipeline with
an oil and gas lease PRC3242 to the Ellwood on shore
facility for processing. Once the oil is processed, it is
sent to the Ellwood Marine Terminal through a pipeline,
line 96, that is owned and operated by Ellwood Pipeline
Inc.

At the Ellwood Marine Terminal on-shore facility
oil is stored in two tanks and then is pumped into a
pipeline known as the Ellwood Marine Loading Line to the
off-shore marine loading connection where it is loaded on
to the barge Jovalan. The barge Jovalan was built in 1979
and has been operating at the Ellwood Marine Terminal
since the 1980's. Under the existing permits issued by
the County of Santa Barbara Air Pollution Control
District, the barge Jovalan is the only barge with
approved vapor recovery technology and is consequently the
only barge permitted to transport oil from the Ellwood
Marine Terminal.

Approximately two times monthly, the barge
Jovalan is loaded with approximately 52,777 barrels of
crude oil for transport to either Long Beach or San
Francisco. The loading process takes 13 to 17 hours to
complete. The barge Jovalan is an aging single-hull barge
with a maximum capacity of 56,000 barrels of petroleum
product.
Public Service Marine, a subsidiary of Harley Marine Services, is the owner and a co-operator of the barge Jovalan. Venoco is the other operator, using the barge under charter from Harley Marine. Harley Marine Services has indicated that the charter for Venoco's use of the barge Jovalan will end in March 2010 and that it intends to take the barge Jovalan out of service for the transport of oil in US waters at that time.

Staff further understands that Venoco has signed a contract with Harley Marine Services to replace the barge Jovalan with a modern double-hulled barge with a vapor recovery unit. It should become available for use sometime in late spring, early summer 2010.

Commission staff understands that Venoco has submitted an application to Santa Barbara County to construct a pipeline from the Ellwood on-shore facility to the All American Pipeline at Las Flores Canyon. Based on Commission staff's preliminary discussions with staff of Santa Barbara County about Venoco's application for the construction of a pipeline, the county intends to complete a CEQA document by the end of 2009 or early 2010.

If the county approves Venoco's application to construct the pipeline, the Commission would not have to take another action on that project. However, the commission would need to consider a future CEQA analysis.
for the decommissioning and removal of the Ellwood Marine Terminal.

Highlights of the staff recommendation for the renewal agreement before you today include the following:

One, an increase in annual rent from $47,043 to $70,650 beginning March 1, 2007. Venoco's early cessation of the use of the marine terminal if a pipeline is constructed from the Ellwood on-shore facility to the All American Pipeline located at Las Flores Canyon, which would then allow the delivery of petroleum products other than through the use of the Ellwood Marine Terminal and barge.

Three, Venoco's replacement or conversion of the barge Jovalan with a double-hulled barge or construction of a pipeline by the end of 2010. Four, Venoco's submittal of an application to decommission the marine terminal within 90 days of construction and use of an on-shore pipeline but not later than six months prior to expiration of the lease term, which happens to be February 28th, 2013.

Venoco's compliance with any and all applicable regulations and requirements governing marine oil terminal operations, engineering and maintenance, Venoco's compliance with the mitigation monitoring program that is included within the staff report in front of you and labeled Exhibit C. And seven, Venoco's indemnification of the commission from liability for any matter related to
the lease or its issuance. This concludes my presentation.

CHAIRMAN GARAMENDI: Paul? Further thoughts?

MR. THAYER: Next up, the other half of the presentation will come from Eric Gillies who worked on the environmental impact report.

MR. GILLIES: Thanks, Judy. Good morning, Mr. Chair and members of the Commission. I am Eric Gillies -- Can you hear me okay? I'm Eric Gillies the staff environmental scientist with the division -- the commission's division of environmental planning and management. At the time that Venoco's application for the lease renewal was submitted in 2003, a determination was made to prepare an environmental impact report in order to comply with California Environmental Quality Act or CEQA. The first process was initiated on July 14th, 2004, for circulation of the Notice of Preparation thus establishing the CEQA baseline.

In support of this notice, a public scoping meeting was held in the city of Goleta on August 3rd, 2004. Federal, state and local agency representatives, as well as public interest groups and other interested parties were invited to participate in this portion of the CEQA process. A draft EIR was prepared and circulated for review on August 1st, 2006 for a 45-day review period. On
August 30th, 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 August 12th, 2007, a final EIR was released. It was after the release of the final EIR in 2007 that Venoco asserted that mitigation measure HM9A was economically infeasible. That measure would require Venoco to replace the current single-hulled barge The Jovalan with a double-hulled barge within 18 months of lease renewal. This measure was designed to mitigate the impact risk of spills due to potential hull penetration. Venoco provided information indicating that this could be too costly as recovery of the replacement barge cost would not be realized due to the short-term left on the lease.

In addition, Venoco asserted that construction and permitting a new barge could require more than two years, which would further lessen the mitigation effectiveness. Public Service Marine, the owner of the barge Jovalan essentially substantiated the cost associated with this construction of a new double-hulled barge as well as a two-year lag time. Based on this information, commission staff determined that mitigation measure HM9A was not feasible and revised the mitigation measure.
As a result of determining this infeasibility the impact of spills due to hull penetration could no longer be considered a significant impact that could be mitigated to a less significant level, Class II impact. Instead, the impact had to be considered a Class 1 significant impact. Because the severity of this impact would increase to a Class I impact, Commission staff determined that the changed constituted significant new information and warranted recirculation of the hazards, hazardous materials section of the draft EIR.

In addition, since completion of the draft EIR in 2006, additional requirements for the analysis of greenhouse gas emissions under CEQA have been implemented in California. Therefore, changes to the air quality section were included in the recirculated draft EIR to provide interested parties with an up-to-date and detailed analysis on greenhouse gas emissions from the Marine Terminal operations.

The analysis also included incorporating into the project mitigation measure AQ4A, to offset any additional greenhouse gas emissions that could occur over baseline conditions. The baseline at the time of the notice of preparation was prepared in 2004 was two barge loadings, among or about 4400 metric tons of carbon equivalent emissions. Venoco's current operation is still
two barges a month. However, should Venoco increase barging operations, measures were identified in the EIR that would require offsetting any associated increases in greenhouse gas emissions. This would be verified as part of the annual audit within the mitigation monitoring program.

With this information, a recirculated draft EIR was released on December 10th, 2008, for a 60-day public review period. Public meetings were held on the recirculated draft and the City of Goleta approved it on January 28th, 2009.

As a result of the public review process for the recirculated draft EIR, Harley Marine Services, the parent barge company of Public Service Marine, contacted commission staff and provided that a double-hulled barge is feasible and it is Harley Marine's intention to replace the barge Jovalan with a double-hulled barge in 2010.

This subsequent information was confirmed in a meeting on March 11th, 2009, among Venoco, Harley Marine Services and Commission staff as well as the letter dated March 24th, 2009. More recently, Venoco signed a contract with Harley Marine for a modern double-hulled vessel, which we are told should be available late spring, early summer 2010. So while a double-hulled barge does not
eliminate the possibility of an oil spill due to hull penetration, it significantly reduces the potential.

In addition, Venoco recently submitted an application to the County of Santa Barbara to modify the existing Line 96 to transport oil to the All American Pipeline at Las Flores Canyon, which would result in the elimination of the marine terminal. The completion of this pipeline project is anticipated to be mid to late 2010. As a result, the commission staff now finds that mitigation measure HM9A is feasible and the final EIR reflects this clarification.

The current final EIR before you was prepared and released on April 30th of 2009 and addresses all the comments and issues that were raised during the public review period of both the 2006 draft EIR and the recent 2008 recirculated draft EIR. Specifically, the final EIR finds that accidental -- if we were to get to Slide 2, please -- accidental spills from EMT loading line or barge would cause significant adverse environmental effects. Impacts from possible accidental oil spills are identified in analysis for safety, biological resources, fisheries, water quality, land use recreation and visual resources. About 30 percent of the total impacts were considered Class I significant impacts and are attributed to the potential oil spill risk in the barging operations.
I guess Slide 3. The safety features inspection and maintenance and emergency response practices proposed in the final EIR would reduce impacts related to accidental oil spills below baseline levels. However, due to the inherent possibility of an oil spill, they still remain significant.

Some of the proposed features and procedures include enhanced monitoring and inspection of all terminal operations, enhanced maintenance program of the crude oil storage tanks, modifications to the loading line operations to better detect and prevent any oil spills, and replacing the Jovalan with a double-hulled barge or constructing a pipeline within 18 months of lease renewal. A comprehensive set of mitigation measures was included as Exhibit C to the calendar item. These mitigation measures would reduce the severity or frequency of an accidental oil spill. These measures also include developing skilled response for notification procedures, for the protection of biological resources, waterways, fisheries, ground water and ensuring proper leak detection.

Although accidental spills are a significant concern of the marine terminal, another issue pertaining to the marine terminal is odor complaints. The Santa Barbara County Air Pollution Control District conducts regular investigations to determine if odor complaints are
associated with Venoco's facilities. Due to historic odor complaints, the county APCD issued an abatement order in 1999, targeted at reducing, eliminating nuisance odors from Venoco's facilities, including the marine terminal. The main measure pertaining to the EMT as part of the abatement order are documented in the final EIR and have been implemented to lessen odors from the terminal operations. The EIR analyzed odor complaint investigations and due to the presence of natural oil seeps in the location of the barge mooring area found that it was not conclusive that the odors originated from the barge operation. Also, the specialized vapor recovery unit on the barge has been employed to mitigate any odor problems from the operations. However, the EIR found that any increase in barging operations can have a potential increase in nuisance odor events. Therefore, the final EIR identifies additional measures, AQ2A and AQ2B that will provide for additional odor monitoring and emission control devices on the storage tanks and barge to further reduce the impact of odor to less than significant levels.

As previously mentioned in Judy's presentation, the commission staff was advised by the Attorney General's office that Venoco's lease had not expired since Venoco had exercised their right to renew their lease for an additional ten-year term. The current action before the
The purpose of the EIR is to determine what the reasonable terms and conditions of the lease renewal should be. This limited the scope of alternatives that could be evaluated in the EIR. The alternatives identified in the EIR was there was no project, alternatives as required by CEQA, meaning a halt to operations at the terminal. Venoco then had two options, transport the oil by truck or transport of oil by pipeline, both of which were analyzed in the EIR.

Can I get that last -- Alicia, the last slide? Okay. Now, several actions are before you today that involve the EIR. First, we are requesting that the commission certify the EIR and adopt the associated mitigation monitoring program. Since the EIR identified a number of significant environmental effects, we are also asking that you adopt the findings that have been prepared as required by the CEQA. And finally, there are a number of significant Class I impacts identified in the EIR, primarily associated with the risk of an oil spill that cannot be mitigated to a less than significant level. So as CEQA requires approving the lease renewal for the continued operation of the main terminal, the Commission...
must adopt the statement of overriding considerations, and this is provided as Exhibit E to the calendar item, and that concludes my presentation. Thank you.

MR. THAYER: That concludes staff's presentation.

CHAIRMAN GARAMENDI: Paul, as we go through this, we'll hear from the public here in a moment, but I find that there are several things that the Commission needs to do with regard to the Venoco proposal, and I'm trying to go through the documents here and to get some sense of all of those actions that we need to take, so if you could get to us the specifics.

Let's now go to the --

MR. SHEEHY: I'm sorry. Can we ask questions of staff before we go to public comment?

CHAIRMAN GARAMENDI: Of course, Tom.

MR. SHEEHY: Thank you, Mr. Chairman.

Thank you, both Mr. Gillies and Ms. Brown for your presentation. The recommendation on the lease is if that -- I'm sorry. I'm sorry.

The recommendation -- staff recommendation on the lease includes some additional requirements, some safety requirements for the infrastructure and has a requirement to have a double-hulled barge within 18 months; is that right?
MR. GILLIES: That's correct.

MR. SHEEHY: What is the reason for the 18-month delay?

MR. GILLIES: Initially, it was the delay was to get a barge constructed. It was the estimate -- estimated to be 18 months to construct a new barge.

MR. SHEEHY: Okay. So --

MR. GILLIES: And that was the original mitigation measures.

MR. SHEEHY: Is it still going to take 18 months to build that barge?

MR. GILLIES: Correct. That's why it won't be ready until next summer as we understand it.

MR. SHEEHY: Okay. So, Harley Marine that currently operates the Jovalan, they cannot put a double-hulled barge in service any time sooner than 18 months?

MR. GILLIES: Venoco has submitted that application to use the Olympic Spirit, which is a another Harley Marine Service vessel, to use that as a backup if Jovalan goes out for repairs, and that's a double-hulled barge.

MR. SHEEHY: So, that's a double-hulled barge that's available immediately?

MR. GILLIES: No, that is under -- 100 percent contract under Tesoro as I understand it.
MR. SHEEHY: Okay.

MR. GILLIES: But Tesoro would have an agreement with Venoco to use that if the Jovalan was not available.

MR. SHEEHY: I see. All right. All right.

Well, I -- I just think that, you know, if there's anything that we could do to encourage them to go to the double-hulled barge sooner, that would certainly be in our best interest to protect the environment.

MR. GILLIES: Yes, and we actually modified their mitigation record to include or construct a pipeline, which Venoco is, as I mentioned, has an application to the county, and it's their intention to get the pipeline in before the 18 months, therefore eliminating barging altogether.

MR. SHEEHY: Okay. Thank you. I had another question, another topic was just on the nitrogen oxide emissions. Now, I understand from the EIR and looking at AQ1 now that the increase in nitrous oxides associated with this project would be 25 tons per year; is that accurate?

MR. GILLIES: This is AQ-1?

MR. SHEEHY: Um-hmm.

MR. GILLIES: I'm sorry. What was the question?

MR. SHEEHY: I understand from the EIR that the estimate on increased annual nitrogen oxides or NOX
emissions due to this project is a 25-ton increase over baseline annually.

MR. GILLIES: Um-hmm.

MR. SHEEHY: How -- how is Venoco planning to mitigate that increase over the baseline?

MR. GILLIES: May I direct this to our consultant, Paul?

MR. RADIS: Certainly.

MR. GILLIES: Steve, can you provide a -- Steve Radis is with MRS and he's the consultant that helped us prepare the EIR.

MR. RADIS: The potential increase in nitrogen oxide emissions is based on full utilization of the terminal under their permit conditions. There's nothing about this project before you today that would cause any increase at all. They would continue to operate. If they were to produce more oil from their existing facilities, there is that potential increase, but it's likely that the increase will be probably close to zero, but in either event, it was less than thresholds of the local Air Pollution Control District, so therefore it was not mitigated.

MR. SHEEHY: Okay. I just want to make sure I understand though, because I'm looking at page 20 on A Q-1 and it says: "The increase in annual nitrogen oxide
emissions due to the proposed project would be above the significance threshold of 25 tons per year.” So it's just a de minimus increase, is that the --

MR. RADIS: Right, and the threshold that the district uses is actually a peak daily threshold, which obviously wouldn't change with the project. What we did was added a second threshold, looking at annual emissions, and then we did add mitigation, which limited some equipment usage to get below the threshold.

MR. SHEEHY: Now, I understand that one of those mitigations is to reduce from the potential of 88 trips per year to San Francisco down to 14?

MR. RADIS: Correct.

MR. SHEEHY: Who's going to enforce that?

MR. RADIS: Um --

MR. SHEEHY: How do we know that they would actually reduce their number of trips and thereby get the reductions in the NOX emissions that you’ve cited here in your report?

MR. RADIS: They actually submit all of their fuel use and traffic data to the State Lands Commission and the Air Pollution Control District.

MR. SHEEHY: So the State Lands Commission staff will be in a position to enforce this; is that right?
MR. THAYER: Yes, but I think the primary enforcement is from the Air Pollution Control District; isn't that right?

MR. RADIS: Correct.

MR. THAYER: And that they are operating pursuant to approvals from them and that that would have -- they would have to mitigate for any -- any emissions that are above the thresholds that the Air Pollution Control District has.

MR. RADIS: That's correct.

MR. SHEEHY: Okay. So it's going to be Air Pollution Control District that's going to make sure that they don't do the extra trips; is that right?

MR. RADIS: Right.

MR. SHEEHY: They’re going to have something out there checking their logs on a monthly basis?

MR. RADIS: The logs are actually submitted to the Air Pollution Control --

MR. SHEEHY: And so it's public records?

MR. RADIS: Yes.

MR. SHEEHY: Okay. And then also that was my same question with regard to one the mitigations measures involved, let's see here, it says retrofitting engines on the tugs and getting more efficient tug engines.

MR. RADIS: Correct.
MR. SHEEHY: Now, is that under Venoco's control or is that one of their vendors?

MR. RADIS: It's their vendors, and they would have to require if their vendors want to be a vendor to provide cleaner burning engines.

MR. SHEEHY: And it would be the same enforcement agent that would make sure that that took place?

MR. RADIS: Correct.

MR. SHEEHY: Okay. Then I had a question about the greenhouse gas emissions and how Venoco was planning to mitigate those. Could you describe that please?

MR. RADIS: Again, under the maximum utilization of the terminal, they would have a substantial increase in greenhouse gas emissions. The way they would reduce that would be either purchase emission reduction credits from somebody or implement programs that would result in an equivalent savings. The way the requirement is written is they will submit annual emission inventories to the Air Pollution Control District, and then provide their proposed mitigation to the district to be verified by both the district and the climate registry.

MR. SHEEHY: So, their -- their ability to -- or their -- the measurement of their mitigation of the
greenhouse gas or gases will also be enforced by the local air quality district; is that right?

MR. RADIS: Correct.

MR. SHEEHY: Okay. That's all I have at this time, Mr. Chairman, thank you.

CHAIRMAN GARAMENDI: Thank you very much.

Further questions?

Let's move on then to the witnesses that wanted to speak to this issue. I have Chris Henson from the Santa Barbara County area and Steve Dyer of Venoco. And also Linda Krop.

I think what I'd like to do here is hear from the county first and then from Venoco. Well, let's take Linda Krop, then we'll wrap with Venoco. We'll have all the issues on the table at that time. Very good.

MR. HENSON: Lieutenant Governor, Commissioners, good morning, my name is Chris Henson, and I'm chief of staff to Santa Barbara County supervisor Doreen Farr. The Ellwood Marine Terminal actually is situated within the Third District, which is my boss's district. I'd like to read to the public a letter submitted to the State Lands Commission. I believe you have this from the Santa Barbara County Board of Supervisors: "Dear Chairman Garamendi: The Ellwood Marine Terminal operation carries a high and unnecessary risk of damage to the marine
environment from an oil spill. This terminal loads up to 55,000 barrels of crude oil onto the single-hulled barge Jovalan, approximately 25 times per year even though an over-land pipeline, alternative can feasibly accomplish this task with substantially less risk to the environment. Accordingly Santa Barbara County requests your Commission to take two critical actions: One, to terminate the operation of the Ellwood Marine Terminal as soon as legally allowable, and, two, direct removal of the off-shore mooring immediately thereafter. Santa Barbara County has long understood that overland pipeline is the environmentally superior mode of transporting off-shore crude oil to refineries. In 1985, the county adopted policy and regulations to require over-land pipeline transportation for new off-shore production.

Subsequent installation of major over land pipeline now provides six times the needed capacity to transport all off-shore oil production. Venoco's operation is the last remaining marine crude oil terminal on the Central Coast. All other producers off shore of Santa Barbara County have long switched to overland pipeline to remove crude oil to refineries and all other marine terminals have been decommissioned. In 1990, the county changed the land use and zoning designations of the Ellwood Marine Terminal's on-shore site, converting it to
illegal, non-conforming use. This action prohibits the
expanded use of the terminal beyond that vested under pre-
existing permits and seeks its eventual elimination.

The EIR for this lease renewal clearly indicates
that overland pipeline is environmentally superior, as
noted on page 4.2-76 of the public draft. “Risk from oil
transportation by pipeline are the lowest of any form of
transportation.” Additionally, Table 3-3 and supporting
text in the final EIR show that pipeline alternative to be
substantially superior to continued marine barging. We
urge your commission to renew the lease only for the
period of time necessary for Venoco to install suitable
pipeline, alternative to barging. If, however, your
commission determines that it is legally bound to renew
the lease, your action should restrict continued barging
to a double-hulled barge such as the Olympic Spirit and
further direct Venoco to replace barging with a pipeline
option as soon as it can be permitted and installed.
Thank you for your consideration, respectfully submitted
Santa Barbara County Board of Supervisors.”

Thank you.

CHAIRMAN GARAMENDI: If you'll stay there a
second, previous testimony indicated that the pipeline
option is now before the Santa Barbara County. Could you
give us a status report from the county's perspective of where that permit is?

    MR. HENSON: You know, I'd have to find out for you, Lieutenant Governor, I do not know offhand.

    CHAIRMAN GARAMENDI: Could you please do so in the next 20 minutes?

    MR. HENSON: Sure. Yeah.

    CHAIRMAN GARAMENDI: I think somebody may know behind you.

    MR. HENSON: Yeah, I think that’s probably true.

    CHAIRMAN GARAMENDI: Okay. Do you have an answer to the question?

    MR. GILLIES: Yes, I do. Venoco submitted an application on May 13th, 2009, and right now they're in the 30-day application review phase, and so we will review the application for thoroughness and so that's where it is, and then once it's deemed complete, then the next step for the county would be the lead agency, as we understand it under CEQA to prepare an environmental document.

    CHAIRMAN GARAMENDI: Very good. Now I'm going to ask Venoco the same question. Thank you.

    MS. KROP: Thank you and good morning. My name is Linda Krop, chief counsel of the Environmental Defense Center. Here today on behalf of four groups from Santa
Barbara County, Sierra Club Los Padres Chapter, Get Oil Out, Citizens Planning Association and Citizens of Goleta Valley. On behalf of our clients, we urge the Commission to require Venoco to transport its oil by pipeline. Venoco is the only producer in the state that does not transport its oil strictly by pipeline. You do have the authority to require this condition. As noted in the final EIR, the original lease for the marine terminal expired in 1993, and as the staff report points out, the terminal has been operated in a hold-over status.

Therefore, Venoco's application in 2003 imposes upon you the discretion to analyze impacts under CEQA as well as to adopt any feasible mitigation measures or alternatives. Under CEQA, an EIR was prepared that identified 11 Class I or unavoidable impacts.

The EIR also identified the pipeline, alternative as the environmentally superior alternative. We know it’s a feasible alternative because Venoco has applied for an application, plus it’s the same application that Venoco submitted as part of the full field project and there's already been a draft environmental impact report on that pipeline project, so we know that's feasible. It's already, you know, received some environmental review and can be reviewed by the agencies in a timely manner. Under CEQA and your commission has a
substantive mandate to adopt any feasible alternatives that will avoid or reduce significant impacts, and the pipeline in this case will avoid or reduce all of the 11 Class 1 impacts. Therefore, you must impose that condition. You cannot approve the project with a statement of overriding considerations if it's feasible to avoid the impacts in the first instance.

We therefore request that the lease be granted for a limited term so that a pipeline can be constructed. We do acknowledge that a double-hulled barge has been identified as a mitigation measure, but a double-hulled barge does not avoid or reduce the risks of an oil spill like a pipeline. You can still have spills during loading. You can still have spills if there is a collision. You can still have air quality and odor impacts as well. So, the pipeline is really the only, alternative that will reduce impacts and get us moving in the right direction literally. Thank you very much.

CHAIRMAN GARAMENDI: Question?

Question counsel on this one. Ms. Krop said that we can demand or that we must demand that a pipeline be constructed, can we have a discussion about whether she's right or not?

MR. FOSSUM: Based on not only internal legal advice from your staff but also the Attorney General's
office, the conclusion was reached at somewhat of a late
date, I'm afraid, and that's why there's some confusion
that Venoco did exercise their options to renew, their
right to renew for a ten-year period. If the Commission
required them to abandon the off-shore oil terminal prior
to that ten-year period, that would be a violation on the
Commission's part of that right to renew. So, the
interpretation that's been given by the attorneys on this
is that they have a ten-year period and the Commission can
only exercise its authority to adopt reasonable terms and
conditions relating to that renewal, and that's what we're
doing as part of this.

CHAIRMAN GARAMENDI: Ms. Krop, could you
comment on that?

MS. KROP: Thank you. We actually -- we were
confused on this issue because the draft environmental
impact report clearly stated that the lease had expired.
This was an application for a new lease, and then it
seemed like the opinion of the staff was changing, so we
submitted a public records act request and attached to our
letter that we submitted last week we have reference and
we've attached a lot of the documents that we recovered in
the public records act request and clearly Venoco's
predecessors, Arco and Mobile and Venoco itself in 1997
were all informed that the lease had expired and they had
to apply for a new lease, and that was consistently the
State Lands Commission's opinion until very, very
recently, very late in the process when Venoco apparently
convincing a change in position, but they knew when they
brought this project in 1997 that they had to come to and
apply for a new lease. They waited six years to do that
because they focused on the full field project, but
nevertheless, they were on notice that they had to come in
and apply for a new lease. The fact that any CEQA was
done at all means that you have discretion. CEQA only
applies to discretionary projects. So, once your
commission decided to prepare an EIR, you're under CEQA,
and you have an obligation to try to avoid any
environmental impacts. That's the whole point of CEQA, so
our belief is the fact that an EIR was prepared. Now you
have to follow the mandates of CEQA.

CHAIRMAN GARAMENDI: Now, so your point about
the necessity or that we should or must mandate a pipeline
for mitigation purposes is not based upon the issue that
was raised about whether or not they had a renewal
opportunity but rather CEQA's -- is that --

MS. KROP: We based our opinion on both. We do
believe in the documents that we submitted, we do believe
that Venoco knew it had to apply for a new lease, that it
did not have a right to a renewal. On top of that, CEQA
requires that you invoke your discretion and avoid impacts where possible.

CHAIRMAN GARAMENDI: Let's -- let's focus on the CEQA portion of this.

Curtis, could you comment on whether we have the obligation of forcing mitigation here?

MR. FOSSUM: The Commission, in doing -- in requiring an EIR was looking at a limited aspect of the operations there since it is an existing facility and typically existing facilities would be exempt from CEQA and doing an EIR. However, under the circumstances of the potential for an oil spill, commission staff required that an EIR be done and that was undertaken for those purposes to require adequate mitigation measures be adopted for that.

MR. THAYER: And there's a strong argument to be made that when you renew a lease for an existing operating facility that there are no new environmental impacts. It's just operating as it has before, but the Commission staff and the Commission itself through a series of decisions, really, over the last ten years, has held on to the concept that the ongoing threat of an oil spill is in a different category and it's because of that that we have the authority to conduct an environmental impact report.
Linda's correct that CEQA applies when the decision-making body has some discretion as to what it's going to do, and the discretion that we have is not limitless. It's pursuant to the -- the lease. It's what reasonable terms and conditions the Commission can apply, and that's a different framework than if the lease had expired and a new lease was required. We could look at it all over again, but the fact that we're limited to reasonable terms and conditions means that the focus of the EIR is on that, what limited -- reasonable terms and conditions.

CHAIRMAN GARAMENDI: Now, the EIR also takes up a new issue, that of greenhouse gas emissions.

MR. THAYER: That's correct.

CHAIRMAN GARAMENDI: And the continued operation of this barging program does emit greenhouse gases, and so if we are of the opinion there ought to be full mitigation or no release of greenhouse gases, the pipeline would, therefore, be an appropriate mitigation.

MR. THAYER: Potentially --

CHAIRMAN GARAMENDI: Among those other mitigations that might be available such as purchasing offsets.

MR. THAYER: Again, the EIR is -- again, affected by this unique position here, and the EIR looked
at greenhouse gas emissions with respect to which ones could be larger than under the baseline operations. In other words, right now, the terminal is permitted to operate at a certain level, but it is, in fact, operating at a lower level, so what the EIR looked at is well, what if they raised the operations, the level of operations, can we require mitigation to deal with that increment, and that's what's analyzed in there. But, once again, it's not the way I heard Ms. Krop describe it, which is once we get into CEQA, then the full panoply of options are opened up beyond which the lease already permits. It's just focused on that and the requirement of a pipeline, in essence, denies the continuation of the lease for the terminal, and so that wasn’t a reasonable term and condition.

CHAIRMAN GARAMENDI: Let me continue here for a moment. The full field option, what is the status of that?

MR. THAYER: For now, the -- Venoco has put that application on the back burner, has asked us not to pursue that. Originally, the pipeline, a pipeline was part of that development, but they're not seeking to proceed with that at the moment. They have not withdrawn their application.
CHAIRMAN GARAMENDI: So before the Commission is
a proposal to expand the Platform Holly’s range of drill,
that is the full-field operation?

MR. THAYER: That's right. That's not -- we
have an application that's being processed.

CHAIRMAN GARAMENDI: If that were to be
processed completely and we were to expand the field, we
now have a change in the lease, do we not?

MR. THAYER: That's correct.

CHAIRMAN GARAMENDI: And at that point, a
pipeline could be required?

MR. THAYER: That's right. Although these are
different leases. There’s oil leases, the full-field
development leases and then this marine terminal lease.
But, yes, absolutely.

CHAIRMAN GARAMENDI: They're intricately tied
together, are they not?

MR. THAYER: Absolutely. And I think, you know,
Curtis can confirm that in that context, we could demand
that fuel oil being developed through the full-field
development be shipped by pipeline rather than through the
terminal.

CHAIRMAN GARAMENDI: Now, if that -- well,
Venoco’s going to be up here in a few moments, and I'm
going to pursue this issue of the full field and its
relationship to this particular lease -- this particular
issue before us, and the question of the pipeline.

MR. THAYER: If I may, one other comment, this
lease is up 2013. We've put a provision in that lease
which provides that will be no hold-over operations past
2013, that the Commission has to make a decision prior to
that date if it wants the terminal and the barge to
continue operating instead of having a new pipeline going
in and the Commission has full discretion over that, so
they would be contractually bound to that, and so the
Commission would have the opportunity at that point to
decide whether it wants go forward or not.

CHAIRMAN GARAMENDI: We may have the opportunity
sooner than that. Okay. Thank you very much, Ms. Krop.

MR. SHEEHY: I've got some questions.

CHAIRMAN GARAMENDI: Oh. Excuse me. Tom, you
had a question?

MR. SHEEHY: Yup. Thank you, Mr. Chairman. Ms.
Krop, you sent the State Lands Commission Chair and
members a letter on May 26th, and you cited in there on
page 3, a number -- you made a number of statements that I
found rather alarming. You said that you, first of all
said that the EIR understates the risk of an oil spill,
and it overstates the ability to adequately respond to and
clean up such spill. Could you please elaborate on that and explain why you're making that statement?

MS. KROP: Yes, thank you. A lot of our focus, the 32 years of our existence has been on off-shore oil issues, and so we're very aware of the risk of oil spills and been monitoring what's been happening with technology and clean up and response capabilities and unfortunately, even 40 years after the 1969 oil spill, the industry still does not have a foolproof way of producing oil to avoid all spills or to respond to them. And, in fact, in the EIR, in the responses to comments in the EIR, it actually points out that 96 percent of the time, the sea conditions will be such that effective clean up would not be feasible, and so that's a tremendous risk of an oil spill. And you have a risk of an oil spill even with a double-hulled barge because a big part of the risk comes during loading operations, and so that doesn't matter if you have a single-hulled or a double-hulled barge.

Another issue that came up was that the barges can go all the way to San Francisco or down to LA. The county suggested a mitigation measure limiting the transport option just to LA to reduce the distance and to reduce the number of marine sanctuaries that would be affected. It turns out that Venoco actually is not sending its oil to LA at all. It's sending it all to San
Francisco, and so there is a huge risk of oil spill even through several national marine sanctuaries.

So if you look at the EIR itself, it finds 11 Class I impacts related to the risk of an oil spill, and that means that those are unavoidable and the EIR even points that out.

I would like to clarify, in terms of what we're asking for, we're not asking for denial of the lease. We are asking for a lease of limited term. We agree with 18 months proposed by staff. We just want the lease to say Venoco has to build a pipeline within those 18 months. So, I wanted to clarify that we're not asking for denial of the lease. I'd also like to clarify that the EIR itself says that the lease expired in 1993, and that Venoco has been operating the terminal in a hold-over status, so, under an expiration, that renewal provision doesn't even apply.

MR. SHEEHY: So, notwithstanding your comments about the loading of the oil, do you think that a double-hulled barge is safer than a single-hulled barge?

MS. KROP: A double hull is somewhat safer. There still have been spills from double-hulled barges. If you have, you know, significant collision or collision, you can still have a spill from a double-hulled barge. In
fact, there was a spill a few years ago in the Gulf of Mexico involving a double-hulled barge.

MR. SHEEHY: So, since Venoco's sending all their oil to San Francisco right now, it's mostly the northern coast that's bearing most of the risk there with that transportation; is that right?

MS. KROP: Correct.

MR. SHEEHY: And with this proposal, with them shifting it down to LA, then they're going to shift that risk to Southern California; is that right?

MS. KROP: I don't know that they're shifting to LA. I guess that would be a question for Venoco.

MR. SHEEHY: Well, one of their mitigation measures said in order to reduce their NOX emissions, I believe this consultant here that was just up a minute ago said they were going to limit their number of trips to San Francisco, and so I assumed the oil's got to go somewhere, so it would be going to LA, right?

MR. HENSON: Right.

MR. SHEEHY: So we'd see a shift, then, of that transportation from San Francisco to LA?

MR. HENSON: Historically, they've gone to both.

MR. SHEEHY: I see. Okay. Then, also you said that the EIR fails to adequately address the noxious odors. Why are you asserting that?
MS. KROP: Well, my own personal experience, I spent a lot of time out by Ellwood. There's Ellwood Mesa, Coal Oil Point, a lot of heavily publically used area and when the barge is there, you can smell the odors and sometimes it's enough to almost make you nauseous.

The community has complained about those odors over the years, with lack of any type of response, and so people have stopped registering complaints. They avoid the area when the barge is there. So, when the draft EIR came out and said we're not getting any complaints, there must be no problems with the odors anymore, there were a lot of people that attended the EIR hearings, both of them in Santa Barbara, as your staff will confirm. A lot of the concerns were raised about the odors, and so we thought, you know, great, you know, that information will make it into the EIR. In fact, at a the Coal Oil Point Reserve, which is a university natural reserve, the docents actually filled out 600 and some surveys on the subject and identified odors as a major problem, because they're out there every day, and the EIR, in the final version said that those were biased and that there's been only one recent complaint, I think, since like 2005 or something, even though we had two hearings where a substantial, you know, number of members much public got up and said that they've been affected by the odors. So,
we were very surprised to see that conclusion in the final EIR.

MR. SHEEHY: I see. And I have one more question -- one last question of Ms. Krop, Mr. Chairman.

You also asserted in here that the EIR fails to adequately analyze the greenhouse gas emissions, and I'm wondering if you could explain why you think the EIR's deficient in that area.

MS. KROP: The main concern here was with respect to the proposed mitigation measures and the fact that some of the measures appear to be infeasible. All of them appear to be unenforceable, and so our concern was that although the EIR does recognize that there's a potential for emissions, especially if the number of trips increases, that there's really no effective mitigation.

MR. SHEEHY: Why are you asserting that they're unenforceable? I heard testimony from staff and their consultant that the regional air quality management district would have jurisdiction. Why do you think it would be unenforceable?

MS. KROP: Our regional air pollution control district does not have a program right now for mitigation for greenhouse gas emissions, so there is no program.

MR. SHEEHY: Excuse me. I want to make sure I understand. You're telling me that we have in this report
here that the greenhouse gas emissions are going to be
enforced by an agency that has no enforcement project in
place; is that right? There's no enforcement program in
place?

MS. KROP: I'll have to defer to your staff to
see whether or not they intend to have that particular --
some type of particular mitigation for this project to be
enforced by the APCD. What I'm telling you is there no
program administered by our APCD yet, unlike in the Bay
Area. We don't have a greenhouse gas emission program
yet. We'd like to.

MR. SHEEHY: I'm very distressed to hear that.
I think enforcement should be a major concern here,
particularly since the -- first mitigation required in the
environmental impact report.

    Thank you, Mr. Chairman.

CHAIRMAN GARAMENDI: Thank you, Ms. Krop.

MS. KROP: I do have a brief statement from Get
Oil Out.

    CHAIRMAN GARAMENDI: I have a witness from --
    No, I have a witness from -- yeah, Get Oil Out.

    MS. KROP: Unfortunately, he had an emergency
and couldn't be here.

    CHAIRMAN GARAMENDI: I don't know. He just
handed me a piece of paper.
MS. KROP: Right. I did that.

CHAIRMAN GARAMENDI: And that's you. Very good.

MS. KROP: I will be very brief. I will submit a written letter, and I will just read one paragraph here because they were going to send a spokesperson who had an emergency. So, I will just summarize that GOO objects to the lease provision that requires Venoco to use a double-hulled barge. This condition relegates the use of a pipeline which is, without a doubt, far superior environmentally to barging to voluntary status. This condition should be replaced by one that sets out a requirement for the construction of a pipeline within 18-month lease approval, with appropriate milestones. Given that Venoco already has an application pending for such a pipeline, this is a completely reasonable requirement, which also meets the requirements of CEQA, approval of the environmentally superior alternative.

Furthermore, it is only with such a condition that the risks of an oil spill can be reduced to the lowest possible level, that the noxious odors associated with the barging operations will be eliminated and that greenhouse gas emissions can be reduced to the greatest possible extent. Thank you.

CHAIRMAN GARAMENDI: Thank you.
The next person would be Venoco, Steven Greig.

MR. GREIG: Good morning, Chairman Garamendi and Commissioners. My name's Steve Greig. My penmanship is poor. I'm the Government Relations and Regulatory Manager for Venoco. We're the current owner of the Ellwood Marine Terminal lease. Venoco and the State Lands staff have been working together for several years, as the previous speakers have mentioned, on the requirements for the lease maintenance and renewal, and we very much appreciate the cooperation we've received with staff and how this has ended up in what's before you today. As stated in the staff report, we're here today to consider the extension of the long-standing lease terms on the marine terminal through 2013. This agreement between Venoco and the State Lands Commission extends to before Venoco owned the lease. I'm before you today mainly to answer some questions if you have them and to encourage you to approve the marine terminal lease.

It is significant, and I wanted to reiterate what has been said by others that two weeks ago Venoco did submit an application to the County of Santa Barbara and the city of Goleta to install a permanent pipeline from our on-shore -- our Ellwood on-shore facility to the Plains All American Pipeline near Las Flores Canyon. This will eliminate the need for the marine terminal, and we
hope that this application is approved and that the pipeline could be installed sometime by mid 2010. Based on the discussions we've had with county staff and city staff, we think that's a reasonable schedule.

As Ms. Krop indicated, the review has already been done on this project as part of our full-field project. We believe that the information that was put together for that EIR can be quickly put into a separate EIR, and so we would hope that through that available information the CEQA process could be moved through and this could be heard and we could be constructing a pipeline in the early part of next year, and actually eliminate the need for the barge by the middle of 2010.

Again, I'm available to answer questions, and we hope -- thank you for considering the extension to the lease.

CHAIRMAN GARAMENDI: Tom, you want to start the questions?

MR. SHEEHY: Thank you, Mr. Chairman. Thanks, Steve. Nice to see you here today in Santa Monica.

MR. GREIG: Thank you.

MR. SHEEHY: I understand that the process for dealing with the double-hulled barge has already been initiated; is that accurate?

MR. GREIG: That's correct.
MR. SHEEHY: Okay. And the staff recommendation is to not require that for 18 months -- I'm sorry -- falls at December of 2010.

MR. GREIG: It's 18 months. I don't recall exactly the exact date.

MR. SHEEHY: All right. So, it seems pretty clear that the double hull is safer than the single hull, and you've already started this process. Is it possible that you can move -- I understand that you've got this other alternative, which is the preferred alternative, which everybody seems to agree to, which is the pipeline.

MR. GREIG: Yes.

MR. SHEEHY: But since you don't have it built, there's a lot of externalities -- there's a lot of uncertainties there that you don't have control over. Is there any way that you can, in fact, get the double-hulled barge in service any sooner?

MR. GREIG: The difficulty that we have with the double-hulled barge isn't just the availability of the barge. It's the availability of the vapor recovery unit that goes on the barge. So, while there might be double-hulled barges along the Pacific Coast that would work for service in our type of use, they would have to be retrofit and in that a vapor recovery unit that meets the requirements of Santa Barbara County Air Pollution Control
District be installed on that barge. The only vapor recovery unit like that that's approved by the district is owned and patented by Public Service Marine, that owns the barge Jovalan, who actually owns the Olympic Spirit and who we contracted with, the developer to build a second or another double-hulled barge, again, with that vapor recovery, so that the time delay is a combination of the availability of the barge, the construction and installation of vapor recovery units and then permitting and getting that confirmed through the APCD that's going to work in that service.

We're more comfortable, at this point, that we can get the pipeline installed before we'll need to use that technology.

MR. SHEEHY: I thought the Jovalan was operated by Harley Marine. You mentioned some other company.

MR. GREIG: I'm sorry. Public Service Marine is a wholly and subsidiary of Harley Marine. Harley Marine is the parent company.

MR. SHEEHY: So they do have not a double-hulled barge with the necessary vapor recovery system? They don't have one that you can use?

MR. GREIG: Correct. There's one more barge 00

MR. SHEEHY: Other than the Jovalan.
MR. GREIG: The Olympic Spirit has that vapor recovery unit, but it's contracted to Tesoro.

MR. SHEEHY: Okay. Well, I'm just going to ask one for time for the record. So you can't do it any sooner than 18 months? Is that your position?

MR. GREIG: We can -- we believe we can do it within 18 months. If we can do it sooner, we will. But, again, I hope that we're done with the pipeline prior to that.

MR. SHEEHY: Thank you.

Chairman?

CHAIRMAN GARAMENDI: John?

MR. CHIANG: Mr. Greig, have you checked into the possibility or potential for sublease?

MR. GREIG: We did, and the only other barge that's available that we've at is the Olympic Spirit. That's the one that's contacted with Tesoro. We are working on an agreement with Tesoro that in the event the Jovalan's not available, then that the Olympic Spirit could come in, but it would be on a sporadic, once in a while basis. We couldn't rely on that as a long-term solution to the transport of our oil at this time.

MR. CHIANG: And then you indicated there are some double-hulled vessels on the West Coast. Have you explored, you know, which ones may be available and then
my subsequent question would be because you said, you
know, they don't have the -- all have the vapor recovery
unit as required, what is the timeframe for the permitting
process --

MR. GREIG: Sure.

MR. CHIANG: -- in the event it needed to be
retrofitted?

MR. GREIG: And, actually -- I'm sorry if I
misspoke. I don't know if there's other double-hulled
 barges available. My comment was if there are, there are
none equipped with the vapor recovery unit that we would
need. So, I don't know if there's some out there that we
would -- that would be available to have it installed on.
The -- again, the patent for the vapor recovery unit is
owned by Harley Service Marine. They want to keep that
 barge -- that technology on their vessels.

MR. CHIANG: Thank you.

CHAIRMAN GARAMENDI: Question of staff?

Paul, why was the year 2013 selected here?

MR. THAYER: I think the original lease was in
1983, and it had just these consecutive ten-year periods
that finally expired in 2013.

CHAIRMAN GARAMENDI: Could we select a different
date, like one that's two years from now?
MR. THAYER: The Commission approval, at least this is the legal advice we're getting, the Commission approval in 1983, in effect contracted for that date, so without the consent of Venoco, we can't unilaterally change that date.

CHAIRMAN GARAMENDI: A couple of questions with regard to the pipeline. You've repeated several times that you want to see the pipeline built soon?

MR. GREIG: Yes.

CHAIRMAN GARAMENDI: Explain the current process that you have. You went into a little bit of detail with regard to the EIR.

MR. GREIG: We -- we submitted the application to the county and the City of Goleta, County of Santa Barbara, City of Goleta, which are the two permitting agencies for the pipeline. We prepared the application so it looked essentially identical to the pipeline that was reviewed under our full-field project back in -- starting in 2000. With the application being essentially identical to that, they will then, we hope, use the same EIR that was prepared for that full-field project, incorporate it into a separate stand-alone EIR for the pipeline. We're hopeful that they can, you know, go through that process rather quickly. I would hope that you can see an administrative draft of the document in the next couple of
months, and then it goes through the typical CEQA process, public hearing, public draft, etcetera, to where it would ultimately be — go before the city council in Goleta and the Board of Supervisors, I would hope, by the end of this year.

CHAIRMAN GARAMENDI: The Goleta City Council or city is trying to eliminate the on-shore facility.

MR. GREIG: Yes.

CHAIRMAN GARAMENDI: How does that figure into the pipeline?

MR. GREIG: It doesn't. The on-shore facility does two things. It processes our natural gas and it processes the oil. The -- regardless of the transportation of our oil, the natural gas still comes in from the platform and is processed at that plant. That -- it's processed there. It's a sales quality. It goes into a pipeline, and it's sold then to the Southern California gas system. So, regardless of what happens with oil, natural gas is going to be processed at that location.

CHAIRMAN GARAMENDI: So you have a pipeline already in place —

MR. GREIG: For the natural gas.

CHAIRMAN GARAMENDI: — for the natural gas. Do you anticipate that Goleta will have objections or concerns about the pipeline?
MR. GREIG: In my discussions with the City of Goleta, they've been supportive of the pipeline. I think everyone understands that for every ten days of delay, it's one more barge, so the sooner that we can the pipeline in the, I think the happier everyone's going to be.

CHAIRMAN GARAMENDI: And the County of Santa Barbara?

MR. GREIG: Same. I've talked with a number of people with in the county. All of them are supportive of a pipeline. All of them want us to expedite that process, and Venoco feels the same.

CHAIRMAN GARAMENDI: Okay.

MR. GREIG: Feels the same.

CHAIRMAN GARAMENDI: The full-field development is not before us at the moment.

MR. GREIG: Correct.

CHAIRMAN GARAMENDI: But I would like to have you discuss it in the context of the pipeline and this lease.

MR. GREIG: Sure. We submitted an application for that shortly after Venoco acquired the property from Mobile. It was back in 19 -- we acquired it in '97. We got the application in somewhere around '99 or 2000. As part of that project, we always included a pipeline that
would eliminate the marine terminal. We have separated those two parts of the project now. We've separated the pipeline from the lease boundary expansion.

Mr. Thayer's correct in one level that's not at the front right now, but that continues to be an important project for us. Staff is in the process of looking at a couple of different things that will be -- have an impact on the environmental review, one of which is the feasibility of processing gas. Like we talked about at the onshore facility and Exxon's Las Flores Canyon facility, so based on those -- that analysis, that may be coming before your Commission when that's done and the environmental review is completed. It is an important project for us. It's not something that we would withdraw the application. We think it's a viable project for the state.

CHAIRMAN GARAMENDI: In that project, would you continue to process the oil at the on-shore facility?

MR. GREIG: It will be looked -- that's part of the EIR that's being conducted and part of the amendment to the EIR is where we feasibly can process both oil and gas.

CHAIRMAN GARAMENDI: That requires a new pipeline, does it not? An on-shore pipeline?
MR. GREIG: Yes. It would be the same pipeline that we're proposing and that would be used prior to the lease extension, the lease extension.

CHAIRMAN GARAMENDI: That issue's not before us, but I would assume the attitude of this commission would be no pipeline, no lease.

MR. GREIG: We're comfortable with that, and I hope the pipeline is in in plenty of time.

CHAIRMAN GARAMENDI: And I think you'd best consider the on-shore facility at Goleta and the continuation of that in conjunction with a full-field development plan.

MR. GREIG: Yes.

CHAIRMAN GARAMENDI: Okay. Now. With regard to, I'm recalling a marine facility at the Chevron pier in Richmond, and we had a long discussion about the safety or the risks associated with the transfer of oil from a tanker to the shore or to the pier, and there was a requirement for some very significant safety requirements having to do with automatic closure of transferred oil. Are any of those safety features built into the facility at the marine terminal?

MR. GREIG: There are safety features built into the operation of our marine terminal. The marine terminal that we operate is much different than other marine
terminals at one of the larger harbors. Those are typically marine terminals that are a solid pier and there’s vapor recovery on the pier. There's a difference in type of transfer. Our particular off-loading operations are from a mooring so that the things that we have incorporated in terms of safety features into our operations are the ones that we think meet and exceed the requirements and are the reasonable mitigations to impose, so it looks different than a pier would with a solid pier structure, but we think it meets the requirements -- and the requirements of the state.

CHAIRMAN GARAMENDI: Question of staff, has this been analyzed? This question of the safety of the transfer from the barge to the marine facility?

MR. THAYER: Yes, it has, and there are several mitigation measures in the mitigation monitoring program, which I can't remember -- is that Exhibit C to the staff report?

The one that comes to mind immediately is a requirement to keep a vacuum on the oil line during the times between barge trips so that if there should be a leak in that line, the oil doesn't go out, sea water comes into the line, and there are other features like that to try and avoid leaks.

Thank you, sorry.
CHAIRMAN GARAMENDI: I'll tell you what my concern here is that we may be getting a proposal that will not actually happen, that is the pipeline. I'm trying to sort out some way to provide an assurance that this pipeline project is going to move forward, and everything I've heard thus far, it's possible for Venoco to tell us today they're going to build a pipeline and then not do it through the termination of this lease, and so we're looking at four years with this barge operation continuing, a double-hulled, though it be, but still continuing, and I'm trying to find some way to provide the assurance that the pipeline will be built. I understand that we can't get ahead of the EIR, but I'm wondering if there is some additional mitigation or cost factor that we could build into this agreement, this extension that would provide motivation, like, you know, $10 million or some such number.

MR. THAYER: Well, I think that still comes down --

CHAIRMAN GARAMENDI: That the value of the lease, the cost of lease increases 18 months from now to $10 million a month unless there's a pipeline.

MR. THAYER: Again, it just comes down to what's the correct interpretation or the legalistic
interpretation of a reasonable term and condition and whether that would apply.

CHAIRMAN GARAMENDI: We've increased the fee, have we not? The lease fee is increased here?

MR. THAYER: Yes, based on the fair market value of the property that they're crossing, so it's not really a fee. It's a rental based on the value of the land.

CHAIRMAN GARAMENDI: Do we rent the ocean also?

MR. THAYER: Yes, we do. And that's, in fact, the land that we're renting here.

MR. FOSSUM: There's a buoy field there that's a permanent basically, so the public is excluded from that from time to time, and that's we base our charges on.

CHAIRMAN GARAMENDI: Really?

MR. FOSSUM: I'd like to add something, though. We believe that the likelihood of the pipeline going in is good based on the fact that it's going to be very expensive to have this double-hulled barge with a vapor recovery system placed on it. While the commission can't require that the pipeline be put in, they will have to have a pipeline by -- we keep saying four years. It's actually February of 2013, so it's a little more than three and a half years from now, so if they're going to have to have a pipeline in within three and a half years, the motivation for them to put the pipeline is there, but
the Commission really isn't in a position to require it
because they still got that ten-year term that they're in,
in which they have a right to use the terminal.

CHAIRMAN GARAMENDI: I think I heard the basis
of a lawsuit on the EIR from one of the witnesses here, as
to the adequacy of the EIR. There are several questions
raised about the adequacy of the EIR by Ms. Krop and if
somebody wanted to sue and delay, they could do that, I
suppose.

MR. THAYER: They could do that, but in all
likelihood the barge would continue operating during that
period of time. I don't know what else --

CHAIRMAN GARAMENDI: So you're telling me that
that's no way we can provide a financial incentive for
Venoco to really do the pipeline soon?

MR. THAYER: The trouble, again, is this
reasonable terms and conditions. The Chair is very good
at devising these sometimes, but we've spent the last year
or so trying to figure out how to get out of that box,
and --

CHAIRMAN GARAMENDI: So it's your good will and
good intentions.

MR. GREIG: And if I may, at this point, as much
as its worth, Venoco is committed and willing to put in
that pipeline as soon as we get approval to do that. At
this point, the critical timing of when that goes on is
really in the hands of the city and the county and some
state agencies, so it would be a pleasure --

CHAIRMAN GARAMENDI: It will come back before us
before at least --

MR. GREIG: I'm sorry?

CHAIRMAN GARAMENDI: It will come back not
before us. They don't have to have a new lease for this
pipeline?

MR. THAYER: No. It's all on shore. It's all
on shore, so it's not subject to our jurisdiction. I
presume the Coastal Commission would be involved, do you
know?

MR. GREIG: Yes.

MR. THAYER: And Goleta?

MR. GREIG: The primary jurisdiction is the city
and county. They'll be some other agencies involved, Fish
and Game, Coastal Commission, which, again, if there is --
for us critical path of the approvals from those
commissions, it would be the Commission's pleasure to at
least let those agencies know of your desire to have that
approval, Venoco would appreciate that and we will respond
as soon as we have approval.

CHAIRMAN GARAMENDI: Nice move.

MR. GREIG: Thank you.
CHAIRMAN GARAMENDI: Toss that back to us.

MR. SHEEHY: Mr. Chairman?

CHAIRMAN GARAMENDI: Tom?

MR. THAYER: I'm sorry. I was just trying to say that we did, generally complete the environmental review for the full-field development which included this pipeline, and although that's not coming before the Commission yet, I think the county is utilizing the same consultant to prepare that EIR and the intent is to use the analysis that's already been prepared to try and expedite this process.

But, again, we do not -- I want to be careful that, in spite of what Curtis said or to add to what Curtis said, we are not in a position as staff to be able to say, 'Yeah, they're going to do it.' You know, there's some incentives for them to do it at this point, but --

CHAIRMAN GARAMENDI: Thank you, Paul.

Tom? Questions?

MR. SHEEHY: It seems to me I've heard that before recently, Paul.

MR. THAYER: Yeah.

MR. SHEEHY: I guess I continue to be concerned about testimony we heard earlier, which is that the greenhouse gas emissions and NOX emissions mitigations, that the enforceability of that lies with an entity that
has no such enforcement program, and I just don't know how
we can be expected to accept this environmental impact
report and the proposed mitigations when they're -- when
I've heard testimony that there is no program in place to
do such investigations. How are we supposed to square
that today, Mr. Thayer?

MR. THAYER: I think that's a good question, and
between when this was last spoken of, I talked with Gail
Newton from our environmental unit about that, and I think
our expectation is that we might very well end up having
to be the agency that enforces it, but that we would not
be doing that from a technical perspective because it, as
I think Eric mentioned in his presentation, they have to
get certification according to the EIR requirements from
the California -- what's it's called -- Air Registry, and
then we would be reviewing that to make sure that that was
done.

CHAIRMAN GARAMENDI: And if not, we could
enforce under the lease.

MR. THAYER: Yes, we could.

MR. SHEEHY: So, who is it that did the EIR for
this project? Why was this loose end not caught and sort
of being tied up until today, the day we're hearing this
lease proposal in front of us?
MR. THAYER: I think that a better job was done than what I was letting on. In other words, there is a provision in the EIR that this -- that the mitigation be certified or reviewed, and approved by the California Registry, and I neglected to mention that.

MR. SHEEHY: I see. Okay.

CHAIRMAN GARAMENDI: Okay. The -- I think we've completed the testimony on this. What I'd like, Paul, for you to do is to present the issues to us. I think there are several issues that we are dealing with. We can take them as one issue or separate. We have an EIR that needs to be certified and a few other things.

MR. THAYER: The -- the findings, the recommended findings are in the staff report, and I think that it's possible for the Commission to approve these as one rather than taking a separate vote on each one if the intent of the commission is to, in fact, both certify the EIR and to approve the extension. Those findings start at page 7, and you can see they consist of both a CEQA finding, a significant lands, inventory finding and an authorization. So, if someone wanted to move to -- to approve all of that, it could be done in one blow. However, of course, the Commission could divide the question if they wanted to.
CHAIRMAN GARAMENDI: It seems to me that we may as well move as a unit, but the question is to my colleagues here as to how they would like to do this.

MR. CHIANG: That's fine.

CHAIRMAN GARAMENDI: Tom, you've had questions on the EIR?

MR. SHEEHY: I'm not comfortable with what I've heard today. I just don't think this is fully cooked.

CHAIRMAN GARAMENDI: Would you like to divide the question then or would you like to relay the whole thing?

MR. SHEEHY: It's your pleasure, Mr. Chairman.

CHAIRMAN GARAMENDI: Well, then -- let's divide the question, and we'll take the EIR separate. So the question's on the EIR.

MR. SHEEHY: I'm sorry. May I ask one question?

CHAIRMAN GARAMENDI: Certainly, Tom.

MR. SHEEHY: In dividing, Mr. Fossum or Mr. Thayer, could you explain the significance of dividing the question vis-à-vis this body's ability to approve it and what each vote will mean?

MR. THAYER: Well, the first vote would be on the CEQA document because you cannot approve a project until you certify and approve the CEQA review, and so that vote should occur first. If the Commission decides not to
certify the EIR, then it cannot take a vote on the project except to deny it. It's possible to deny a project without having a certified document, but we cannot approve it if you're turned down the EIR.

MR. SHEEHY: So, you can turn down the EIR -- I'm sorry. So you can turn down the EIR but not -- I mean, I don't want to make a double negative and make it complicated.

MR. THAYER: You can turn the EIR down --

MR. SHEEHY: You can turn down the EIR and you can take no action on the project.

MR. THAYER: Yes.

CHAIRMAN GARAMENDI: That's correct.

MR. SHEEHY: Which means you can come back?

MR. THAYER: Yes.

MR. FOSSUM: You can also approve the EIR and not approve the project. That's another alternative. Let me add one thing if I may, you're concerned about enforceability like, for example the number of voyages and whether they were violating that matter, each voyage is reported to the Commission staff, so we now how many voyages they're taking, and there's no enforceability by the county, the commission does have the ability to enforce the terms of its lease, and if are violating the terms, the mitigation measures in the lease. The
Commission has the ability ultimately to terminate the lease. They would get a period of time in which to cure. We'd notice them and then as we've done in some of these other items that have been before you. So, the Commission does have some authority. It's just that we're not the primary responsible agency for those air quality issues. So, we could shut down a lease frankly. So you have some authority in that regard.

CHAIRMAN GARAMENDI: So, if the mitigation measures, which are not specified but required to fully offset the additional emissions --

MR. FOSSUM: They're adopted as part of the lease, yes.

CHAIRMAN GARAMENDI: And if they fail to provide those mitigation measures, then they're in violation of the lease.

MR. FOSSUM: That's correct.

CHAIRMAN GARAMENDI: And we've had several different actions, in fact, a couple of them today to take on this matter.

MR. SHEEHY: I have one more question, Mr. Chairman.

CHAIRMAN GARAMENDI: Yes, from staff.

MR. SHEEHY: What happens if there's not enough support today for one or the other or both?
MR. FOSSUM: They've been in hold-over status for some period of time, as some of our other leases have been, and what we believe is the benefit of -- well, not in holdover. They're in a new term, excuse me. I'm going to correct that. There has been some confusion over this lease, obviously. Exactly --

CHAIRMAN GARAMENDI: Counsel is seeking counsel.

MR. FOSSUM: Yeah. He wants to make sure I don't misspeak here again. I think the point is that we believe the terms and conditions that they're working under now are not nearly as adequate as the ones that are being presented to you today, and so there would be a lot of tightening up of those conditions by approval of the staff's recommendation. Even if it's not ideal because we don't have the ability to do everything we would like to do, we think it's a major step forward in improvement over the existing terms and conditions.

MR. THAYER: So, I think to answer Commissioner Sheehy's question directly, they would continue operating even if the commission did not approve today -- but under the terms and conditions of the old lease. We couldn't stop them from operating if we didn't approve it today.

CHAIRMAN GARAMENDI: Okay. I think we've gone through the questions. We have the issues before us. The
first question then is on the certification of the EIR. Do we have a motion?

The Chair moves for certification --

MR. FOSSUM: May I make a suggestion on that as well?

CHAIRMAN GARAMENDI: Yes.

MR. FOSSUM: As part of the certification, there's also the adoption of the mitigation monitoring program and the findings associated with that.

CHAIRMAN GARAMENDI: Okay.

MR. FOSSUM: And the statement of overriding consideration.

CHAIRMAN GARAMENDI: I'm handing the gavel to Mr. -- to our Controller, John.

MR. SHEEHY: I would be happy to second that motion, Mr. Chairman.

MR. CHIANG: We have a motion by the Chair, second by Mr. Sheehy. Without objection, motion passes. I'm sorry? Do you want a vote?

CHAIRMAN GARAMENDI: Yeah.

MR. CHIANG: We have a motion by the Chair. We have second by Mr. Sheehy. Without objection the motion passes.

CHAIRMAN GARAMENDI: Very good. The next -- want to clear it up?
MR. CHIANG: Sure. Is there a motion on the next item?

CHAIRMAN GARAMENDI: The next item will be the full -- the lease itself and the various mitigation measures associated with it; is that correct?

MR. FOSSUM: The second element after CEQA is we have what we call a significant lands inventory finding that this land -- that this operation will be consistent with the designation that the Commission has previously given to the lands involved.

CHAIRMAN GARAMENDI: So moved.

MR. CHIANG: We have a motion by the Chair. Is there a second?

MR. SHEEHY: I'll second Mr. Garamendi's motion.

MR. CHIANG: We have a second by Tom. Without objection, the motion passes.

MR. FOSSUM: And the third is the authorization to renew the lease and -- with the terms and conditions that have been previously discussed.

MR. CHIANG: Is there a motion?

CHAIRMAN GARAMENDI: I so move.

MR. CHIANG: Motion by the chair.

MR. SHEEHY: Second.

MR. CHIANG: Second by Mr. Sheehy. Without objection, the motion passes.
MR. SHEEHY: I'd like to say something.

MR. CHIANG: Sure.

MR. SHEEHY: I'm very concerned about the enforceability, so I hope that staff takes to heart the comments that were made today. I think that there's some loose ends here, but it sounds like -- really sounds like we sort of had a gun to our head because either we approved what was before us, and if we didn't, the situation would be far worse, so -- so I was willing to go along with it, but I continue to have concerns, and I continue to believe the 18-month period of time for the barging is an unacceptable delay, and if there was any way we could get around that, I would move to do that right now, but nobody's come up with anything, Mr. Chairman, so, it is what it is.

CHAIRMAN GARAMENDI: Tom, I echo your concerns and agree with all of them. We're moving on to Item 66. Well, wait a minute. We are going to take up Item 70. 66 Will wait a while.

Paul, would you like to bring us up to date on Item 70.

MR. THAYER: Yes.

CHAIRMAN GARAMENDI: Which I believe is the PXP program; is that correct?
MR. THAYER: That's correct. Item 70 is a resolution before the Commission which reacts to the proposal in the proposed May revision to the budget. This proposal, which staff has seen, most comprehensively only in the summary, which was issued by the governor a week and a half ago, has an opportunity to look quickly at some of the potential language would generally provide that developments that meet certain criteria can be reviewed by the Director of Finance who then could, after hearing -- having one or more public hearings, approve those developments. My understanding is the intent of this language, which, again, we don’t have a copy of, is that the criteria are focused enough that the proposed oil lease proposed PXP at Tranquillон Ridge which the Commission denied on January 29th is the only topic that would qualify for this special treatment. The --

CHAIRMAN GARAMENDI: Have we seen any language?

MR. THAYER: We have not. Again, staff has seen quickly some language but hasn’t really had a chance to review it, and I don’t believe it’s in -- at least as far as we know. It's not publicly been released yet.

As the Commissioners know, the Commission held a quite lengthy hearing about this in Santa Barbara, and determined for a variety of reasons that this lease should not be approved and on the second page, the longest
whereas section there about halfway down details the five major reasons why the commission disapproved that project.

The rest of the resolution generally gives background on the Commission, the state’s position with respect to off-shore oil and the resolve clause indicates that the Commission opposes the proposal in the May revision summary to set up this alternate means of approving the project, and then direct staff to forward copies of the resolution to the governor and two houses of the legislature.

CHAIRMAN GARAMENDI: I think the -- we'll come back to the various language of the Commission of the resolution. However, I think it's important for the Commission to understand the nature of the proposal in the May revision of the budget.

Tom, you represent the Department of Finance. As near as I could tell, the proposal emanated from the Department of Finance or the governor's office. Could you explain to us what is proposed?

MR. SHEEHY: Certainly. Certainly. I'm glad you asked.

CHAIRMAN GARAMENDI: You knew I would.

MR. SHEEHY: I did. And for anybody in the audience who would like to know, I have a fact sheet up here that would explain exactly how the legislation would
work. Feel free to after the hearing, come up and have a copy of it. And I apologize, Mr. Chairman, the first thing I should have done was pass out copies to my colleagues.

CHAIRMAN GARAMENDI: Thank you.

MR. CHIANG: Thank you.

MR. SHEEHY: The staff of the State Lands Commission had a brief look at this. As I understand it, this language is now -- not this language here, but the language for this is now in the hands of the legislature, so it's in their purview.

But, what -- what the May revision proposal would do is for a limited time period, during an unprecedented fiscal crisis facing the state, authority would be restored to the Director of Finance to reconsider certain lease applications and determine whether such a lease would be in the best interest of the state.

Up until 1938, the Director of Finance had unilateral authority to review and approve or disprove all lease applications. Under the May revision proposal, the director could only reconsider leases that met the following very specific criteria. The lease application must have been filed on or after January 1st, 2004. The state oil or gas deposits in question must be subject to ongoing drainage by wells located in adjacent federal
fields. Only lease applications where the applicant would access state reserves from existing platforms in federal waters and would use existing infrastructure to transport the oil or gas would be eligible. The lease term could be no longer than 15 years in duration.

Even if all of the foregoing criteria are satisfied, the director still could not approve any lease without making an additional finding after one or more public hearings that it was in the best interest of the State of California. These criteria ensure that the authority granted is limited in scope, that the state will reap the benefits its own natural resources, as opposed to having them drain off and utilized by the federal government for their benefit.

It would also maintain the moratorium on building additional drilling platforms in state waters, while at the same time getting the resource. The bill also requires the Director of Finance to hold public hearings before entering into any such project lease that meets those above criteria. It also contains a sunset date of January 1st, 2011, at which point the current fiscal crisis will have hopefully passed.

Now that you’ve heard what the bill will do, I think it’s important to say specifically what it would not do. The bill does not approve or authorize any specific

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project or lease anywhere in the State of California. The bill does not alter, circumvent or interfere with the state lands commission powers or duties. In fact, nothing in the State Lands Commission process has been changed. Going forward, all applications must still be submitted to and reviewed by the State Lands Commission. The bill does not alter, circumvent, or interfere with the Coastal Commission's powers or duties in any way whatsoever. The bill does not give the legislature the power to approve the lease by its own action. The bill does not expand the circumstances under which drilling may occur in state waters. In fact, the bill contains more restrictive criteria than existing law of the California Public Resources Code 6244 and only contains two criteria, federal drainage and best interest the state, that must be met before a lease can be issued.

This bill requires that all six criteria mentioned earlier have to be in place in order for a lease to be reviewed by the director. That's what it does.

CHAIRMAN GARAMENDI: Tom, the -- what is the -- why are you doing this?

MR. SHEEHY: Excuse me?

CHAIRMAN GARAMENDI: Why is the Department -- why is the governor doing this? Why is the governor doing this?
MR. SHEEHY: I guess I don't understand the premise of your question.

CHAIRMAN GARAMENDI: Well, the premise of my question, presumably there's some reason why the governor is making this proposal.

MR. SHEEHY: Well, I guess -- I guess on the surface of it, Mr. Chairman, the Department of Finance believes that this body just made the wrong decision on January 29th, 2009, in Santa Barbara, and the Department of Finance does, in fact, believe that the project that was rejected on a one to two vote is, in fact, in the best interest of the state.

CHAIRMAN GARAMENDI: Okay.

MR. SHEEHY: And the finance continues to believe that, and I don't have to tell the controller sitting here, who just sent a letter to the legislature about the dire fiscal circumstances we're in. We think it's important to get the oil infrastructure out from the coast of Santa Barbara, and as Ms. Krop, if she's still here, will tell you, just like she did down in Santa Barbara, one thing that is for sure is that if this project doesn't go forward, then that oil infrastructure's going to sit there for decades and decades and decades. The only agreement that was on the table that would get that oil infrastructure out is the agreement that was
taken up in Santa Barbara on January 29th, and that's why there were a total of 46 individuals, including numerous elected officials, numerous public service departments, a list of environmental groups so long I can't even go through, other environmental organizations that all supported the project.

And while many of them have contacted us, Mr. Chairman and said they don't support this new process, I haven't heard any of them come forward and say they don't support the project. And, in fact, it's amazing because there were over 46 people that testified at that hearing down in Santa Barbara.

In fact, I'd like to enter this, Mr. Fossum, I'd like to enter this into our minutes. This is a list of all of the people that entered in support, all of the public officials, all of the environmental groups, all the individuals, that list is 76 pages long, and then when we got to the opposition, there was a list of 11 people, and none of them were residents of the County of Santa Barbara. Mr. Fossum, I also have that transcript of that hearing down there. This is the opposition. There was no organized opposition. So, we think that there are tremendous environmental benefits involving the removal of the oil infrastructure, pulling out the oil processing plants in Gaviota and Lompoc. We think that 4,000 acres,
approximately 4,000 acres of extremely sensitive
environmental land being put in permanent trust, we think
the complete mitigation of all greenhouse gas emissions,
purchase of natural gas powered buses for Santa Barbara
for their mass transit and all the environmental benefits
that got the Environmental Defense Center and all of their
clients that have protected the coastline for so many
years that support this project, we think that those are
tremendous environmental benefits, and at a time when the
State of California has a $23 billion budget deficit, the
Department of Finance believes it's not time for business
as usual. We think it's time to look outside the box and
look for win-win opportunities where the environmental
community and the oil community can come together in what
was a historic agreement and make a project go forward
that will give the state of California close to $2 billion
over the next decade in terribly needed revenue. This
will help prevent the lay-off of public safety workers all
around the state. No, you're right, Mr. Chairman, it will
not solve our budget problem. No question about that.
Duly stipulated, but it's a very important source of
revenue. We have had a number of public employee labor
unions come to us in the last ten days saying they support
this. They're talking with the speaker and the pro tem
and minority leaders in the legislature. They think this
is a good project. We need the revenue, and that's why the Department of Finance proposed this legislation so that this project may, in fact, be reconsidered under the process that I laid out.

CHAIRMAN GARAMENDI: The process that you laid out, assuming the bill is written as you have described it, does not provide for any of the benefits that you just cited. You had six criteria here, and if that bill is written -- well, five criteria, if that bill is written as you have described it here, there is no criteria to achieve any of the benefits that you've described, including the financial benefit.

MR. SHEEHY: Well, with all due respect, Lieutenant Governor, I disagree with you. I'm sorry.

CHAIRMAN GARAMENDI: Well, let's go through them. The lease application, if you only consider the lease --

MR. SHEEHY: I'm sorry. Excuse me. Just one second. I want to understand what the ground rules here is. Was the intent here to go over this resolution or did you want to try to litigate proposed legislation?

CHAIRMAN GARAMENDI: Well, sir, you have taken the position of destroying several decades of work that this Commission has done. Never before has this Commission's decision on an oil lease been overridden, or
proposed to be overridden by the governor, which is precisely what's going on here. The governor did not like the decision made in Santa Barbara a few months ago and coming back now with a proposed piece of legislation that would presumably be done in the -- in the haste at which the legislature is trying to settle up the budget, with or maybe not even with a legislative hearing on the matter, and the criteria that you've laid out here do not provide any indication that the argument that you just made in support of this whole proposal would actually happen because there is no discussion here among these five criteria of benefits to the environment such as land trades.

There is nothing in here to provide assurances that there would be a termination of the platform, which was part of the discussion that we had before in which we determined just a few months ago there was no assurance that the platforms would actually be removed. What we have here is a naked end run around the authority of this commission for the first time since the authority was removed from the Director of the Department of finance because of fraud and abuse by the Director of the Department of Finance. That's why this Commission was created. That's why this Commission was given the power that it has today, and this is a naked attempt to overturn
the decision of this body based upon findings that this
proposal, as presented then, was not in the interest of
the state.

MR. SHEEHY: May I respond?

CHAIRMAN GARAMENDI: Of course.

MR. SHEEHY: Thank you.

CHAIRMAN GARAMENDI: Tell us why this is not a
naked attempt to overrule the authority of this Commission
and to remove the authority of this Commission.

MR. SHEEHY: Well, of course, Lieutenant
Governor, I'm very sorry that you feel that way, and --

CHAIRMAN GARAMENDI: You should be sorry.

MR. SHEEHY: And I just respectfully disagree
with you. We think having 120 elected officials look at
this will give it a far greater level of review than two
elected officials. So I just disagree with you, Lieutenant Governor. I'm sorry. I respect your opinion.
I respect your views, but I just disagree with your conclusions.

CHAIRMAN GARAMENDI: My conclusion was that this
is a naked attempt to remove the -- to abrogate the
authority of this commission, whether it's done by the
legislature, whether it's done by the Director of the
department of finance, it is nonetheless exactly that.
MR. SHEEHY: Well, I would only add that my comments, Lieutenant Governor, and for members of the audience, I mean, let's be clear. The power that this body, the State Lands Commission has is power that is granted to it by statute through the California legislature and the governor of the State of California. That power can be changed, altered, truncated or terminated at any time by statute, so let's not forget that.

CHAIRMAN GARAMENDI: And that's precisely what you intend to do here with this legislation.

MR. SHEEHY: So I just think it's really important to remember where the power of this body flows from, and we think having 120 elected officials weigh in on this is appropriate.

CHAIRMAN GARAMENDI: I think that's --

MR. SHEEHY: For all the reason's that I’ve described -- I understand you disagree with me. I respect your point of view. I just don't share it, sir.

CHAIRMAN GARAMENDI: I think you’ve misstated the proposed legislation, sir. The proposed legislation gives the power to the Director of the Department of Finance, not to the legislature. It removes from this commission the power to determine the appropriateness of a
lease and gives that power, not to the legislature, but rather to the Director of the Department of Finance.

MR. SHEEHY: You're making a statement. I didn’t hear a question there to -- I understand how you feel --

CHAIRMAN GARAMENDI: Is that not correct?

MR. SHEEHY: I'm sorry --

CHAIRMAN GARAMENDI: The power to -- the power to have -- the power for this lease to go forward does not reside with the legislature. The power resides with the Director of the Department of Finance.

MR. SHEEHY: Um, but the --

CHAIRMAN GARAMENDI: Your boss.

MR. SHEEHY: -- what the bill would do is the bill would give the Director of Finance the authority to reconsider a lease application under six specific criteria, all six of which would have to be met in order for that lease to be reconsidered. That's what the bill does.

The legislature's role in this will be to review the legislation and decide whether they think it would be in the best interest of the state to give the director that authority.

CHAIRMAN GARAMENDI: That's my point. The point is that the legislature does not make the decision about
the lease. The decision about a lease and the nature of
the lease and the --

MR. SHEEHY: No, but the legislature gets -- but
the legislature gets to weigh in on a number of factors
that are important.

So, look. I understand you don't like it. I
understand you done like a state administrative agency
disagreeing with the action by this body, you know,
somebody was telling me the other day. They said, 'You
know, Tom, we think this is a bad thing because it sets a
bad precedent.' I said, 'What's the bad precedent?' They
said, 'Well, if a state Board or authority or commission
makes a decision, for somebody to go to the legislature
and try to take another look at it, that's a bad
precedent,' and I was kind of shocked and I chuckled and I
said, 'You know, half the bills going through the
California legislature do just that. Look at the Public
Utilities Commission.'

Let me finish. I'll bet you there is -- I'll
bet you there is at least 50 or -- well, they just had
their suspense hearing, so a lot of them probably got
killed, but I'll bet you that there are at least 50 or 60
bills that were introduced by mostly Democrats and also
some Republicans to over turn PUC rulings.
We can go down the list if you'd like. They're over 120 different state Boards, Commissions and authorities.

CHAIRMAN GARAMENDI: That has nothing to do with where we're at. Let's get back to the point.

MR. SHEEHY: Well, I'm just -- it gets down to the precedent that it's not precedent setting for, you know, an administrative agency to be second guessed and the Department of Finance believed that the decision on January 29th, that this project was not in the best interest the state. We just disagreed. We disagreed, and I understand --

CHAIRMAN GARAMENDI: Does the governor hold the same view?

MR. SHEEHY: I'm here today as the Chief Deputy Director as the Department of Finance as part of our May revision. I don't know how much more clear I can be with you, Lieutenant Governor. You're trying to put me in some sort of box --

CHAIRMAN GARAMENDI: What is the governor's position with regard to this proposal?

MR. SHEEHY: -- I don't -- I don't appreciate that. Well, this proposal was at his May revision.

CHAIRMAN GARAMENDI: So I assume he's in full support? Is that a fair assumption?
MR. SHEEHY: Well, usually when a governor proposes something, it's something that he's prepared to sign. I think that's pretty straightforward.

CHAIRMAN GARAMENDI: Was Mike Chrisman authorized to speak at the hearing in San Francisco that the Secretary of Department of Interior had three weeks ago?

MR. SHEEHY: I --

CHAIRMAN GARAMENDI: Was he authorized to speak for the governor?

MR. SHEEHY: I don't know the answer to your question. I'm sorry. I don't know.

CHAIRMAN GARAMENDI: At that hearing, he said that the governor was opposed to off-shore drilling in the state of California, off the shore of the state of California. Is that the governor's position?

MR. SHEEHY: Well, I guess as much as you want to try to turn this into an argument about the governor's position on off-shore oil drilling, the reason why this project was put into the May revise is because we think it was in the best interest the state and we believe it was a way to get the oil infrastructure out and have the citizens of California benefit from billions of dollars of oil royalties that are underneath the ground from the existing platforms.
CHAIRMAN GARAMENDI: If that's --

MR. SHEEHY: And on balance with the State of California in a fiscal crisis, we felt we couldn't turn a blind eye to the fiscal benefits of this project. So I know you'd like to try to turn this into a different type of debate, but all due respect, sir, I respect your opinion. I understand you disagree, but I'm not going to try to debate with you and pretend that I'm the governor. I'm not. I'm the Chief Deputy Director of the Department of Finance, and I know what my mission is here. My mission is --

CHAIRMAN GARAMENDI: (Inaudible).

MR. SHEEHY: My mission is to support the May revision, and I understand you disagree with it, but, you know, it is the way it is.

CHAIRMAN GARAMENDI: Indeed. Let's hear from the public.

John, do you want to comment?

MR. CHIANG: Well, I'm concerned that we may be one win short of a win-win as articulated by both the legal staff of the State Lands Commission and the Attorney General's Office. There is no guaranteed premise that we, in fact, will terminate those terminals. That is an open question, so the more honest discussion would be should we have off-shore oil leasing for the revenues for the use in
our state general fund because the -- there is tremendous uncertainty as to the environmental benefits, and so -- that's a legitimate public policy debate to be had, but to state that we're going to have guaranteed environmental benefits as to the elimination of those leases, I think, is, in fact, a very open question and one our best lawyers have indicated is not true.

MR. SHEEHY: I want to just respond to that real briefly, Mr. Fossum, I have some additional documents I'd like to have added into the minutes. These are the support letters from all of the environmental groups empathizing the benefits of this project.

And, you know, I think it's good for us to have a debate about what we're going to do on oil because since January 1st of 2006, this body has approved a total of 76 oil-related leases, so we're happy to have that debate any time, Mr. Controller.

CHAIRMAN GARAMENDI: Let's hear from the public. Because they were shuffled in this manner, we are going to start with Susan Jordan, Director of California Coastal Protection Network, followed by Kelly Brognan, representing herself, and Joe -- I think it's CARONE -- representing the Surfrider Foundation, and if the three of you could line up, we'll try to move through this in some expeditious fashion.
MS. JORDAN: Thank you very much. I almost don't know where to start in response to Mr. Sheehy's statements, given how misleading they are, and first of all I think I would like to enter into the record letters from over 30 -- well, 35 environmental groups expressing concern about this project and its enforceability and an outright opposition to this power grab by the governor and the Department of Finance.

So, let us back up because once this commission denied this project, numerous environmental groups, who had been in support of this in concept, expressed concern and solidarity with this Commission. To not make that point clear to people in this audience is a deliberate misrepresentation of the facts. We cannot get away from the fact that this is the first new off-shore oil lease in 40 years, and if I sound upset, it's because I am.

I have never seen such a blatant power grab by a governor to override an independent Commission's authority. It is absolutely uncalled for. If you really want the money that bad, this project should go back to the State Lands Commission. You don't have the right to unilaterally take control. That's why we have an independent Board and Commission.

This is Susan Jordan of the California Coastal Protection Network, and 35 groups in this state object to
what you're doing including, I am sure, you will hear from Linda Krop of the Environmental Defense Center, who you know very clearly sent a letter to the governor and to you objecting to this move. So, I think, in total, to be honest with the public and the legislature, you need to take your myth and fact sheet that you just distributed via press release and correct it because it is false and misleading. So, in closing, I'm going to calm down.

MR. SHEEHY: That's a good idea.

MS. JORDAN: Sorry. I guess it's very hard to watch someone who's supposed to have the trust of the people of this state so deliberately mislead them and distort the facts, and I frankly think you owe the people of this state an apology.

Going back to the Commission, I want to thank you very much for your deliberations on this project which are controversial. It was very hard for everybody to -- to look at this proposal and come to their own conclusions, and we didn't all agree. That was very, very hard, but your staff, and the Commission that voted on it, I believe made the right decision. If this project is to move forward, it needs to come back to this Commission. The problems with enforceability need to be addressed and resolved. That is the appropriate process, not an Enron around the Commission's authority. Thank you very much.
CHAIRMAN GARAMENDI: Okay. The next one, I think I mispronounced the name. It's Brognan. That's closer?

MS. BROSnan: Brosnan.


MS. BROSnan: Am I up?

CHAIRMAN GARAMENDI: Yes, you're up. Kelly, my apologies.

MR. SHEEHY: Mr. Chairman?

CHAIRMAN GARAMENDI: Yes.

MR. SHEEHY: Mr. Chairman?

CHAIRMAN GARAMENDI: Yes.

MR. SHEEHY: I have a family emergency. I've just been notified of. I'm going to step out, see what's going on.


MS. BROSnan: Thank you very much.

MR. SHEEHY: I just want you to know. I apologize. Excuse me, ma'am, but I have a family emergency involving my father-in-law. I got to go find out what's going on.

CHAIRMAN GARAMENDI: Very good.

Ms. Brosnan?

MS. BROSnan: Thank you very much.
CHAIRMAN GARAMENDI: My apologies for mispronouncing your name, my inability to read. Please.

MS. BROSAN: Thank you. Good afternoon, ladies and gentlemen. Just over 100 days ago President Obama pledged that his legislation marked a new era of responsibility when America would once and for all roll back the specter of a warming planet and bring about new age, a new age powered by clean energy and green jobs. With that in mind, one has to wonder why Governor Schwarzenegger would think it appropriate to initiate the first off-shore oil drilling leases in California in over 40 years.

For those who do not recall, on January 29th, 1969, a massive oil spill from a Platform A off the coast of Santa Barbara created an environmental nightmare, the likes of which California has never experienced. According to the Santa Barbara Wildlife Care Network, the animals that depended upon the sea were hit the hardest. In coming tides brought the corpses of dead seals and dolphins. Oil clogged the blow holes of dolphins, causing massive lung hemorrhages. Animals that had ingested the oil were poisoned, and in the months that followed gray whales migrating to their breeding ground in Baja avoided the channel, their main route south.
Thousands of birds were estimated to have died because of contact with the oil. Witnesses recall a stench that wafted into their neighborhoods, drawing concerned residences to the beaches when they were met with shockingly silent black ocean thick with oil, an apocalyptic landscape of ecological destruction.

Since that tragic day in 1969, California strengthened its resolve to reduce and eliminate drilling off of its coast. In 1994, the California legislature passed the California Sanctuary Act that generally prohibited new leasing off the coast and gave this Commission the absolute discretion and authority to deny any new lease application on the simple finding that it was not in the best interest of the State of California.

Thus, on January 29th, 2009, this commission rightfully denied the application of The Plains Exploration and Production Company for the first new oil lease in state waters since that infamous day. In the face of mounting calls to drill, baby drill, it was a courageous decision that you should be most proud of --

CHAIRMAN GARAMENDI: Kelly, could you wrap up for a few moments or just hold for a few moments if you would please.

Do you want to take a break?
MR. SHEEHY: No. Listen -- for the record, I'd be happy to sit here and listen to everybody's statements.

CHAIRMAN GARAMENDI: No, no, no.

MR. SHEEHY: I've had a death in the family, and I'm going to have to leave to go tend to personal matters, but I would have been happy to have the debate with you today. If you want to have it again sometime, it's fine with me.

MR. THAYER: Hey, Tom, send that off.

CHAIRMAN GARAMENDI: We'll take care of it.

MR. THAYER: Tom, we'll take care of all that. This is -- hey, Tom, do you need a ride?

MR. SHEEHY: No, I've got a car. Thanks.

UNIDENTIFIED SPEAKER: I'm so sorry.

CHAIRMAN GARAMENDI: We're going to take a ten-minute break. We'll come back in ten minutes.

(Off the record.)

CHAIRMAN GARAMENDI: Okay. I'll explain what is going on and where we are and what we intend to do from this point forward.

I think it was apparent to all that when Tom returned to the room after taking the call that he was very upset, and he had every reason to be. His father-in-law was killed in an auto accident recently, probably
within the last hour or so, and we don't know more details
than that.

He has asked that we go ahead with the hearing.
Obviously, we were deeply into a very heated debate about
the appropriateness of an action that is before the
legislature.

I'd like to take the remaining testimony, and
then we will have a vote on the resolution itself.

MR. FOSSUM: Mr. Chairman, we presently don't
quorum. If you'd like to have the testimony proceed,
that's fine. Otherwise, we'll have to wait for the
controller, or on alternate.

CHAIRMAN GARAMENDI: His alternate will be here
very shortly. Can somebody chase down Cindy? She's
around here. I think she's just outside.

While we're waiting for either Cindy or John to
return, we have a Louise Rishoff or Rishoff from
Assemblywomen Brownley's office will be the next to
testify, and I believe I had already called the name of
somebody from the Surfriders, and that would be Joe.

Okay. We have a quorum, and Kelly, would you
please continue?

MS. BROSNAN: Thank you. I wanted to say that I
thought that your decision was courageous and one that you
should be most proud of. And as soon as your Commission
had acted Governor Schwarzenegger, surprisingly retreated
to a back room and concocted a deal behind closed doors
that was designed to usurp your authority and unilaterally
authorize the Department of Finance to approve PXP’s
lease.

One minute the governor loudly proclaims that
he's opposed to any new off-shore drilling in California,
and the next he uses fear tactics in the cloak of our
economic crisis to hold a fire sale on our coastal
resources.

Ladies and gentlemen, he can't have it both
ways. Ironically, the governor’s plan comes at a time
when the Obama administration and congress are shaking
loose from the failed energy policies of the Bush
administration and are working to pass comprehensive,
clean energy legislation introduced by Waxman and
Congressman Markey, that will reduce or dependence on
fossil fuels and move us toward a clean energy future.

My husband, Pierce, and I wish to applaud this
commission for making the right decision in denying the
PXP lease. We agree with that you the supposed benefits
promised by this oil company and their partners do not
justify the benefits promised and the increased near and
long-term risks to our coastline, our marine life and our
coastal-dependent economy, we urge you to pass the
resolution that is before you and send a clear message to
the governor and the state legislature that our precious
coast is not for sale at any price. I thank you for your
time.

CHAIRMAN GARAMENDI: I thank you very much.

Joe?

MR. GEEVER: Thank you, Mr. Chairman. I guess
first before I start, I'd like to offer our condolences to
Mr. Sheehy, and it's unfortunate, but it makes it a little
awkward, a little cloud over the room. Nonetheless, my
name is Joe Geever, and I'm the California Policy
Coordinator for the Surfrider Foundation.

As you know, on January 29th, we stood before
you to support the Tranquillon oil and gas project. We
supported that proposal because we believed it was a
creative means of eliminating existing off-shore drilling
by a date certain. Of course, we were disappointed that
the issues related to enforceability couldn't be resolved
and the project was denied. Nonetheless, we now stand
before you to oppose the governor's plan to undermine the
authority of the State Lands Commission and threaten the
agency's independence. We don't always agree with the
decisions made by this body, but we recognize and support
the hard work of your staff and the public process
designed to enforce the protection of our precious state
lands.

As evidence of what we believe is the proper
appeals process, I see that during closed session, you
will be discussing a lawsuit we filed because of the
errors made by this commission in approving the Poseidon
Ocean Desalination lease in Carlsbad. So, we're, we're
obviously not here to defend all your decisions. We're
here to defend your authority and process.

A couple of points we want to be clear about.
First, we did not support the original PXP deal because of
the extremely limited benefits it might have on the
state’s budget. We still don't.

Second, we'd prefer to the issues of
enforceability --

CHAIRMAN GARAMENDI: Excuse me, sir. I'm very
sorry.

MR. GEEVER: -- the issues of enforceability
revolved between the state and federal agencies as opposed
to this obvious effort to undermine your authority. The
governor's proposed -- budget proposal not only sets bad
precedent for appealing your decision, it does nothing to
resolve the issues surrounding enforceability. That
should be the state's goal in our opinion, resolving those
issues.
Thank you for providing this opportunity for public comment, and we’ve conveyed our comments to the governor as well.

CHAIRMAN GARAMENDI: Thank you. I think I have a staff person here in the room. Could you come up?

Next witness.

MS. RISHOFF: Good afternoon, Chair Garamendi, Commissioner Chiang, Louise Rishoff, the District Director for State Assemblymember Julia Brownley.

First of all, welcome to Santa Monica, which is Assemblymember Brownley’s home, and I know that if she were here in person, she would certainly want to extend her condolences to Commissioner Sheehy and his family.

I appreciate this opportunity to read a brief statement from the assembly member. She only found out about it yesterday we understand it may be going to a conference committee tomorrow, so apparently this is the fast track on top of everything else. Dear Commissioners, as a member of the Assembly Coastal Caucus and with the 41st AD bounded by 70 miles of some of the most beautiful coast in our state, I wish to state my support for your resolution to the legislature to reject the item in the current May budget revision that would overturn your January 29th, 2009 decision denying oil and gas leases related to the Tranquillon Ridge Field, but most
importantly which would seriously usurp your independence as a body.

I stand with you in your commitment to preserve and protect the California coast and our coastal waters. I signed the letter from the Coastal Caucus to the commission in January, stating the Caucus's strong opposition to the Tranquillon Ridge Lease, commission's denial of that requested lease was the correct one then for all the reasons set forth in the resolution before you and should not be overwritten now through this artifice.

Although solving the state's serious budget crisis this year will require many painful decisions, this proposal to override the Commission for the first time in its 70-year history is wrong headed. It would throw our state into environmental reverse gear and would be a terrible precedent. I will urge my assembly colleagues in the strongest possible terms to oppose this proposal.

Thank you, Julia Brownley, Assembly Member, 41st District.

CHAIRMAN GARAMENDI: Thank you very much. I'm going to call out three names, and if you could come over, stand by the wall and we'll take you, and we'll do this in sequences of three at a time. Linda Krop, Rudy Vietmeier?

MR. VIETMEIER: That's good enough.

CHAIRMAN GARAMENDI: Close enough, and Jack Eidt.
Linda? Okay. Let's go with either Jack or Rudy. Oh, there's Linda.

MS. KROP: Thank you, Mr. Chair, Members of the Commission. I, too, would like to offer our condolences to Commissioner Sheehy and his family at this time. I am Linda Krop, Chief Counsel of the Environmental Defense Center, and I'm speaking here today on behalf of our clients in the negotiations with PXP, Get Oil Out and Citizens Planning Association of Santa Barbara County, both who have worked for over 40 years to protect our coast from off-shore oil and gas development and the impacts there from. I have a statement to read regarding our position on this proposed May budget revision.

The Environmental Defense Center for itself and on behalf of our clients, Get Oil Out and the Citizens Planning Association, recognizes and applauds the State of California's long-standing bipartisan support for a healthy coastal economy and an ongoing commitment to reduce or eliminate the environmental threats inherent in off-shore oil drilling.

It is precisely for that reason that we entered into a ground-breaking agreement with Plains Exploration and Production. Our agreement for the first time provides firm end dates for off-shore oil production facilities, requiring cessation of all operations at Platform Irene in
13 years and the termination of all operations on three
other platforms off-shore Santa Barbara County known as
the Point Arguello Project in nine years. These platforms
would otherwise operate indefinitely.

The agreement also provides for the removal of
two on-shore oil processing facilities that serve those
four platforms, offsets all of the greenhouse gases
generated by the project, provides payment for additional
local air quality benefits, and provides for the
conveyance of almost 4,000 acres of ecologically important
land on the Burton Mesa on the Gaviota coast into public
trust and perpetuity. The agreement represents an
unprecedented opportunity to end oil development in not
just one but two locations off the Santa Barbara County
coast and to close two major off-shore processing
facilities and to prevent further off-shore leasing.

Nevertheless, we today join with many other
environmental groups expressing their grave concern about
the May budget revision for procedural proposal to
legislatively overturn the decision of the State Lands
Commission. We believe that the concerns raised by the
State Lands Commission in January can and should be
addressed.

Once these concerns have been addressed, we
believe that the commission should reconsider its position
on the Tranquillon Ridge Project, but we believe that the Commission as a whole is the proper body to do that.

California has a rich tradition of independent Boards and Commissions which continue to put California at the forefront of environmental innovation and protection. Our organizations have consistently defended their right to take action consistent with their duties to protect the natural resources of the state. We are confident that utilizing the established process will result in a project that furthers our ultimate goal, eliminating existing oil development off-shore Santa Barbara County, which can be approved by the State Lands Commission. Thank you very much.

CHAIRMAN GARAMENDI: Thank you. Jack or Rudy, whichever one is first.

MR. VIETMEIER: Chairman Garamendi, Members of the Commission, my name is Rudy Vietmeier. I'm speaking for the Sierra Club, and the Sierra Club's supports the resolution of the Commission, most of the reasons have already been stated, so I won't bother to repeat them, just to go on record that the Sierra Club is in support of your resolution. Thank you.

CHAIRMAN GARAMENDI: Thank you.

Jack?
MR. EIDT: It’s Jack Eidt, and I'm with Wild Heritage Planners out of Los Angeles and I'm also on the Board of Friends of Harbor, Beaches and Parks in Orange County. Excuse me.

I want to support the State Lands resolution to oppose the provisions of the governor’s May budget revisions. This State Lands Commission overthrow is unconscionable. I was present at the hearing in January, and I really appreciated the decision, and I concurred with it. It was interesting that -- sorry -- interesting that the governor's representatives spoke out against off-shore drilling in the outer continental shelf during the hearing at the Department of Interior in San Francisco, but now they're supporting here a process that would circumvent the state’s decision-making body to allow the first drilling into the state sanctuary in 40 years.

I would have -- also didn't appreciate the fact that I don't reside in Santa Barbara County means that my opinion doesn’t count. I'm a graduate of US Santa Barbara Environmental Studies Program, and I have a long history of impacts from off-shore drilling in Santa Barbara and actually the first environmental impact report I studied was the Gaviota Processing Plant, so I have a very personal relationship with that coast and a strong concern about protecting it. None of the State Lands Commission's
concerns regarding unenforceable ability of the end dates has been approached here and dealt with. We have questions about the MMS meeting their governing statute requiring all recoverable oils to be removed. We have concern about the federal government's power to exercise eminent domain should -- I mean, we don't know what's going to happen in 2022. We don't know what kind of world we'll live in, what sort of energy demands there will be. Saying that just trust us, this has never happened before, we couldn't imagine that they would overthrow this decision is not good enough for the citizens of California.

I know that you made a decision based on that, but I want to reiterate that. Also PXP does not have the ability to remove existing platforms and the removal of on-shore facilities is also in question, so this is a precedent that sets our coasts for sale, and it also sets up a business model for new off-shore drilling in the federal waters, and I think it's something that should be avoided, so I wanted to see that the State Lands Commission decision is upheld. Thank you.

CHAIRMAN GARAMENDI: Thank you. I'll read three more names. There's another representative from the Sierra Club. Penny, you'll be next. Scott Thompson -- or
Thomas rather, and Brandy Lengning -- I don't even think I came close. Sorry, Brandy.

MS. ELIA: Good morning. I'm Penny Elia with the Sierra Club and my condolences as well to Mr. Sheehy and his family, and life is incredibly fragile. I am reading a statement today from Sara Wan. It's her 50th reunion in New York today, and I'm sure you can appreciate that she's very, very sorry not to be here to deliver this herself.

There are two critical reasons to support the resolution. The precedent it would set relative to the independence of the State Lands Commission and the consequences of the PXP proposal. This Enron around the Commission is a direct attack on the independence and integrity of this Commission. It sets a precedent that could be used to circumvent any decision, not just an oil and gas lease.

Anytime the governor does not agree with the decision of the State Lands Commission, he or she could go to the legislature, point to this precedent and ask that it be done again. This is not about the budget. This is about the independence of this and other Boards and Commissions. The governor has attempted to consolidate and eliminate Boards and Commissions that are independent of his office since the day he was elected. Now, he is
attempting to do that in the name of the budget deficit. The people of California did not elect him emperor. There is a system of checks and balances in place, and it must remain. Having said how important this is to the overarching issue of the future of the Commission, you cannot look at this without also looking at the PXP project. PXP and EDC continue to state that this project has no environmental consequences. That is simply untrue, and you made a wise and informed decision when you voted to deny the project.

There are four main reasons why this project should not be allowed to go forward. One, it will send the wrong message to DC. Secretary Salazar has made it clear he will approve some OCS. The question is where. If PXP is approached, it says that this state believes that the economic income derived from OCS outweighs the potential environmental and economic consequences of drilling in coastal waters.

If the state of California approves the first new oil drilling in off-shore waters in 40 years, why shouldn't the federal government. You can try to tightly draw a distinction between this and other OCS, but that simply won't matter. This is drilling in a new field from an existing platform, and most of those 36 existing leases off Santa Barbara can also be drilled from existing
platforms. If the state wants the funds, why shouldn't the feds? And if the state believes there are no environmental consequences, why shouldn't this be where the feds allow oil drilling.

Two, the agreement is not enforceable and therefore the benefits of the date are illusionary. The end date is only real if MMS agrees to it and given their current enabling legislation, they cannot. The proof -- the smoking gun is that PXP has been in DC attempting to get the law changed so MMS can agree. Until or unless that happens, there is no end date that is enforceable.

Your agreements, all of them, are confidential. Would you like me to finish?

CHAIRMAN GARAMENDI: Please.

MS. ELIA: The agreement between PXP and EDC has been offered to be possibly open but not the one with TPL. We know nothing of the terms or conditions that will run with the land or if all of the titles are clean. Unless the land is donated directly to the state, the land donation may have limited or no benefit to the state in the long run.

Four, we have seen nothing in writing that guarantees that the other owners of the platforms will also agree to the end date. Can the contractual
agreements with companies using the on-shore facilities be terminated?

In short, there are lots of problems with the project that has been proposed and too many risks to approve. I urge you to stand firm on your decision, protect our coasts and stand with the citizens of California who elected you. We urge you to approve this resolution. Thank you.

CHAIRMAN GARAMENDI: Thank you.

Brandy?

Sorry, Scott.

MR. THOMS: That's all right.

MS. LENGNING: Hello. My name is Brandy Lengning. I don't have a snazzy title, and I represent only myself as a concerned California resident. I've traveled here today from Ventura County to testify in support of the resolution to oppose our governor's attempt to balance the budget at the expense of our coastal ecosystems. To move forward with the first off-shore lease in 40 years sends the wrong message to DC.

Secretary Salazar has made it clear he will approve some outer continental shelf drilling. The question is where. If the deal for Tranquillon Ridge is approved, it says that Californians can be bought. It dangerously asserts that the economic income derived from
off-shore drilling outweighs the potential environmental and economic consequences of drilling in coastal waters. If the State of California approves the new oil drilling in off-shore waters, why shouldn't the federal government?

Approval of this deal would undermine efforts to reinstate the moratorium in the OCS drilling in federal waters and therefore result in additional spill risk and damage. Any benefit from the funds would not be sufficient to offset the costs of dealing with the impacts to the state's resources and coastal economy if there were a major spill.

My understanding of the staff report from January clearly indicates that there are significant problems with the ability to enforce the beneficial environmental provisions of this agreement, problems that do not sound to me like they can be swept under a rug or ignored without exposing the state to risk and liability. That PXP and the governor plan to end the SLC decision rather than rectify the enforceability and land title questions tells us they are more interested in $100 million signing bonus rather than an airtight deal serving the interests of all Californians for years to come. I ask you to oppose this move to overthrow the State Lands Commission and affirm your rejection of this deal at this time. Thank you very much for your time.
CHAIRMAN GARAMENDI: Thank you.

Scott?

MR. THOMAS: Good afternoon, thank you for hearing from me. My name's Scott Thomas. I'm the Conservation Director for the Sea and Sage Audubon Society in Orange County.

I will make this as brief as I can. We're here today to support the resolution. We supported the commission in January with their decision about PXP lease. Most importantly, we're here to support your independence. Whether we agreed or disagreed with the PXP, the independence of the Commission is very important to us, and I have to give my condolences, too, to Mr. Sheehy and apologize for what I am about to do, but he is not here, and I really wanted to speak to him with this Commission.

But since we're on public record, I have to say a few things. The behavior that I witnessed in the last few hearings, both in January and today, is some of the most inappropriate behavior I've ever seen in a public hearing, and I've been doing this for 20 years, in city councils, the state and in Washington DC, and I have to agree with Jack Eidt. I am from Orange County. We're not from Santa Barbara, and I'm not surprised that the other environmental organizations were a little bit upset that we came up the coast to discuss a project that is in Santa
Barbara off the coast but it's still state waters, and I was very offended that we were told in January and again today that we maybe didn't have a right to be there. This is a state hearing, and I'm sure the rest of the Commission agrees that we have a right as a citizen from the state to talk about this topic.

And, again, thank you for your support in January of the decision and we support the resolution. Thank you.

CHAIRMAN GARAMENDI: Thank you very much. The next three, Amber Jackson -- oh, this is interesting, Amy Jackson. I don't know if you guys are related, but -- and Joy Folmer (phonetic). Amber, you're first.

MS. AMBER JACKSON: All right.

CHAIRMAN GARAMENDI: Followed by Amy and then Joy.

MS. AMBER JACKSON: Good afternoon. My name is Amber Jackson and I am a UC Berkley student home for the summer, and I came here to testify today to support the resolution that opposes Governor Schwarzenegger's overthrow of the January denial of the PXP and EDC deal.

This is a direct attack on the integrity of this Commission. Despite words to the contrary, it sets a precedent that could be used to circumvent any decision, not just on oil and gas. Anytime a governor did not agree
with the decision of the SLC, he or she could go back to
the legislature using this as a precedent.

This is not about the budget. This is about the
independence of this and other Boards and Commissions.
This project was sold to the public, Santa Barbara County
and numerous environmental organizations on the basis that
it was enforceable and would definitely end off-shore
drilling in California and in Santa Barbara. Your own
staff and the Attorney General's office has made clear
that it is highly unlikely that the end dates of this
project can be enforced. One memo from a PXP attorney
goes as far as to say, and I quote: "Some of these lands
will not be conveyed for years after the SLC lease
terminates, i.e., once facilities have been abandoned and
contamination has been cleaned up, it may be that some of
the lands are accepted by the grantees, while others are
rejected due to some things such as insurmountable title
issues.

If I understand the basic elements of this
confidential agreement, the timely transfer of some of
these parcels is tied to the cessation of drilling and the
and the removal of infrastructure. But this kind of
language makes clear that there are loopholes in this deal
wide enough to drive a Mack truck through. I ask you to
oppose this move to overthrow the SLC and affirm your
rejection of this deal at this time, and thank you so much for listening.

CHAIRMAN GARAMENDI: Thank you very much.

Amy Jackson?

MS. AMY JACKSON: Thank you, Commissioners. My name is Amy Jackson, and, yes, that is my daughter who just spoke.

MR. CHIANG: Well done.

MS. AMY JACKSON: I'm very proud of her.

CHAIRMAN GARAMENDI: Well, congratulations on your daughter.

MS. AMY JACKSON: I would also like to say I'm very proud of this Commission and your standing up against a lot of things in your decision to -- to deny the off-shore drilling. It was a courageous stance against a lot of lies and misrepresentations that are only now coming to fore, and even though I live in Laguna Beach, I heard of what went on, and I am so thankful. I am a mother and a surfer, and I'm part of the Laguna Canyon Conservancy and very active in the Orange County area, and I watched with concern what was going on out in the ocean.

One thing I did with my kids this weekend was I watched a Pixar movie about the little -- the little --

MS. AMBER JACKSON: WALL-E.

CHAIRMAN GARAMENDI: WALL-E.
MS. AMBER JACKSON: And WALL-E, I watched it and I was excited because the kids said, 'Mom, you're going to love it.' And it was so sad their image of what we would have done to our environment, and California stands for a beautiful environment. Our coastline and our natural resources are far more important than a little bit of oil out there in the ocean, and those images of all the injured and dead animals from the oil spill that happened in the '70's, that is why we have a ruling so that that stopped our off-shore oil drilling, are still as significant, as they are, against the oil challenges that we face today, and I just want to thank you for your courage. I'd like to support you in opposing this -- this deal, and just offer you my -- my thanks. Thank you again.

CHAIRMAN GARAMENDI: Thank you very much. Joy Folmer? I believe that's the last person that wants to speak. I have no others unless we're missing something here and we've -- good.

The issue is now before the Commission, and we're open for a motion.

MR. CHIANG: Motion in support.

CHAIRMAN GARAMENDI: That motion is seconded by the Chair. Without objection, we'll record two aye votes.
and we'll record Mr. Sheehy as being not voting. Okay.

Thank you very much. I appreciate the testimony on that.

We're now going to move to other items, and I think that takes us back to Item 66. Do you have an item? Do you want to take that up now, or do you want to take it in sequence.

MR. THAYER: It doesn't matter.

CHAIRMAN GARAMENDI: We'll take Item 66 up next.

MR. THAYER: Thank you, Mr. Chair, the staff report will be given by Greg Scott.

CHAIRMAN GARAMENDI: Mr. Scott, we heard this in great detail at the last meeting. I think what I'd like to hear, we had laid out some specific criteria on this one. Otherwise we were going to bring the hammer down on it. So let's -- what's changed between now and the last meeting?

MR. SCOTT: Well, everything has changed. The Carone Petroleum has, as you recall, they were asked to meet three conditions that the commission had required that by today they would have completed. Those three conditions were met. I can go over them very quickly.

CHAIRMAN GARAMENDI: Were they satisfactorily met?

MR. SCOTT: Yes, they were to our satisfaction, they --
CHAIRMAN GARAMENDI: And so the first condition was the platform verification?

MR. SCOTT: The platform verification report has been completed. The verification agent, that they nominated was satisfactory to the Commission and the MMS. The second condition was that they submit a right of use and easement application to the MMS. That was done also last week. We have seen the application. It appears to be adequate. The MMS will determine its adequacy within the next 30 days, and the third condition was that --

CHAIRMAN GARAMENDI: Show me the money.

MR. SCOTT: They have shown us the money.

CHAIRMAN GARAMENDI: Good.

MR. SCOTT: And they have completed the -- executed the reimbursable agreement that was also delivered. So, the three items were attended to satisfactorily to the Commission staff, and in a -- to make a long story short, our recommendation is that the Commission allow Carone Petroleum to proceed with the processing of the project. The first thing that will start with the resumption of the environmental impact report processing.

CHAIRMAN GARAMENDI: Very good. How can we make sure that they continue to proceed and not sit on this?
MR. SCOTT: The -- presently two balls are in the MMS’s court, the RUE application that was submitted, will need to be reviewed by the MMS. We have spoken to the MMS regularly during the -- since the last meeting. They have given us some assurance that the application will be addressed and hopefully Carone will be notified -- notified of that that application is satisfactory, the submittal for the platform structural requalification may take a little longer. That would be somewhere between 30 and 90 days.

Staff will be monitoring that as well. We will be in constant contact with the MMS staff to assure that those are being attended to. Once they are done, we will know that those two hurdles have been completed. Carone, during the next course of time does have some of its own work to do.

The MMS may require that a revised development and production plan be submitted. If they do require that, we will be monitoring Carone's attentiveness to that as well. They do have some things they need to do on the platform.

CHAIRMAN GARAMENDI: So when should this come back for the -- to the Commission for a status report? Three months? Six months?
MR. SCOTT: I would say the soonest we would want to come back to the Commission would be after we hear that the MMS has reviewed and concurred with the two items that were delivered to them recently. That would be the RUE and the structural integrity of the platform.

CHAIRMAN GARAMENDI: Three months from now?

MR. SCOTT: I would say at least three months. Probably, sometime after three months.

CHAIRMAN GARAMENDI: Let's do this. I'd like to -- Paul, if you could come back to us at the next meeting, I think it’s three months from now and give us a status report that things are proceeding, and then when that use -- re-use permit is completed, we'll come back for another hearing on that. Okay.

In other words, I want to keep their feet to the fire.

MR. THAYER: Right. And I think, you know, frankly, we'll keep the same approach that we have with the other violations where I’m routinely giving updates to the Commissioner as part of the EO report.

CHAIRMAN GARAMENDI: Very good. Then we have no action to take today: Okay. Carone, you can --

MR. SCOTT: Before I leave --

CHAIRMAN GARAMENDI: Breathe deeply and -- is there public comment on this?
MR. SCOTT: I would just like to add my condolences to Mr. Sheehy and his family for his loss.

CHAIRMAN GARAMENDI: I'm sorry -- thank you. I appreciate that, and I'm sure Tom does too.

I'm sorry, Linda, I had you shuffled into 68. Please, go ahead.

MS. KROP: Oh. Thank you once again. Good afternoon, now. Once again, I'm Linda Krop, Chief Counsel of the Environmental Defense Center, appearing on behalf of the Environment Defense Center and Get Oil Out, and I will combine our two testimonies and once again I have a letter from GOO as their representative is not able to attend the hearing.

I think our main point is that what you did at your last meeting worked. This application has been languishing for over eight years, and we've been working closely with your staff to try to find out is Carone serious or not, if not, let's, you know, have the leases extinguished, and we have been working very closely with your Commission's staff ever since 1994 to achieve the goals of the California Coastal Sanctuary Act, which is to basically place state waters in a preserved status, and so many, many leases have been extinguished and quit claimed since 1994, and we appreciate the work of your Commission staff. We thought the Carone leases were going to be
next. We understand that the milestone set at your last hearing were effective, and so I guess our point today is to do that more often. Do it earlier and do it more often. You know, keep those milestones coming. They seem to be the only thing that works, and so I understand you’re going to come back in three months, try to put some specifics on what has to be done in those three months. You know, that MMS has to approve the report, you know, not just, well, go back and do some more studies, but the more we can lock this in, the more we can either move it forward or hopefully, eventually add these leases to the sanctuary as well. So, thanks for your action, and let’s stick to it, and --

CHAIRMAN GARAMENDI: Thank you.

MS. KROP: -- and we look forward to seeing what happens over the next few months. Thank you very much.

CHAIRMAN GARAMENDI: Thank you. Carone’s president is here. Do you need to, want to testify or are you -- good. Then we're not taking any action. We'll come back in three months, and I would expect in three months to have a report that would say that the MMS is diligently processing it and Carone is answering all of MMS’s questions. Thank you.

At the request of Controller Chiang, we are going to take up Item 69 next.

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Cindy, I think this is your resolution?

MS. ARONBERG: It is the controller’s resolution, and did staff have a quick --

MR. THAYER: Quick presentation, then. This resolution was requested by the controller's office. It would put the Commission on record as supporting more action to be done, significant action to be done to control and reduce litter and marine debris in particular through the encouragement of the use of reusable shopping bags and by placing a fee on single-life use shopping bags as proposed by Assembly Bill 87 and Assembly Bill 68.

There are various good reasons that I know the lieutenant governor's already aware of as to why we should go forward with this. Single-use shopping bags have been a significant source of plastic marine debris and other places, other countries and other states that have imposed a fee such as a has been proposed have had great success in reducing marine debris. Staff would be happy to answer your questions about this.

CHAIRMAN GARAMENDI: Very good. We have several people that want to testify on this, and let's start with Angela Howe, Surfrider Foundation. Joy Fullmer was called earlier, but I don't think she testified, and Steward Sikich.

UNIDENTIFIED SPEAKER: Sara.
CHAIRMAN GARAMENDI: Huh?

UNIDENTIFIED SPEAKER: Sara.

CHAIRMAN GARAMENDI: Oh.

UNIDENTIFIED SPEAKER: Handwriting.

CHAIRMAN GARAMENDI: Handwriting issues here.

Coastal Resources Directors, so let's take those three, and then we'll move on, please.

MS. HOWE: Good morning, thank you, and again deepest sympathies to Mr. Sheehy and his family. I'm upset that he could not be here today because this is a very important issue, and Lieutenant Governor Garamendi, we thank you for your leadership on the issue of marine debris and the encouragement of legislature to address the problem. Just going to read a quick letter that I'd also like to submit to the State Lands Commission.

On behalf of Surfrider Foundation and our over 30,000 members in the state of California, we would like to convey our firm support for Agenda Item 69, the resolution that would support legislation to reduce litter and marine debris by imposing a fee on single-use carry-out bags. For example, Assembly Bill 68, this type of fee on single-use bags would effectively deter consumption of single-use items by charging a fee on all single-use plastic, paper, and compostable plastic bags at the point of sale in supermarkets, pharmacies, and chain convenience...
stores beginning in 2010. Revenue generated from the fee will be used for trash abatement and litter prevention related to single-use bags.

Additionally, this type of legislation on single use plastic convenience items, which was recommended by the California Ocean Protection Council's resolution on marine debris as a priority in combating ocean litter will help to alleviate the State of California's yearly spending of approximately 25 million to landfill discarded plastic bags. We do not support any legislation that would regulate single-use bags in a way that would preempt local and municipality's authority to place a ban on plastic bags as many cities have already done in a forward-thinking manner in an effort to prevent the environmental harms associated with single-use bags.

Additionally, the California Ocean Protection Council has approved funding for a master environmental assessment on the environmental impacts of single-use bags in order to assist municipalities that do want to regulate the problem. As you may know, Surfriders is a grassroots environmental organization dedicated to the protection and the preservation of our coast. Our interest in the ban of plastic bags stems from our mission to protect ocean ecosystems and ensure water quality for the benefit of the public and the marine environment.

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Surfrider is currently active in a campaign entitled Rise Above Plastics and we are highly active in this initiative for several of our chapters in California, engaged in educating the public, holding seminars, speaking at schools and working with businesses and supermarkets and drug stores to source alternatives to single-use bags.

Surfriders supports this resolution as an effort for California to lead the nation with progressive approach to the environmental hazards and the passage of this legislation to reduce ocean litter by imposing a fee on single-use bags is a necessary next step in our movement to protect and preserve our beloved ocean environment. Thank you for your leadership.

CHAIRMAN GARAMENDI: Thank you very much. Well, let's see, Sara?

MS. SIKICH: Good afternoon, Chairman and Commissioner Chiang. My name is Sara Abrahamson Sikich, and I'm the Coastal Resources Director for Heal the Bay.

I think it was about a year and a half ago that I was sitting here in this same hearing room with the City of Santa Monica began to discuss the issue of plastic bags, and I wish the bag monster could be here today, but it's a very charismatic fixture of a costume of 600+ plastic bags that is the average annual use that a person
uses every year. And, so, as you can, we're choking on plastic bags. They are throughout our water sheds, inland waters, beaches and oceans. In California alone we use over 19 billion plastic bags annually. And just driving here today from my home just up the coast, I saw them floating on the beach and flying down the freeway.

So, it's truly a big problem. The clean-up of this trash, you know, it's an unsightly problem but it's also very costly to the state, and the local governments. Because of this issue, Heal the Bay has sponsored AB 68 which is a fee that would was put 25 cent fee on paper, plastic and compostable bags because it's important that all of these single-use bags, not just the plastic ones which become ocean litter because there are other environmental issues associated with those other bags, and a fee-based approach is great because there are readily available alternatives like this purse-sized fold-up bag that you can carry in a purse or pocket, bring this to the grocery store and use those instead. California and the US are behind the curve. Countries like China, Denmark, Rwanda, Mexico City -- other place have addressed legislation and put in place laws to either ban or place fees on these bags. In fact, the fee-based approach in Ireland has shown a 90 percent reduction in the usage of these bags. So, it really works in other places, and it's
a way to generate revenues to fight litter in our communities, which, obviously in the state of times today in our budgets, we need that money to be fighting this litter. There are laws on the books to do litter prevention and litter reduction; this would be great help.

So, because of all this, we need to see California move forward with legislation that's critical, the Ocean Protection Counsel, local governments, others have weighed in supporting this type of legislation, and we think that at this time the State Lands Commission would be very helpful in helping support this legislation and moving it forward. Thank you.

CHAIRMAN GARAMENDI: Thank you very much. We have three more speakers, Susan Amrod (phonetic), perhaps, Samrod, Surfrider Foundation and Linda Krop.

Linda, are you up? You're not up.

Okay. A comment and then John if you'd like to close on this matter.

There are numerous bills before the legislature that deal with ocean debris and trash. Those bills, I think, are -- some are jeopardy. All of them are intended to clean and to allow for a cleaner ocean and coast. This one -- this particular resolution speaks to one of them, certainly one of the important ones.

John?
MR. CHIANG: I'd just make a motion.

CHAIRMAN GARAMENDI: We have a motion on the item, the resolution, it's seconded and without objection it is adopted.

Okay. Moving on to Item 68, or moving back to Item 68. Thank you very much for your testimony on that one. Item 68, Paul?

MR. THAYER: Well, okay. Item 68 has to do with the Richmond unpermitted or unleased pier in Lake Tahoe, and making that presentation will be Barbara Dugal, chief of our land management division.

MS. DUGAL: Good afternoon. As Paul mentioned, my name is Barbara Dugal, and I’m the chief of the land management division for the Commission. At the April 9th commission meeting, I presented an item to the Commission regarding a pier and boat house with a sun deck, stair and railing that has been constructed in Lake Tahoe on sovereign lands without a lease from the Commission. Following my presentation of April 9th the meeting and after discussion and testimony by staff and the applicant’s attorney, the Commission offered the applicants the opportunity to sign the lease that had been submitted by staff, and that lease included a provision for removal of the deck, rail and stairs, but the Commission also stated that if the applicant can provide satisfactory
documentation that the sun deck stairs -- staircase and railings were in fact, previously permitted, that the Commission would take that information into consideration.

The Commission then adopted staff’s recommendation for the denial of the application for recreational pier lease that again included the sun deck and the Commission ratified staff’s determination that the applicants’ structures won’t trespass on state sovereign lands and on behalf of the Commission and the Attorney General’s office to take all steps necessary, including litigation to remove the structures from state lands by a vote of three to zero.

On May 7th, 2009, we did receive additional information that was submitted on behalf of the applicants. This information is attached in Exhibit B of your calendar item. Staff has reviewed this additional information provided, and it remains staff’s position that no evidence can be found that permits were ever issued for the construction of the pier, the sun deck, railing and the stairs.

The information provided does indicate that in 1986, the Tahoe Regional Planning Agency issued an over-the-counter qualified exempt activity for the replacement of one piling. Excuse me.
Also in 1986, the Corps of Engineers sent a letter to the applicant initiating the applicant would qualify for the nationwide permit for the repair, rehabilitation or replacement of any previously-authorized currently serviceable structure, provided that the work would not deviate from the plans of the original structure. Again, we can find no evidence that any prior permits were issued for the pier that would qualify it for the nationwide permit. Then in 1999, TRPA did approve the replacement of a boat lift. And, again, that was a qualified exempt activity.

Through staff’s continuous review of the various photographs and drawings in the file, along with materials that we received from the Corps of Engineers and TRPA through a freedom act of information request, staff has been unable to locate any building permits or Corps permits for the original pier structure. The applicants have asserted that the pier was constructed between 1958 and 1961. We found a letter from 1970 that was sent from Placer County that was a letter of permission to the applicants that allowed them to maintain the pier on the land that the county had claimed.

This letter permission is the sole county authorization. There's also no TRPA permit for the original structure as TRPA was non-existent at that time.
What is apparent, though that began in the 1969, staff of the Commission has sought to have the upland owner apply for and have the Commission consider authorizing the use of the state’s property for the pier.

In addition to not obtaining a permit for the construction of the pier, it is apparent that the pier and sun deck have been modified over the years and the size of the structures has increased without benefit of any permits.

A drawing that was attached to a 1970 Corps notice and was also attached to the first application submitted to the Commission also in 1970 shows unenclosed boat house, a sun deck, a single-pipe railing and stairs. If you go back to that first slide, I’ll show you what that the pier looked like then. Yeah. Yeah. So it looked like -- it looked like unenclosed.

The drawing also indicates that the 1970 pier is 177 feet in length and was seven feet wide, while the boat house at that time and the sun deck, which was on top of the boat house was 30.3 feet in length and 17 feet wide.

Then we found a drawing that was submitted and it was approved by TRPA in 1987 for repairs to the pier, indicating that the pier is basically the same configuration and size as the 1970 drawing. Both drawings
depict a catwalk on the right-hand side of the pier, which you can see kind of on this photograph here.

We also found copies that were submitted on behalf of the applicant to the Corps in 1986 that again confirmed that the boat house is non-enclosed, the railing on the sun deck was still the single-pipe style and that the catwalk was not on the left-hand side of the boat house.

However, a drawing that was submitted on behalf of the applicants to the Commission with their 2002 application, indicates that the boat house sun deck is now 32 feet long and 22 feet wide and shows that a catwalk now exists on the left-hand side of the boat house. If you can flip through some of the other photographs and you can see the change. Keep going. Keep going. It's on the left-hand side there.

Photos taken by staff within the last several months shown enclosed on three sides boat house with a catwalk, again, on the left-hand side, a modified staircase to the roof the of the boat house and wood posts and railings, which replace the single-pipe railing. The pier also now has a wave-deflecting skirt on the south side.

In conclusion, based upon the additional information that staff obtained, staff is not recommending
the Commission modify its action of April 9th by Agenda Item Number 39. That concludes staff’s presentation and available for questions, and I think also representative of the applicant is also here.

CHAIRMAN GARAMENDI: Thank you very much for that. I may want you to stand by. Just don't get too embedded in the seats because there may be some additional questions that I’ll have.

Richard Sipos, representing the Richmond family.

MR. SIPOS: Good afternoon, Mr. Chairman and Commission. I had a procedural question, given that this is a continuation of the last hearing. Commissioner Sheehy at the last hearing on this point of the additional improvements was essentially the prime mover of requesting for additional information by the family, and he's not here now, and I'm wondering if it would be in the best interest to have him present, in other words to defer this to the next hearing.

CHAIRMAN GARAMENDI: I have a note from Mr. Sheehy that says he doesn't want to -- he wants these items dealt with today.

MR. SIPOS: Okay. Then I will move forward. At the last hearing, there were two items or two requests that the Commission had of the families in connection with the -- what I call the additional improvements that are
the subject of this hearing, which are a stairway with a storage locker underneath it and the railings on top of the roof or sun deck, and the request from the Commission were that we provide evidence that this sun deck previously -- or these improvements previously existed and two evidence of a permit, and on both of those issues, we were able to establish that.

CHAIRMAN GARAMENDI: I'm sorry. You are able to establish that?

MR. SIPOS: That's correct. There was a photograph up there previously from staff that depicted a roof sun deck with a pipe railing around the perimeter, a stairway with a storage locker underneath it, which were the three items that are at issue here, and that -- those conditions existed from 1959 to 1987. And then in 1987 the pier was reconstructed, and the reconstruction includes a stairway with a boat storage locker underneath it and railings. The difference being the railings are of a wood nature with benches, and you can see it in the picture up there. However, the stairway is the same type and the storage locker is the same type, and the roof is the same type as what previously existed. We have had the pier and boat house measured and the current pier and boat house is 45 square feet less than the prior boat house, and so I want that clear when staff had said that it's
different. It is different. The footprint, however, is identical, other than it is smaller than what previously existed.

With respect to the permits, you had requested that we provide evidence of a permit, and I wanted to go through that because it requires a little bit of detail, but in 1969, the Lands Commission requested the family, it was then being handled by Burnell Richmond to obtain a permit for Placer County and the Army Corps of Engineers. Mr. Richmond retained the civil engineering firm of Murray McCormick and a law firm of Robinson and Robinson to process that, and on January 2, 1970, Murray McCormick sent an application to the Army Corps of Engineers applying for a permit for the existing pier in Lake Tahoe. He sent a near identical letter to Placer County, also dated January 2, 1970, stating we're applying for a permit for an existing pier in Lake Tahoe. He sent a third letter on January 2, 1970, to the State Lands Commission requesting or submitting a concurrent application for a pier permit to State Lands. All three of those letters went out to State Lands and attached to those letters was a drawing, which I have here, and by the way, all of this is in State Lands' files. And that drawing depicts the boat house, the pier, the sun deck and the railings and it’s entitled application for permit. In response to
that, on January 7th, 1970, Placer County Department of Public Works responded that they received a pier permit application from Burnell Richmond for the permit in question, the parcel in question.

Simultaneous with that, the Army Corps of Engineers sent out a public notice status report, seeking public comment on the Richmond family pier. In response to that, in February 1970, the Resources Agency of California sent a letter to the Army Corps of Engineers stating that the Lahontan Regional Water Quality Control Board recommends that a permit be granted in recognition of an existing structure.

In addition, the Resources Agency of California stated that there were no adverse comments received from the Department of Navigation and Ocean Development, Department of Parks and Recreation, State Water Resources Control Board, Department of Fish and Game, Department of Public Health and the State Lands Commission. And the State of California then recommended approval of the permit.

Then, from January through July of 1970, the Richmond's attorney worked with Placer County, and in July 1970, Placer County sent the approval for the Richmond family existing pier, approving the pier application permit. That is the permit that you had requested. It's
a permit issued by Placer County for the existing pier, and it was sent out on July 10, 1970, and it was transmitted by the attorneys to Burnell Richmond, explaining -- or enclosing the pier approval.

So, that's the approval that was, in fact, required. In my discussions with staff, they don't recognize that as a permit even though the application was for a pier permit, and the document from the county is a pier permit approval.

Simultaneously with that, in July 1970, the Army Corps of Engineers sent a letter to Burnell Richmond stating that in light of the formation of the TRPA, the Army Corps was directed to withhold issuance of further approval of plans for existing facilities in Lake Tahoe. The letter went on to state as soon as this coordination issue can be effected and guidelines established for processing approval of existing facilities, your application will be given immediate consideration.

So the Army Corps took no action on the existing permit based upon the upcoming formation of TRPA. And, unfortunately, the Army Corps never did pick up that pier permit.

Then in 1986, when the family went to reconstruct the pier and boat house, they retained a contractor and consultant, Gary Taylor, who initiated a
permit with TRPA and also with the Army Corps, and on December 1, 1986, the Army Corps sent its letter referencing the nationwide permit and the attached conditions.

On December 23, 1986, Mr. Taylor, on behalf of the Richmond family submitted an application with TRPA for the new pier. On January 2, 1987, Mr. Taylor corresponded with Mr. Richmond that the pier permit should be issued in the second week of the month, and that TRPA was assessing fees. Those fees were paid by the family, and on January 22, 1987, a permit was issued by TRPA, which is this document here, and it's part of your attachments, which are Exhibit B. So, this is now a second permit for this pier and boat house, although having to do with the newer construction.

We have requested files, as has staff, from TRPA. Unfortunately, TRPA apparently doesn't have virtually anything relating to this reconstruction other than roughly 12 pages of documents, half of which deal with the reconstruction -- or excuse me, the construction of a residence. However, there are two relevant documents, which I supplied and I believe the Commission staff has, which is a TRPA document talking about the pier application and stating that a permit was issued and
further on June 10, 1987, there appears to be an inspection that occurred by TRPA of the pier.

    However, those are the only records that we could get relevant to this from TRPA. So, the request had been did stairways exist before and after, yes. Did a storage locker exist before and after, yes. Was there a railing before and after, yes. The railing is different, but it's a safer railing for children or adults up on top of the boat house.

    Essentially, we have demonstrated everything that we can in the way of permits being obtained, both in 1970 and in 1987. And I would note that the permit that was generated by Placer County was generated in 1970, and no objection was raised by State Lands that it was in any way deficient, other than now in connection with these proceedings, in which they've informed me that they do not regard that as a proper pier permit. Well, the problem is it's 39 years later, and there's not much the family could do this late in the game.

    So, we've demonstrated the existence of the permits, which is what I understood to be the charge coming into this hearing. I would also note that as noted on the record at the last hearing that there is no formal policy that the Commission has adopted regarding requiring this one family to remove its stairway and storage locker...
and railings. The Commission is currently approving and has been approving existing piers and boat houses with these identical facilities throughout Lake Tahoe. This is the only family that is being requested to tear apart its structure, which we do not believe is fair and appropriate.

And from a legal standpoint, since there's no formal policy, there is no ordinance, there is no statute governing this, we don't think it is appropriate to take this action. Instead, this family's limited facilities that we're talking about should be approved just like the other piers and boat houses in Lake Tahoe.

Staff contacted the Attorney General's Office inquiring about sun decks and was advised by the Attorney General's Office that sun decks are not inconsistent with the public trust doctrine. So, we don't believe that it would be appropriate legally to require the family to remove -- remove these limited improvements, none of which are inconsistent with the public trust doctrine.

And, finally, the policy that staff is imposing on this one family, the problem that I have with it is that the effect of it is to punish the family for years that have elapsed with no notice or nothing the family could do in the way of going back in time and clarifying permits or taking action. There was simply no activity on
this matter from 1970 -- excuse me, 1980, until 2002, 22 years later when it was actually the family who initiated what is now the process we started today.

So, I would respectfully request that the commission approve those limited facilities. The family is agreeable to signing the entire lease as you directed at the last hearing. This is the only issue outstanding, the stairway, the storage locker under it, and those railings. Thank you.

CHAIRMAN GARAMENDI: Thank you. A question before you leave. There was some discussion that the family was not willing to sign the standard permit lease, and I think you said that's not the case?

MR. SIPOS: Yeah, the family is willing to sign the lease that we've negotiated with the Commission, but the only issue is the stairway, the storage locker under it, and the railings. They want those torn out, and we don't, which is why, and at the last hearing, Commissioner Sheehy said he thought that was unfair and invited us to bring evidence that we had permits, and I've brought in evidence of two permits.

CHAIRMAN GARAMENDI: Okay. Now, thank you very much. If you'll step aside but don't disappear.

MR. SIPOS: I'm not going anywhere.
CHAIRMAN GARAMENDI: I guess we're going to get
to play judge here for a while.

Paul?

MR. THAYER: I'd like to respond to some of that
information. I think Barbara probably has more of the
details with respect to the particular permitting actions,
but I think as the attorney rightly clarified towards the
end, the nature of our action last week or last Commission
meeting, was not to continue it, that the Commission, in
fact, voted to litigate for ejectment and trespass because
at that time the applicant wasn't willing to sign the
lease with all the provisions in it, but the Commission
told the applicant that if it was willing to do so that,
of course, this is generally the type of improvement that
is subject to the lease and qualifies for a lease.

The sole matter for which there was a discussion
about whether something had been authorized previously was
whether or not the Commission should approve a lease for a
deck, and as the Commission recalls, several years ago, we
had extensive hearings on this, and what we ended up
deciding generally, although we were going to deal with
this on a case-by-case basis was that the Commission would
not approve them in the future because -- in effect it was
a private residential use of public waters. The
Commission, in one instance, allowed an existing
application in the pipeline to be approved, and staff indicated that there were several -- we didn't know how many, but on the order of several dozen, perhaps, statewide -- docks where decks had been previously approved by the Commission, and our recommendation to the Commission was that those be grandfathered in, where the Commission itself had previously approved ones that it seemed only fair to not yank that approval now. In some cases, staff wasn't even aware it was part of the application. It was only when we went back and looked carefully at the drawings, oh, look there's some rails up there. I guess that was a deck, and I guess we approved it. We shouldn't take away that approval.

We generally have enclosed provisions for renewals of those leases, which specify that if over 50 percent of that deck has to be replaced, then it shall be removed, so we're going to move out the non-compliance or the non-conforming use -- if this is the right way to put it. So it was in that context that the Commission asked for more background information. However, that request from Mr. Sheehy didn't really represent the approach that the Commission had decided to take earlier. It didn't decide that it if ever anybody, any other agency that approved the deck the Commission would, and the Commission had to issue the lease that we would then issue a lease
for one. The approach was going to be that if the
Commission itself had approved one, we would go ahead and
go forward, and since the Commission is taking that
posture, we have brought several docks back for a lease
renewal in which we said this is not a public trust use,
however, the Commission had previously approved it and
therefore, staff is recommending approval. We've not done
that with any newer ones or ones, as is the case here,
where a lease had not been entered into. Some of it --
Barbara will have more detail about this, but some of the
approvals that the attorney for the applicant refers to
weren't for new piers. They were for reconstruction by
TRPA Permit. I believe it says repair of an existing dock
and facility. So even if you wanted to consider those and
change the approach you've taken previously to allow the
Commission to approve existing decks where some other
agency approved them, not the Commission, we're not sure
how much there is for this applicant in that, but I think
Barbara's prepared to talk about the county situation.

CHAIRMAN GARAMENDI: Well, let's get into this
in a little bit of detail here.

MR. FOSSUM: Mr. Chair, I would like -- and
Barbara can certainly fill in, but there a couple items
that I wanted to respond to Mr. Sipos. First of all, he's
got the dates of this correspondence fairly accurate.
It's the characterizations of what I think he calls permits that we would take exception to. This structure, by his client's own submittals, has been in existence for approximately 50 years without any leases from the State Lands Commission, on a state property. It wasn't until it had been in existence almost ten years that we discovered it -- were in contact with him. Virtually, the vast majority of the correspondence that he's referring to that involve TRPA and the Corps and the county all took place in 1969 and 1970, nearly 40 -- excuse me -- nearly 40 years ago.

That's the correspondence he's referring to. In that correspondence, the State Lands Commission was involved because they had an application with us at that time to enter into a lease, so the State Lands Commission, when it was commenting to the Resources Agency, for example, didn't object because there was an application pending. They were being asked to come under lease in 1969, 1970. The Corps did, in fact, defer because they expected TRPA to step in at that time.

The permissions that were given by the county, for example, he calls it a permit. There was a dispute. The county claimed the property that the pier was put on. They were not issuing a permit. They gave them a letter, basically, of non-object to use the county, what they
came to be county property for their existing permit -- excuse me, the existing pier that had been there since 1959 or '61, that era.

So there has been a pier for that long. We think the railing on the pier and the deck have been there probably since 1970 or thereabouts, '69 or '70, the photograph shows that. What we now see, though, is all this time that they have never come under -- gotten an actual permit from any agency, including the State Lands Commission. They've gone in just in recent years and significantly expanded the facilities there. There were -- according to their own drawings, and the photographs seem to rely on that, the area of the -- what they call a boat house, I would call it a covered berth, it became a boat house recently when they added three new sides to it. They also added catwalks, both on the left-hand side and in front of the structure, and those catwalks are supported by pilings. There were something, like, I believe six pilings.

CHAIRMAN GARAMENDI: Could we put the picture back up, please?

MR. FOSSUM: At one time and original drawings there was either nine or six pilings. Barbara, maybe you can do it? There's something like 25 pilings there now that support that area of it, and none of those, as far as
we know, have any permits from anybody. So they're constantly remodeling, not just replacing, but remodeling by expanding the facilities there, and they haven't gotten any permits. So, this is not a continuation of last -- the hearing from the last -- the Commission's already taken action on this. They offered them to bring in permits that would show all those types of activities, have been permitted by somebody, and they frankly haven't brought in anything, and that's --

CHAIRMAN GARAMENDI: No permit from the State Lands Commission?

MR. THAYER: Nor from the Corps.

CHAIRMAN GARAMENDI: Nor from the Corps.

MR. FOSSUM: Or from TRPA.

UNIDENTIFIED SPEAKER: Nor for the original construction.

CHAIRMAN GARAMENDI: One at a time, please.

Curtis?

MR. FOSSUM: What they have gotten is they've gone in when they wanted to replace something, like a piling that Barbara mentioned, and they were given a permit to replace one piling. They have another -- what the TRPA calls a qualified exempt activity, which means basically you go in and fill out a form. It doesn't go before the Board or anything, and saying they wanted to
replace their -- one of the boat lifts that they have on the dock. They wanted to replace that, so they were given a permit to replace that, but there's no permit for any of the expansion that was done out there at the boat house area, and it just doesn't exist.

CHAIRMAN GARAMENDI: Barbara, anything to follow-up on that?

MS. DUGAL: No, Curtis explained how staff interprets what we mean.

MR. FOSSUM: In fact, I think the -- and this is certainly up to the Commission, but our recent analysis of the type of activities that have taken place in the last 20 years, showing what has been added to the pier, I think we would be concerned about whether TRPA or the Corps, since they haven't apparently even looked at those issues, would issue permits for those. So we would, what we assumed was the facility out there, whether the staff would even recommend a lease at this time, I'm not sure.

CHAIRMAN GARAMENDI: Okay. Mr. Sipos, would you respond and then we'll come to a conclusion here.

MR. SIPOS: Yes, thank you, and I'll break it down into two parts because there's two separate issues raised. The first goes back to again, the 1970 timeframe, and it's been suggested that staff agrees with the dates, but not my characterization of the document. The document
from Murray McCormick, which was sent to all three state
gencies throughout -- excuse me, the State Lands, Placer
County and to the Army Corps states on it, "Application
for Permit for Existing Pier." The document coming back
from Placer County, which I am describing as a permit
states: "Type of construction, existing pier." The first
sentence of it states: "The Placer County Department of
Public Works approves this application, subject to the
following conditions, and then it says attached letter
acceptable in lieu of the usual agreement, and there's an
attached letter to that which doesn’t contain any
relevant --

CHAIRMAN GARAMENDI: Let me go to -- to our
work here. Did you ever have a permit from the State
Lands Commission to occupy state land?

MR. SIPOS: Not to -- no, not to my knowledge.

CHAIRMAN GARAMENDI: Were you asked to obtain
such a permit?

MR. SIPOS: No. When this was -- let me take
this in order. First of all, when this was constructed,
to my knowledge, there was not a permitting entity back in
1959. TRPA didn't exist, Placer County didn't exercise
jurisdiction over piers. The Army Corps stepped in, I
think, in the 1960's, and it's not clear to me about what
the procedure was for State Lands back then.
In 1969 --

CHAIRMAN GARAMENDI: Just -- let me just --
please complete that.

MR. SIPOS: Okay. In 1969, the application was
submitted to State Lands, along with Placer County. I've
just gone through the Placer County lease and the Army
Corps. The Army Corps said it wasn't going to do anything
based on the formation of TRPA. A period of nine years
went by while the family and State Lands went back and
forth over title issues, approval from Placer County,
right of way issues, request for compensation. The State
Lands did not issue a permit.

CHAIRMAN GARAMENDI: Negotiations were
apparently unsuccessful, and you went ahead and built the
pier without permit?

MR. SIPOS: Well, the pier was constructed in
1959.

CHAIRMAN GARAMENDI: Very good.

MR. SIPOS: And --

CHAIRMAN GARAMENDI: Modifications apparently
took place over the years.

MR. SIPOS: The only modifications that
occurred, and I disagree with staff's statement that
there's been some sort of ongoing remodeling, the only
construction occurred in the 1959 timeframe when it was
originally constructed, and in 1987, when that new structure was built, other than the two exceptions that were mentioned, the one piling in 1986, and then in 1999, a side boat lift with permit was put in.

CHAIRMAN GARAMENDI: Permit from who?

MR. SIPOS: There was no other construction in any other timeframe other than 1987, and I pointed out that there was a TRPA permit for that and that there was an inspection done.

CHAIRMAN GARAMENDI: What's this -- what's the date of this picture?

MS. DUGAL: I believe it's around the mid '70's, if not the early '80's.

CHAIRMAN GARAMENDI: This is the mid-'70's. Next picture. Are there side skirts on that?

MS. DUGAL: Yeah, and those photos were taken about three months ago.

CHAIRMAN GARAMENDI: This is three months ago?

MS. DUGAL: Um-hmm.

CHAIRMAN GARAMENDI: Okay. So we know that you have no state permit. We know that there were negotiations under way. We know we're headed for a lawsuit, and I see no reason for -- I have no desire to change the action that we took last time, which was to authorize a lawsuit, a trespass.
Well, there's insufficient votes to change what we did last time. Okay. Thank you very much for the information. We'll let it go at that. We now have -- what's our next item?

MR. THAYER: The next item is Item 67. This is -- has to do with the -- thank you. I'm sorry. The next item is Item 67. This is the violation having to do with John Asuncion and the Blue Whale Sailing School in Alviso Slough. As the Commission may recall, we've been attempting to bring Mr. Asuncion and his improvements under lease for several years.

You should know that he sent an e-mail yesterday asking that this matter be put over again. He said that his attorney -- he's fired his attorney, and that he's trying to get some more information to give to us.

Staff is often sympathetic for the idea of putting something over, but it seems we've been trying to work with Mr. Asuncion for a number of years to finish this work, and, well, our recommendation would be that the Commission, at this meeting, find him in violation, and Mary Hays will explain further about this, but it's also true that should he get his application together and the appropriate fees to us, we would bring that to the Commission. So, to make a full presentation, Mary Hays from our Land Management Division will speak.
CHAIRMAN GARAMENDI: Mary, we have heard this thing over and over. What I would like to hear from you is what is the recommendation of staff here?

MS. HAYS: The recommendation of staff is similar to -- the same recommendation as we had in April and that, if you'd let me read that --

CHAIRMAN GARAMENDI: Please.

MS. HAYS: -- if you want to cut to the chase here.

CHAIRMAN GARAMENDI: I do.

MS. HAYS: Okay. I spent all this time preparing this too. It's been a long day.

MR. FOSSUM: And if I could, Mr. Garamendi, I think that one of the concerns staff has is even if Mr. Asuncion does bring in an application, pays the fees in full, BCDC has significant violations against him, and it's unclear that what he has out there even should be leased. So, the staff might even not recommend approval of an application, and I just wanted to make that clear.

CHAIRMAN GARAMENDI: Let's have the staff recommendation.

MS. HAYS: Staff is recommending that the Commission find the Blue Whale Sailing School, Incorporated is unlawfully occupying and trespassing on state land located in Simonds Canal and Alviso Slough in
Santa Clara County, to authorize staff of the State Lands Commission and the Office of the Attorney General to take all necessary legal action, including litigation to eject the Blue Whale Sailing School, Incorporated, seek removal of the docking facilities and other improvements from state-owned land in the beds of Simonds Canal and Alviso Slough, seek restoration of the state lands at these locations to their conditions prior to the placement of the facilities and to recover the Commission's damages and costs.

MR. CHIANG: So moved.

MS. HAYS: Thank you.

CHAIRMAN GARAMENDI: Thank you. As I recall, Mr. Sheehy was very clear in this Commission, I think he actually said it again today, that this Commission force resolution of these issues, and we now have a motion and a second to do just that. And without objection from the maker of the motion and the seconder of the motion, we adopt the staff's recommendation. Okay.

Paul, next question? Next issue?

MR. THAYER: I think that concludes the regular calendar, but before we go into closed session, I wanted to take just a moment to acknowledge Dave Mercier, who's in the office here -- in the
office -- in the audience. Dave has been with the Lands
Commission for I don't know how many years, and --

   CHAIRMAN GARAMENDI: How many, Dave?
   MR. MERCIER: A little bit over 20.
   CHAIRMAN GARAMENDI: A little bit over 20.
   MR. THAYER: No way. Wow. Dave has been
   responsible for all the fiscal analysis for all work that
   was done on the PXP to try to get the best royalty from
   them, that kind of analysis to determine whether or not
   some of the oil companies that have been assigned lease,
   whether they have the fiscal capability of carrying out
   those leases. This has all been Dave's work.
   He notified me last week that he's taken another
   job, probably getting paid twice as much, and will be
   potentially relocating, perhaps to Denver if he's unlucky,
   and so we're going to lose him. But in spite of the pain
   over that, I have to acknowledge and thank him for all the
   great work he's done while he's been with us here.
   
   CHAIRMAN GARAMENDI: John?
   MR. CHIANG: I want to thank you for your
   extraordinary service. You've been a wealth of
   information and you've brought great integrity to the
   process, so thank you very much.
CHAIRMAN GARAMENDI:  David, I agree, and if it's Denver and it's the Bureau of Reclamation, you and I are going to have a conversation.

MR. MERCIER:  Thank you.

CHAIRMAN GARAMENDI:  Thank you. Thank you very much and thank you for your years of service. All right, I believe that is the end of the public session. Do we have a closed session today?

MR. THAYER:  Yes.

MR. FOSSUM:  Very brief.

CHAIRMAN GARAMENDI:  We do. Okay. Those of you in the audience who are not supposed to be here, would you please leave, and you can turn off the video and we'll shut that down.

I want to thank the public that's out there for their attention to these very important issues. Thank you all very much. The public session is over. We will now commence with the private session.

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CERTIFICATE OF REPORTER

I, TROY RAY, a certified electronic reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California State Lands Commission, dated June 1, 2009; that it was 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 15th day of June, 2009.

______________________________
Troy Ray
Certified Electronic reporter
California Reporting LLC