APPEARANCES

BOARD MEMBERS

Mr. John Chiang, State Controller, Chairperson, also represented by Ms. Cindy Aronberg

Mr. Abel Maldonado, Lieutenant Governor

Ms. Ana J. Matosantos, Director of Finance, represented by Ms. Cynthia Bryant

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Curtis Fossum, Chief Counsel

Mr. Colin Connor, Assistant Chief, Land Management Division

Mr. Mario De Bernardo, Legislative Liaison

Ms. Nicole Dobroski, Staff Environmental Scientist

Ms. Maurya Falkner, Environmental Program Manager I

Mr. Ken Foster, Land Management Specialist

Ms. Pamela Griggs, Senior Staff Counsel

Ms. Jennifer Lucchesi, Senior Staff Counsel

Ms. Kimberly Lunetta, Executive Assistant

ATTORNEY GENERAL'S OFFICE

Mr. Joe Rusconi, Deputy Attorney General
APPEARANCES CONTINUED

ALSO PRESENT

Mr. Martin Adams, Los Angeles Department of Water and Power

Mr. Joe Angelo, INTERTANKO

Mr. John Berge, Pacific Merchant Shipping Association

Mr. Cruz Bustamante, National City

Mr. Andreas Cluver, Alameda County Building Trades Council

Mr. Michael Ghielmetti, Oakland Harbor Partners

Ms. Ruth Gravanis, Public Trust Group

Ms. Pamela Kershaw, Port of Oakland

Ms. Irene McCormack, Port of San Diego

Mayor Ron Morrison, National City

Mr. Andy Nelson, Oak to Ninth Community Benefits Coalition

Ms. Barbara Newcombe

Ms. Judith Offer

Ms. Joyce Roy

Ms. Naomi Schiff

Mr. Lee Strieb, UNITE HERE

Ms. Sandra Threlfall, Public Trust Group

Ms. Mariana Jeung Tran

Ms. Tam Tran
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35 SAN DIEGO UNIFIED PORT DISTRICT (APPLICANT/SUBLESSOR), SUNROAD ASSET MANAGEMENT, INC. (SUBLESSEE): Consider application for a General Lease - Commercial Use and approval of a Sublease, of sovereign lands located in San Diego Bay adjacent to the east end of Harbor Island, city of San Diego, San Diego County; for the renovation, use, and maintenance of an existing floating barge to be used as a restaurant and event facility not previously authorized by the Commission.

## VI REGULAR CALENDAR

88 CALIFORNIA STATE LANDS COMMISSION: Staff’s legislative update and consider taking a position on state legislation regarding Port of San Diego trust revenues (SB 1039) and federal legislation regarding school lands in the desert.

89 CALIFORNIA STATE LANDS COMMISSION: Consider a resolution proposed by the Controller supporting the San Francisco Bay Improvement Act of 2010 (HR 5061), which would provide funding for the purposes of San Francisco Bay water quality improvement; wetland, riverine, and estuary restoration and protection; nearshore and endangered species recovery; and adaptation to climate change.
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VII PUBLIC COMMENT

Adjournment

Reporter's Certificate
CHAIRPERSON CHIANG: Good morning. My name is John Chiang, State Controller. I call this meeting of the State Lands Commission to order.

I am joined, and we're very happy to welcome our Lieutenant Governor Able Maldonado. Abel, welcome. You're joining a terrific Board. And my other colleague is Cynthia Bryant who represents the Department of Finance.

The policy decisions we make are significant, and we are the stewards of the Public Trust Lands that are owned by the people of California.

Now, for the benefit of those in the audience, the State Lands Commission administers properties owned by the State as well as its interests. Today, we will hear proposals concerning the leasing and management of these public properties. But let me ask the kind gentleman to explain how the microphones work, so that hopefully we reduce or minimize the problems that will be experienced during the day.

MR. CLAYTON: Good morning, ladies and gentlemen. The way these mikes work is you need to have them pointed at your mouth, okay.

(Laughter.)

MR. CLAYTON: You can give yourself six inches of
space. If you get too close though, we won't hear anything. It gets real distorted. If you keep about six inches, speak clear, make sure the mike is pointed at your mouth, we'll be able to record everything you say, which is what I believe you want.

Okay, thank you. Have a good meeting.

CHAIRPERSON CHIANG: Thank you very much.

So the first item of business will be the adoption of the minutes from the Commission's last meeting. May I have a motion to approve the minutes.

ACTING COMMISSIONER BRYANT: I'll move approval.

CHAIRPERSON CHIANG: Thank you. Motion by Cynthia.

Is there a second?

COMMISSIONER MALDONADO: I'll second.

CHAIRPERSON CHIANG: Second by Abel.

Without objection, the motion passes.

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

Paul, may we have that report, please.

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

I have three brief items. The first two have to do with announcing new Division Chiefs that have been recently hired for the State Lands Commission. They're
both very experienced in terms of Public Trust matters.

The first is Cy Oggins. Cy, if you could stand up, in the back there with his hand up. Cy has been chosen to be the new Chief of the Division of Environmental Protection and Management. Cy has come to us from the Department of Conservation, where he worked on mine closure issues.

But prior to that, he'd been with the Commission for six or seven years in that same Division, so he's very experienced in the work that he's coming for.

The second one is a new Chief for our Land Management Division, Brian Bugsch. Brian, right here.

Brian has just come to us from the Insurance Commissioner's office, but he's a familiar face to some of the people here, because he'd worked for the prior Lieutenant Governor on State Lands issues. And as such, he's very experienced with Public Trust matters and several years in working on that.

The other item I wanted to mention is this is the first meeting we've had in the Bay Area since the passing of Eve Bach. And I wanted to take just a couple of moments to acknowledge the role she's played in the Public Trust doctrine in the State, and in essence, to thank her for that.

She was active for her life in Berkeley civic and
political matters. And she worked in the city government in Berkeley and rose to be Assistant Manager for Community Development. After retirement from the city, she worked on affordable housing issues. We saw her at numerous State Lands Commission meetings, of course, particularly down here, but she also would sometimes come up to the Sacramento office.

She served as president of the Public Trust Group. This group is, as far as I know, the only citizens group in the State of California that's devoted solely to working on Public Trust issues. And so we regard them as our partner really in a lot of matters. And we think our work has been improved because of this group and because of Eve's input. So we miss her already. And I had to acknowledge her role and her passing at this Commission meeting.

And that concludes the Executive Officer's report.

CHAIRPERSON CHIANG: Are there any comments by the members?

Abel?

Thank you. Let me just congratulate, on behalf of the Commission Cy and Brian. We look forward to your strong work. And, Brian, on just a personal note, I'm glad we were able to retain you or keep you here, having
worked alongside with you and your extraordinary work. I do have some points I wanted to raise. Paul, between now and the next meeting, I believe which will be in August, I would appreciate it if the Commission would review oil production operations in State waters, especially in light of and in view of what took place in the Gulf of Mexico.

Obviously, we've had oil spills here off the coast of California. I remember working for the prior Controller and going to the spot of that Huntington Beach oil spill, and its consequences.

And then second, reveal our oil spill prevention activities, both in State waters and the Oil Terminal Prevention Program, to determine what the Gulf experience shares and has in common or what's differentiated between what's taking place here, and what further action, including regulations, would need to be strengthened, so that California can act promptly, timely, and effectively.

EXECUTIVE OFFICER THAYER: Certainly, Mr. Chair, we will do that. And as the Chair points out, we do have two different aspects or programs that deal with oil spill prevention. One being our statutory authority and mandate to prevent oil spills from marine oil terminals, since it's done by our Marine Facilities Division.

And the second one to make sure that the
continuing production from our existing off-shore oil leases is done in an absolutely safe way. And that's carried out by our Mineral Resources Management Division. So we will report back to the Commission at our August meeting.

CHAIRPERSON CHIANG: That's appreciated.

The next item is an action item. It's the Consent Calendar. Paul, please explain what items have been removed from the Consent Calendar.

EXECUTIVE OFFICER THAYER: There are three items in all. Two of them will be heard at a later date. They are Items 63 and 85. And Item 35 will be removed and heard at the end of our regular calendar today.

CHAIRPERSON CHIANG: Okay. Do any of the members wish to pull any other items off the Consent Calendar?

COMMISSIONER MALDONADO: I do have a question.

CHAIRPERSON CHIANG: Please.

COMMISSIONER MALDONADO: Mr. Thayer, I received a letter from Assembly Member Jim Silva. And I have it right before me now. And I apologize for not talking to you earlier on this issue. He makes a comment here that for 25 years -- this is C57, 58, 60. I think it's the cantilevered decks and probably in his district.

EXECUTIVE OFFICER THAYER: Right, yes.

COMMISSIONER MALDONADO: And he makes a comment
that these homes have been in place since the late 1970s, for 25 years have never been charged a fee.

Can you explain that to me a little bit, please.

EXECUTIVE OFFICER THAYER: Certainly. What is at issue here is the practice by a number of the homes there, probably over 100, to construct cantilever decks that extend out from their property out over the water, out over the State Lands.

We don't have a regular inspection staff that is able to go out and look for things like this. And by the time we became aware of this practice, there were, as I say, over 100 of them built. The Coastal Commission had given permits for them as well as the city.

Technically, these improvements aren't consistent with the Public Trust Doctrine. In essence, their homeowners are expanding their back yards by doing this, and converting really Public Trust Lands to private residential use.

However, given the wide-scale practice that already existed, and the fact that they'd gotten all their other permits, not getting a lease from us though, we decided to bring these facilities under lease rather than requiring that they be removed. And so we conduct an appraisal and charge fair market rent as we're required to do by law. And that rent ranges anywhere from, I think,
three or four hundred dollars to $1,200 or $1,300, depending upon the size of the deck. We've undertaken that approach, I think, for the last two or three years and have probably brought 20 or 30 of these decks under lease.

There is some opposition from some homeowners along the lines of the letter from the Assembly Member, who feel that since they've done it for all this period of time, there's been no objection from the State, they have questions about why we're doing this.

But we think that the law is clear, that we're supposed to charge fair market rent for these improvements. And so that's what we're doing on a case by case basis. I did -- myself and several other of the staff did go meet with the Assembly Member several months ago and explained all of this. And he still had concerns, which are reflected in the letter that he sent to you.

COMMISSIONER MALDONADO: So in essence, a homeowner went out and got a permit from the Coastal Commission.

EXECUTIVE OFFICER THAYER: Right.

COMMISSIONER MALDONADO: They got a permit from the local city. They got approval. The deck went up. And then we find out, as a State Lands, that hey, these are over State Lands' properties, and there should have
been a lease.

EXECUTIVE OFFICER THAYER: Yes.

COMMISSIONER MALDONADO: Now, these permits were in place since the seventies, for 25 years, or this is just new stuff?

EXECUTIVE OFFICER THAYER: These decks have gone in over the last 25 or 30 years. I think the original -- when was the original subdivision?

CHIEF COUNSEL FOSSUM: They're relatively new, a lot of them are new construction. In fact, the city's ordinances relating to the size and length of these decks has only been in existence for a number -- for a few years. We only found out about it just a few years ago.

And I think the important thing is that there are lots of people in Huntington Harbor who don't need a lease from the State Lands Commission for these decks. They are on privately owned or not under the Commission's jurisdiction.

When the Commission settled title with the developer of this area back in the early 1960s, there was only two channels out of all the channels in Huntington Harbor that became State property. So many people do have these cantilever decks that don't owe the State any money, because they're not on State property. But those that do on these two main channels are using that area and are
purchasing -- when we bring them under lease, they do pay a rent. I think generally it's less than $1,000 a year.

COMMISSIONER MALDONADO: And their opposition, the landowners' opposition, obviously is that they didn't know. They thought they'd got the permit. It was a done deal. And all of a sudden State Lands, under this letter, it says that since the State is hurting for money, we're going after them for putting a deck on.

EXECUTIVE OFFICER THAYER: We would go -- we're required by law again to charge the fair market rent for use of the State property, so the budget doesn't matter, in terms of our interpretation.

COMMISSIONER MALDONADO: Sure.

CHAIRPERSON CHIANG: Technical question. Since we had a discussion on matters that were -- a general discussion on matters that involved items on Consent, do we need to pull them off Consent, or can we --

EXECUTIVE OFFICER THAYER: No. I think we usually put matters on Consent, unless there's opposition. And if there's opposition, we pull them off. And the letter from the Assembly Member, I think is a general letter, which doesn't advocate that these leases not be given. It's not particular to any particular lease, I don't believe.

COMMISSIONER MALDONADO: Well, I think it's
pretty clear for the landowners -- excuse me, Mr. Chair.

    CHAIRPERSON CHIANG: No, go ahead.

    COMMISSIONER MALDONADO: -- that if they don't
want to pay, then they just take the deck down.

    EXECUTIVE OFFICER THAYER: That's correct. And
we believe one landowner has done that.

    COMMISSIONER MALDONADO: Okay.

    CHIEF COUNSEL FOSSUM: In fact, there was a
newspaper article this weekend in a local paper, I
received an on-line copy of it, which shows the person
who's been involved in this and kind of sending letters to
all the neighbors saying you don't have to pay this. And
kind of starting a little bit of a revolt down there, I
think. And there is a -- and I'll be happy to forward
that to the Commissioner's offices, so that they can see
that.

    But by and large, most people begrudgingly do pay
their rent and understand that. But any time -- some
people believe any time the government asks for money,
it's a tax. And in this instance, it's certainly not.
It's for use of State property.

    CHAIRPERSON CHIANG: Very good. Now, for public
comment. Is there anyone in the audience who wishes to
speak on an item that is still on the Consent Calendar?

    No.
Very good. Okay. So the remaining group of consent items we'll be taken up as a single vote.

Is there a motion?

ACTING COMMISSIONER BRYANT: I'll move approval.

CHAIRPERSON CHIANG: Thank you very much. Motion by Cynthia.

Is there a second?

COMMISSIONER MALDONADO: I'll second.

CHAIRPERSON CHIANG: A second by Abel.

Without objection, the motion passes.

The next item is the Regular Calendar. Under Item 88, we will consider a pending bill before the California Legislature regarding the Port of San Diego trust revenues and federal bill before Congress regarding school lands in the desert.

May we have the staff presentation, please.

EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

The staff presentation will be made by Mario De Bernardo, who's our legislative staff.

(Thereupon an overhead presentation was Presented as follows.)

LEGISLATIVE LIAISON DE BERNARDO: Good morning, Mr. Chair and Commission members. My name is Mario De Bernardo the Legislative Liaison for the State Lands Commission.
I will first be presenting Regular Calendar Item number 88.

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LEGISLATIVE LIAISON DE BERNARDO: In this presentation, I will provide you with an update of 2010 legislative items that are relevant to the State Lands Commission's operations.

After the legislative update, I will present two pending bills, not included in the update, on which the Commission may wish to take a position. So let me start with the legislative update, and I'll try to be quick and efficient about this.

First, I will start with the Assembly bills that are currently pending. The first bill is AB 1998, which deals with a ban on single-use shopping bags. The Commission has adopted a resolution last year on this particular issue, and supported this bill last Commission meeting.

The bill would ban -- has been amended since the last Commission meeting to ban single-use carry-out bags in supermarkets and large retailers, starting on January 2012, and then expand that ban to convenience stores on January 2013. It passed the Assembly. It is now going through the Senate Committee process.

AB 2179 is a bill that is really a technical
non-controversial bill that staff has worked on and supported. It grants recently acquired Trust Lands approved in previous land exchanges by the Commission to the cities of Santa Cruz and Long Beach for local management. It passed unanimously in the Assembly. It is now in the Senate Committee process.

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LEGISLATIVE LIAISON DE BERNARDO: The next bill, which is a bill that has not been presented to the Commission, but is very relevant to the Commission's operation, is AB 2503, which is known as the Rigs to Reefs Bill.

It's authored by the Assembly Speaker. It creates a program that allows a decommissioned oil platform to become an artificial reef, rather than be completely removed, if there is a net environmental benefit and cost savings.

Staff has worked with the author's office to ensure that the Commission's jurisdiction remains intact in terms of leasing and other oversight. The bill also gives the Commission responsibility to determine the cost savings aspect of the reefing project. And the Commission would be compensated by the owner of the platform.

Fifty percent of the cost savings must be paid into various accounts, including the general fund. It
passed unanimously in the Assembly and is now in the Senate Committee process.

AB 2598, which is sponsored by the Controller's Office, our Chair, and the Commission officially supported, requires certain trustees of granted Public Trust Lands to prepare a sea level rise action plan by July 1st, 2012. It passed the Assembly and is now in the Senate Committee process.

AB 2601 is a bill that the Commission opposed. It would have appropriated money from the T-Ridge oil revenues to various firefighting programs. This bill failed passage in the Assembly Natural Resources Committee.

AB 2664 is a bill sponsored by the Commission. It imposes penalties on unauthorized structures and facilities on State Lands. It passed the Assembly with only one no vote, and is now in the Senate Committee process.

AB 2719 is a bill that the Commission opposed. It would have circumvented the Commission's jurisdiction, in terms of oil leasing and essentially would have allowed for the approval of the T-Ridge lease. This bill failed in the Assembly Natural Resources Committee.

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LEGISLATIVE LIAISON DE BERNARDO: Now, going to
State Senate Bills. SB 1034 was a bill that the Commission supported. It would require a court to order restitution to a State agency when a person is convicted of tampering with archeological resources on State Lands. The Commission has dealt with archeological resources on State Lands, such as shipwrecks and the Brother Jonathan. This has passed the Senate unanimously and is now in the Assembly Committee process.

SB 1350, which is a bill that the Commission supports. And there is also an element that it did not officially support, but is more of a technical staff issue that staff supports. It codifies two things. First, the Commission's existing land reporting practice to the Department of General Services, that's the aspect that staff supports.

The third -- the second portion of this is what the Commission supported. It would codify common law, which basically holds that management of granted Public Trust Lands is a statewide concern, and cannot be subjugated by local initiative. This passed the Senate and is now in the Assembly Committee process.

SB 1488, which is a Commission sponsored bill is actually a Committee bill that has received unanimous support. It cleans up the City of Pittsburg's grant Public Trust Lands -- the granting statute to Pittsburg.
It also allows the Commission to spend Kapiloff Land Bank funds for access to Public Trust Lands, in addition to management and improvement of Public Trust Lands.

This passed the Senate unanimously and is now in the Assembly Budget -- excuse me, Assembly Committee process.

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LEGISLATIVE LIAISON DE BERNARDO: There were two budget proposals that the Commission took a position to oppose. The first one dealt with appropriating money to the T-Ridge project -- I'm sorry, would appropriate money generated from the T-Ridge project to Department of Parks and Recreation. This proposal was withdrawn or the Governor withdrew his support after the Gulf spill.

The second budget proposal involved a non-cost savings proposal that would have limited the Commission's ability to bring enforcement actions by creating what has been called a legal service fund swap with the Department of Justice. The Commission opposed this bill. This bill failed in Budget Subcommittees.

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LEGISLATIVE LIAISON DE BERNARDO: And then there are two federal legislative items, the first one is the Lake Tahoe Restoration Act, which the Commission
sponsored -- or, excuse me, passed a resolution in support of this bill.

It would authorize projects to combat invasive species, restore Lake Tahoe's water clarity and protect threatened wildlife within the Lake Tahoe basin. The Senate is now -- the Senate version of the bill has passed the committees and is now on the Senate Floor Calendar. The House version is in the Committee process.

And then the last federal item here is actually dating back to an October 30th, 2007 resolution adopted by the Commission, supporting the intent of this bill, which is to clarify the Clean Water Act, in the aftermath of the Rapanos case.

Basically, this would bring wetlands and isolated lakes and other waterways that have been interpreted to be under the Clean Water Act for about 30 years, until the Rapanos case, it would clarify that these isolated waterways and wetlands are to be under the Clean Water Act.

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LEGISLATIVE LIAISON DE BERNARDO: There are two bills which the Commission may wish to take a position, either today or at a future date.

The first bill is SB 1039, which is authorized by Senator Ducheny, and sponsored by National City. This
The bill would require the Port of San Diego to dedicate Public Trust revenues, on an annual basis, for cooperative infrastructure and capital projects on and off tidelands. These projects would directly address marine industrial impacts by the Port in the city of National City and San Diego. The State Lands Commission would act as the final arbiter of any disputes regarding eligibility and approval of projects.

Staff recommends a position of oppose unless amended. Staff's problems with the current bill drafted, that the bill could potentially give the city of National City and San Diego Public Trust funds to be used for municipal purposes, which is a violation of the Constitution's gift clause. Staff's analysis explains a little bit more in detail some of the other legal problems associated with this bill.

I'd also like to add that this bill making the Commissioner the final arbiter, first, doesn't provide any sort of additional funding to the Commission to act in this role. We only have one staff member that deals with granted Public Trust Lands. And to prepare the Commission to act as an arbiter would require additional staff.

Moreover, the Commission doesn't normally deal with day-to-day regular land-use decisions made by a trustee. And this bill doesn't really present compelling
reasons to change that and make the Commission an arbiter on these type of land-use decisions.

The Commission and the staff -- or, excuse me, the staff report has a proposed amendment that would be acceptable to staff. This bill may change form several times before it's actually voted on the Assembly floor.

If this is the case, staff recommends that the bill establish a formal capital project development program for the Port and require that the Port consult with the member cities, and that the overall language is drafted in consideration of the legal concerns expressed in the staff report.

The second bill is Senate Bill 2921, which is the California Desert Protection Act of 2010.

ACTING COMMISSIONER BRYANT: Mario, I don't have -- did we get a written staff report?

LEGISLATIVE LIAISON DE BERNARDO: There should be a written staff report attached to Calendar Item 88.

ACTING COMMISSIONER BRYANT: I just have just the green short summary. Was there another one? I might have just not gotten it.

Thank you.

LEGISLATIVE LIAISON DE BERNARDO: The staff report details the issues with mitigating impacts on Public Trust Lands and using Trust funds to address those
impacts. This bill establishes a process where the Port would basically mitigate various types of impacts related to marine industrial activities on the Port. It does not create a criteria that requires a port to determine whether or not there's a nexus and whether or not there's proportionality between the Public Trust revenues used to mitigate the impact and the impact itself. And that's one of the main legal reasons why staff has come out in opposition to this bill.

If you have -- I can continue on the next bill or if you have any questions, I can answer them either now or later on.

CHAIRPERSON CHIANG: Please proceed.

LEGISLATIVE LIAISON DE BERNARDO: Okay. So the California Desert Protection Act is a comprehensive bill to designate new lands in the California desert for conservation to enhance recreational opportunities and to streamline and improve the federal permitting process to advance large-scale wind and solar development on suitable lands.

Commission staff was involved with drafting nine pages of this bill to help facilitate the land exchange process between the State Lands Commission and BLM, in order to consolidate lands in the desert that would be suitable for renewable energy. The State would hopefully
require -- or acquire these large parcels of consolidated
desert lands where it can lease these lands out to
renewable energy to companies and generate revenue for the
California Teachers' Retirement Fund.

That's the end of my report.

Oh, I should state that for Senate Bill 2921, at
this time, staff is not recommending any action. This is
more bringing this to you for informative purposes. The
reason why there is no recommendation of action is because
there have been issues brought up by the environmentalists
and industry concerned with this bill. And the author's
office has stated that she's committed to working with
these groups to amend the bill. And so I suggest -- or
staff suggests that possibly at a future date, we bring
this bill to the Commission when it's in its more final
form.

CHAIRPERSON CHIANG: We would appreciate that.

Thank you.

We have three individuals who have signed up to
make comment. You have a three-minute time limit. The
first is a former Chair and our distinguished Lieutenant
Governor -- I guess we have a Lieutenant Governor's
Association meeting here. Cruz Bustamante.

Cruz.

Followed by Mayor Ron Morrison representing the
City of National City. And third is Irene McCormack, the assistant vice president of the Port of San Diego.

MR. BUSTAMANTE: Mr. Chairman, if you would, I'd like to defer my position to the Mayor to speak first --

CHAIRPERSON CHIANG: You may.

MR. BUSTAMANTE: -- and then I'd like to speak following --

CHAIRPERSON CHIANG: Sure.

MR. BUSTAMANTE: -- if that's okay?

CHAIRPERSON CHIANG: Mayor Morrison, welcome.

NATIONAL CITY MAYOR MORRISON: Oh, thank you very much. And I certainly want to thank the Commission for hearing us today. And indeed, we see this bill as a maritime enhancement and protection bill, and as we take a look at those communities that are directly impacted by maritime, so that they make sure that they receive some of the benefits also, and so that there is a desire to enhance that maritime and continue that maritime within their communities.

We know maritime is under attack all up and down the west coast, and that's the last thing we want. Personally, I'm a product of maritime. I spent most of my life, before I kind of went to the dark side and got involved in politics, working on these two terminals that are discussed in this bill.
And so I understand the importance of those jobs and how we protect those jobs. But I really want to say that we have worked -- our staff has worked very diligently with the Commission and their staff to try to look at compromise and try to look at consensus language. And we're very appreciative of all the work that's been done. And we're looking very forward to kind of closing the remaining minor issues and items to basically deal with this long-term concern, which basically has been 40 years of inequity that we've had within the San Diego Port district.

So I really want to just take this time, and say we are doing amendments. We are working together with your staff on that, and your staff has done, you know, a fantastic job. I know when someone -- you know, I know I've got a great staff, and that's one thing. But when someone comes and tells you that, it just reinforces that much more.

And believe me, your staff has done a great job in both of its creativity and its energy, its innovativeness, and in taking a look at, you know, how we protect maritime use. And, at the same time, balance that with protecting the Public Trust Doctrine, and also looking at the public benefits and the social inequities of this situation, and dealing with some positive changes
for these two adjacent communities to these maritime communities.

So as I say, we want to continue to work with you as we work through these changes. We have looked at the changes that your staff has recommended. We've worked very closely with them on those, and we are very much in agreement with those changes.

Thank you very much.

CHAIRPERSON CHIANG: Thank you, Mayor.

Mr. Honorable.

MR. BUSTAMANTE: Mr. Chairman and members, this bill is a concept bill. It's a bill that has gone through Senate level government, passed in a bipartisan fashion. It passed off the Senate floor with no no votes, 33-0.

The basic understanding of the bill is to resolve an inequity, an inequity that's been 40 years. And the idea is to try to figure out how to resolve the issues of making sure that the Port is still able to meet its fiduciary responsibilities, manage its business, and be in compliance with the Public Trust and still deal with an inequity that occurs only in this particular port.

It's a five-city port. And unlike all other ports, which are one-city ports, sometimes both the benefits and the burdens would accrue to the same city. In this particular case, in the five cities, a lot of the
burden has accrued to two communities within those five cities. And what we're trying to do is to make sure that the benefits also accrue to those same two communities, just like the burdens have.

The sequestering of all of the industrial uses have been placed in National City and Barrio Logan. And, as a result, the truck traffic and other kinds of things that move through cities in order to get to the port become an issue.

This is not a bill to take back the port areas. It's not a bill to stop maritime use. In fact, providing a buffer area that has been requested by the Port was done by National City. Creating planning areas, making policy decisions that are commensurate with the maintenance of maritime uses has all been done by this community.

But when you have streets being torn up by trucks, there should be some acknowledgement that there, in fact, are impacts to the city, and that there become some kind of fund that is used to be able to use the -- for those funds to help with those particular impacts. That's what we're trying to do. We're faced with a conundrum. We're hoping that this concept bill will continue moving forward. We believe it will. And with the support of the staff, who we are very, very close, I believe, to having resolved all of the issues, I think
that we'll be able to do that.

And in the following weeks or so, I think you'll see a bill that the Commission can support, or at least be neutral on, as we try to resolve that inequity at the local level.

CHAIRPERSON CHIANG: Mr. Bustamante, what areas of difference remain between where the legislation as is, is different from what the staff recommendations are?

MR. BUSTAMANTE: We had presented quite a few ideas to the staff. And there were so many ideas that staff said well maybe we should just start from scratch and prepare our own document, which they did. And it was a good thing that they did, because it was able to put a foundation under which the types of issues of the Public Trust and management and those kinds of issues were able to be put on sound footing. We worked all day Thursday, and a part of Friday to try to be able to close that gap.

We believe we came very, very close to having a final document. Obviously at the time, the Executive Director was not there, so he still had to review the information. We still had to go back to the author. But between the sponsor, the State Lands, we became very, very close in the language. And we believe that we're at the point of being able to make the kinds of amendments to the bill that will be using State Lands' language to be able
to resolve the issue and move forward.

CHAIRPERSON CHIANG: Thank you.

Next, we have -- questions -- Irene McCormack.

Welcome, Irene.

MS. McCORMACK: Thank you, Chairman. My name is Irene McCormack, assistant vice president for the Port of San Diego. The San Diego Unified Port District Board of Port Commissioners voted to oppose SB 1039, unless it's amended, at its last meeting, following more than an hour of discussion. And it's something that they've been discussing for the last three months as well.

Even though the bill has been amended, and despite the changes, the Board still voted to oppose unless it's amended. Port Commissioners stated that the bill is unnecessary and may undermine the Board's fiduciary responsibility as trustees of public tidelands in the five member cities that make up the Port of San Diego. The Port supports Commission staff's recommendation to oppose the bill unless amended.

Thank you very much.

CHAIRPERSON CHIANG: Thank you. Are there any other members of the public who would like to make a comment?

Okay. Is there a motion from -- comments from my colleagues?
No.
Is there a motion?
Then I'll make a motion to move staff recommendation.

ACTING COMMISSIONER BRYANT: And I'll second.

CHAIRPERSON CHIANG: Okay. Please take roll.

EXECUTIVE ASSISTANT LUNETTA: Controller Chiang?

CHAIRPERSON CHIANG: Aye.

EXECUTIVE ASSISTANT LUNETTA: Lieutenant Governor Maldonado?

COMMISSIONER MALDONADO: I'm abstaining.

ACTING COMMISSIONER BRYANT: I'm abstaining as well.

CHAIRPERSON CHIANG: Motion fails.

Then we will go on to the next item.

EXECUTIVE OFFICER THAYER: Okay. The next item is Item 89. This is a resolution that was brought to the Commission at the request of the Controller and has to do with supporting the San Francisco Bay Improvement Act of 2010. The presentation will be made by Mario De Bernardo.

CHAIRPERSON CHIANG: Very good.

(Thereupon an overhead presentation was presented as follows.)

LEGISLATIVE LIAISON DE BERNARDO: Good morning, Commissioners.
HR 5061 would dedicate significant funds over a 10-year period to assist and support the San Francisco Estuary Partnership's Comprehensive Conservation and Management Plan, which is focused on restoring and maintaining the environmental integrity of the San Francisco Bay through projects, such as water quality improvement, wetland and estuary restoration and protection, near shore and endangered species recovery, and adaptation to climate change.

Staff recommends approval of the resolution.

CHAIRPERSON CHIANG: Okay. Are there any public comments?

Are there any member comments?

ACTING COMMISSIONER BRYANT: I'm abstaining again as well.

CHAIRPERSON CHIANG: Okay. Is there a motion?

COMMISSIONER MALDONADO: I'll make a motion.

CHAIRPERSON CHIANG: Please.

ACTING COMMISSIONER BRYANT: I'll second.

CHAIRPERSON CHIANG: We have a motion and second. Without objection motion passes.

Next item, please.

EXECUTIVE OFFICER THAYER: Could I clarify, just in terms of what the vote then would be.

ACTING COMMISSIONER BRYANT: I abstained.
EXECUTIVE OFFICER THAYER: Okay, so it's 2-0-1 then?

CHAIRPERSON CHIANG: That's correct.

EXECUTIVE OFFICER THAYER: Thanks very much.

The next item, Item 90, has to do with a staff recommendation that the Commission direct staff to send a letter of support to the nomination of the San Francisco Bay Estuary as a Ramsar Wetland of International Importance.

Mario De Bernardo will give the staff presentation on this.

LEGISLATIVE LIAISON DE BERNARDO: The staff recommends that the Commission support the nomination of the San Francisco Bay Estuary as a Ramsar Wetland of International Importance. The Ramsar Convention on Wetlands of International Importance, especially as waterfowl habitat, is a treaty that provides a framework for voluntary international cooperation for wetland conservation.

The convention does not prejudice the exclusive sovereign rights of the United States or California. The U.S. has 26 designated sites, one of which being Tomales Bay. Under the convention, the Commission support is required for the designation, since it is the landowner of most of the San Francisco Bay's tide and submerged lands.
The designation would increase funding opportunities and interest in scientific studies in the San Francisco Bay estuary.

CHAIRPERSON CHIANG: Thank you. We have one public comment. Ruth Gravanis.

Ruth, welcome.

MS. GRAVANIS: Thank you. Good morning. I'm Ruth Gravanis. I'm speaking at the moment for the San Francisco group of the Sierra Club.

More than a dozen years ago, a bunch of us bay advocates from the Sierra Club, Golden Gate Audubon Society, the Citizens Committee to Complete the Refuge all got together and worked very closely with the Fish and Wildlife Service at the Don Edwards National Wildlife Refuge to try to put together a nomination package for the bay as an official Ramsar site.

And due to many different mishaps, illnesses, files getting lost in office moves and things, somehow it all fell through the cracks. So I can't tell you how delighted I am to see that this is coming before you again today. It's long overview. It's quite obvious to many of us that the San Francisco Bay-Delta Estuary being the largest estuary on the coast of North America absolutely deserves this designation. And so I'm pleased to support the staff's recommendation and urge you to give your
strongest approval to dedicating the Bay as a Ramsar site.

    Thank you.

CHAIRPERSON CHIANG: Thank you, Ruth.

Any other members of the public wish to comment? Are there any comments from my colleagues? Is there a motion?

ACTING COMMISSIONER BRYANT: I'll move approval.

CHAIRPERSON CHIANG: We have a motion to move approval.

Is there a second?

COMMISSIONER MALDONADO: I'll second.

CHAIRPERSON CHIANG: We have a second.

Without objection, the motion passes.

Next item, please.

EXECUTIVE OFFICER THAYER: The next time, Item 91, is consideration of a proposed boundary line and land exchange agreement involving parcels of land held by the Port of Oakland in the Oakland estuary.

Jennifer Lucchesi, staff counsel, will make the staff presentation on this item.

STAFF COUNSEL LUCCHESI: Good morning, Chair, Commissioners. My name is Jennifer Lucchesi, staff counsel with the Commission.

(Thereupon an overhead presentation was Presented as follows.)
STAFF COUNSEL LUCCHESI: Commission staff respectfully requests your consideration of Calendar Item 91, the Oak to Ninth boundary line and land exchange agreement. Before I get into the substance of the agreement and its elements, I did want to make one change to the staff report. On pages 10 and 11, the staff report outlines the implementation and liability measures that are included in the proposed agreement before you.

Bullet number 8 -- they're not numbered, but bullet number 8 should be stricken as being duplicative in substance to bullet number 4.

The purpose of the agreement is to establish and fix an agreed boundary between existing State sovereign lands granted to the Port of Oakland and uplands acquired by the Port using Public Trust revenues, better known as after-acquired lands.

Additionally, the agreement will effectuate a land exchange terminating the State's sovereign Public Trust interests in certain parcels in exchange for acquiring certain parcels known as the Army Reserve parcels.

The agreement is between the State acting by and through the State Lands Commission, the City of Oakland acting by and through the Port of Oakland, and Oakland Harbor Partners, a Limited Liability Corporation.
This agreement, if approved, will facilitate the development of the Oak to Ninth project, a mixed use development project that will include the creation and/or improvement of parks and open space, residential, retail, commercial, and marina uses.

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STAFF COUNSEL LUCCHESI: As background, the Oak to Ninth area is located along the Oakland Estuary and the Embarcadero, east of Jack London Square and south of Interstate 880. From this slide -- can I get some help about getting the pointer.

Sorry.

Sorry for that.

Here's San Francisco Bay, San Francisco, downtown Oakland here, the Oakland Estuary is here, Lake Merritt is right here. And the Oak to Ninth property starts right here, and goes down the Oakland Estuary to the right here. So that's the site that we're talking about right now.

This is Interstate 880.

The Port is the State's Trustee of sovereign lands within the Oak to Ninth property, pursuant to various statutes beginning in 1852. As part of harbor development, the majority of the Oak to Ninth property was filled and reclaimed in order to support maritime uses.

This is a photograph staff believes from the
early 1930s showing the Oak to Ninth area, portions of it, as being filled and used for maritime purposes. This is the site of where the 9th Avenue Marine Terminal is currently now. This would be the Lake Merritt channel right here.

Until the late 1970s, the Oak to Ninth property, and particularly the Ninth Avenue terminal within it, was used for break bulk cargo shipping and other maritime uses. By 1998, the Oak to Ninth property was no longer used for these maritime uses, such as shipping.

As a result, in 2003, the Port Priority Use designation for the Oak to Ninth property was removed by BCDC, the Bay Conservation and Development Commission.

Currently, the Oak to Ninth property is an underutilized industrial area that allows for very limited, if any, public access to the Oakland Estuary. These next couple slides show that.

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STAFF COUNSEL LUCCHESI: Again, this is the far end of the Oak to Ninth property. This is Oak Street here. This is Estuary Park, Lake Merritt Channel. And again, part of the Oak to Ninth property is underutilized with very limited public access.

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STAFF COUNSEL LUCCHESI: Moving down the estuary,
this is the center of the Oak to Ninth property. Here's Clinton Basin Marina. Again, underutilized area with very limited public access.

And finally, here's the Oak to Ninth -- excuse me, the Ninth Avenue Terminal, and the end of the Oak to Ninth property.

In 1999, the City adopted the estuary plan in response to public and government agency concerns about the lack of public access to the Oakland Estuary, including the Oak to Ninth property. One of the purposes of the estuary plan is to bring people to the Water Front and to revitalize the shoreline. The estuary plan was amended in 2006 by the Oakland Planning Commission to incorporate the Oak to Ninth project. The amendment was approved by the Oakland City Council later that year.

In 2004, the Legislature passed the Exchange Act, enabling this agreement along with the sale of other -- excuse me, of the sale of after-acquired lands by the Port, with the expressed goals of revitalizing the Oak to Ninth property through a land exchange supporting a mixed use development.

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STAFF COUNSEL LUCCHESI: The specific agreement elements include the following:

The boundary line agreement, which is outlined in
purple here, right here. That establishes the agreed ordinary high water mark. The purpose for that is to legally distinguish between those lands here in kind of inward of this line as being after-acquired lands owned by the Port, and these lands on the outside of this line being sovereign Public Trust Lands.

The trust termination parcels include those parcels that are outlined in red. The final Public Trust parcels that are part of this agreement are those parcels that will be confirmed as Public Trust Lands and those are all outlined in the black hatching, and include both water covered and filled property, as outlined by the red shoreline depiction.

The final Public Trust easement parcels that you'll be hearing about are these in the green cross-hatching and the blue cross-hatching.

And finally, the Trust exchange parcel --

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STAFF COUNSEL LUCCHESI: -- which is -- it's touchy -- closer to the Bay Bridge here. This is the outer harbor of the Port of Oakland, and this is the Oakland Army Base. And the two Trust exchange parcels are these two doughnut holes in the middle of this Army Base.

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STAFF COUNSEL LUCCHESI: A better picture are
these two parcels here, right here.

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STAFF COUNSEL LUCCHESI: The Port and OHP have entered into a companion real estate transaction that in conjunction with the boundary line and exchange agreement, effectuates OHP's purchase, remediation, and improvement of the Port's after-acquired lands.

The Commission is not a party to this companion real estate transaction. Upon this agreement becoming effective, initially a boundary line agreement --

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STAFF COUNSEL LUCCHESI: -- between the Port and the State will fix the location of the agreed ordinary high water mark between the uplands and the tide and submerged lands subject to the Public Trust and the Port's statutory trust.

Again, the area highlighted in darker gray are the Port's after-acquired lands, and the lighter gray are those sovereign Public Trust Lands granted to the Port.

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STAFF COUNSEL LUCCHESI: The final Public Trust parcels, and the Trust Exchange Parcel, will be confirmed as land subject to the Public Trust and the Port's granting statutes. This includes lands that previously had been after-acquired lands, and which might otherwise
be subject to sale by the Port.

The Trust termination parcels will be owned by OHP free from the Public Trust and the Port's statutory trust. The fee and the Public Trust easement parcels will be owned by OHP, but retain and exercised Public Trust easement for vehicular, pedestrian, and bicycle public access to the final Trust Lands.

The upland final Public Trust parcels currently contaminated with hazardous material will be remediated at no cost to the Port or the State. And with regards to the hazardous material, sufficient implementation and liability measures will be in place to protect the Port and the State from liability.

The final Public Trust Lands will be preserved, improved, or enhanced for Public Trust uses, such as open space, public access, water-related recreation, commercial services, and circulation to and along the waterfront.

This slide shows the final configuration of the proposed development. You have lots of park spaces here, an improved marina here, more public plaza areas here, circulation around -- public circulation and access around the entire Oak to Ninth property and parks and open spaces here.

In addition to meeting all the legal elements required by the State Constitution and the 2004 Exchange
Act, Commission staff believes the agreement is in the best interests of the State for a variety of reasons, including:

As redeveloped and improved the upland Public Trust parcels, and the Public Trust easement street parcels will be developed as open space or streets and will include pedestrian bicycle access, and will serve the Public Trust purposes of open space access to the shoreline and shoreline circulation.

Additionally, and more specifically, the final Public Trust Lands will be repaired and improved and enhanced through the development of a wide variety of open space areas, such as bike trails, walking and jogging paths, marinas, the aquatic sailing center will be improved and restaurants.

Final Public Trust parcels will be confirmed as being the legal character of sovereign tide and submerged lands, making these lands subject to the State Constitution of -- State Constitutional prohibition on the alienation of tidelands.

The final Trust Lands will be remediated again at the sole cost of OHP. The acquisition of the Trust exchange parcel will be useful to and in support of the Port Maritime Improvement Plans, and as such, consistent with the Public Trust and the Port's Statutory Trust.
Finally, the agreement settles very complex title and boundary issues. Commission staff and the Attorney General's office have reviewed the proposed agreement and believe all necessary legal elements have been met.

Staff recommends that the Commission approve the Oak to Ninth boundary line and land exchange agreement, including the findings listed in the staff report, and authorize its execution and the execution and recordation of all documents necessary to implement it.

That concludes my presentation. I'm, of course, available for any questions. I believe there's -- the Port of Oakland staff is here to answer any questions. OHP representatives are also here. And I also believe there's a number of citizens of the area to speak both in opposition of and in support of the project.

Thank you.

CHAIRPERSON CHIANG: Thank you very much. We have 11 members of the public who have signed up to speak. Again, you have three minutes. So let me call out the first three, Michael Ghielmetti, Andreas Cluver, and Andy Nelson. I apologize if I articulated anybody's name incorrectly.

MR. GHIELMETTI: Good morning, members of the Commission. Thank you for being here. I'm Mike Ghielmetti, President of Oakland Harbor Partners Signature
Properties. We're the project sponsor. We've been working with the Port and the staff for a number of years to bring this before you.

First, I wanted to thank staff, both of the Attorney General's office and the State Lands Commission, for working diligently with us and the Port for the last six years now, five and a half years, since the original legislation was approved in 2004.

I quickly wanted to say that we're very proud to have this project here before you. It's got the broadest level of support of any project ever in Oakland, support from the Central Labor Council, and the Building Trades Council; support from a number of local and regional environmental organizations, such as the Greenbelt Alliance, which is a regional group; Friends of Oakland Parks and Recreation, which is the largest park advocate in the City of Oakland; a number of social justice groups, which you'll hear from today; and also broadly speaking, all the chambers of commerce of the City of Oakland; and one of the few projects to receive support from the Bay Area Council, which is the regional chamber of commerce, for lack of a better term.

So we're very, very proud to bring this before you. It's gotten near unanimous support from the City of Oakland and the Port. This project will bring...
approximately 10,000 jobs, badly needed jobs, to the region. And with appropriate local hire agreements, such that we -- there's a certainty that the local community will benefit from some of those jobs.

It's over a billion dollar project with positive tax benefits, both from redevelopment and in general fund measurement for the city, and the redevelopment agency. Approximately 50 percent of the site will be open space, which we're very proud of. And these are spaces that are as big or bigger than the Marina Green in San Francisco, for regional context. It's a mixed use and mixed income. And I think very importantly to say is it's a green, sustainable and smart growth project, which will not only remediate and bring to life an inaccessible and unconnected area of the city, but also will bring in retail, sales tax, jobs, affordable and market rate housing both for rent and for sale, and I think, generally be an example following AB 32 of and -- of smart growth and an appropriate use of our scarce resources.

We're available for any questions you may have. We are in full support of the staff recommendation, and believe that this follows the spirit and the intent of SB 1622, which was signed into law in 2004. And other than that, I want to thank you for your time here today. And again we're available for any questions you may have.
Thank you.

CHAIRPERSON CHIANG: Thank you.

MR. CLUVER: Good morning. My name is Andreas Cluver. I'm the Secretary-Treasurer of the Alameda County Building and Construction Trades Council, representing over 40,000 workers in the construction sector. In addition, as a member of the executive board of the Central Labor Council, I'm here also representing an additional 100,000 workers in Alameda county.

And on behalf of both counsels, I think we strongly support the approval of the proposed exchange, for the Oak to Ninth project. In addition to it being a much needed project for the area, going to greatly improve it for all residents of Oakland, and the general area, this project is also going to have a significant impact both short term and long term on the area's economy.

As many of you may be aware, we're looking at about 30 percent unemployment in the construction sector right now, which is, you know, unprecedented. And projects like these are going to gratefully help to improve the employment picture for construction workers, putting a lot of people back to work, saving homes and improving the economy.

So we really appreciate your support, in terms of approving the proposed exchange and letting this big
project get undertaken.

Thank you very much.

CHAIRPERSON CHIANG: Thank you.

MR. NELSON: Good morning, Commissioners. My name is Andy Nelson. I'm speaking today as a coordinator of the Oak to Ninth Community Benefits Coalition. The Oak to Ninth Community Benefits Coalition worked for about five years to negotiate affordable housing commitments and local hiring and job training and placement commitments in the Oak to Ninth project. We represent approximately a thousand residents of the neighborhoods who are immediately adjacent to this project.

I'd like to ask members of the Oak to Ninth Community Benefits Coalition who are here today to please stand briefly.

Thank you.

You'll hear from one of our leaders later on. We just really wanted to urge you to approve the land exchange that's before you today, in addition to the benefits that your staff laid out for you on this project. We want to really emphasize the creation of affordable housing that's affordable to families making 30 to 50 percent of area median income in this project. We want to emphasize the job training and placement opportunities for significant numbers of Oakland residents in this project.
And I really look forward to seeing this project approved, so that we can move forward and start to realize some of these benefits, and thank you very much.

CHAIRPERSON CHIANG: Thank you. The next three, Pamela Kershaw or Kenshaw, Tam Tran and Barbara Newcombe.

MS. KERSHAW: Good morning, Commissioners. I'm Pamela Kershaw, the director of commercial real estate at the Port of Oakland. And thank you so much for having us here this morning.

In 2001, the Port issued an RFQ for the 64-acre site. And in 2003, the Port selected Oakland Harbor Partners, and executed an option agreement for the property. In 2004, the Legislature adopted SB 1622 authorizing a tidelands trust exchange on the site. And since 2004, the past six years have been spent securing land-use entitlements and environmental remediation approvals from various agencies.

Finally, in February of 2010, after holding a public hearing, the Board of Port Commissioners voted to authorize execution of this exchange agreement and other transaction documents. It's an important project for the Port, the city, and the region. It has been a very long road to get here today.

I want to thank Executive Director Thayer and his staff for their years, years of patience and hard work on
this project. We have read the staff report and fully support all the findings and recommendations contained therein, and respectively request your approval of this exchange agreement this morning.

And I, as well as other members of the Port of Oakland staff are here if you have any questions.

Thank you.

CHAIRPERSON CHIANG: Thank you.

MS. TAM TRAN: Good morning.

(Thereupon Ms. Tran spoke in her native language.)

MS. MARIANA TRAN: Her name is Tam Tran. She is living in the San Antonio area in Oakland over 10 years. And you know there are many, many low income families. We're living together in this area. So we really, really want to see, you know, the affordable housing there, because right now we cannot afford for the renting in economic window.

So please approve the land action to us, so we can see the affordable -- you know, affordable housing soon coming to our area.

Thank you very much. Thank you for your listening.

CHAIRPERSON CHIANG: And I'm sorry, I missed your name. So could you say your name for the record again,
MS. MARIANA TRAN: Are you asking my name?

CHAIRPERSON CHIANG: Yes, please.

MS. MARIANA TRAN: Mariana Jeung Tran.

CHAIRPERSON CHIANG: Thank you for being here.

MS. MARIANA TRAN: You're welcome.

MS. NEWCOMBE: Good morning, Commissioners. My name is Barbara Newcombe and I'm speaking as a private citizen. What I take from this is that whenever you hear the phrase "underutilized land", take heed. I have no idea why anyone would consider trading land which is on the estuary, but between the highway and the estuary, with the availability of being there on the water for land which to me seems to be encapsulated by railroad tracks and highways.

I happen to be the Mother of the Year of Oakland for 2010. And I'm going to have to tell my grandchildren that we have traded this land. And they are going to ask me why anyone, in their right mind, would do this, even for the short-term benefit of money accruing to the city, and supposedly affordable housing. I'm very distrustful, and I think that that is -- I know that that is the message I will have to take to my grandchildren.

When it says "underutilized" and when there is a real estate developer involved, watch out. Thank you for
your time.

CHAIRPERSON CHIANG: Thank you, Barbara.

Next, we have Ruth Gravanis followed by Naomi Schiff and then Judith Offer.

MS. GRAVANIS: I'm Ruth Gravanis with the Public Trust Group. And I, first of all, want to clarify that being in opposition to this particular exchange item that you have before us, does not necessarily constitute an opposition to the project itself, especially with some modifications. So I don't want to be pigeonholed as an opponent of the project.

But there are some severe problems with the findings that we're using to declare that the lands we're taking out of the Trust are indeed no longer suitable for Trust purposes. And if I may, I'd like to relinquish the rest of my time to Sandra Threlfall.

Thank you.

MS. SCHIFF: Hello. I'm Naomi Schiff. And I thank you for the opportunity to address you. I do have copies of my remarks if you would like them. I don't know what to do with them.

CHAIRPERSON CHIANG: We would appreciate that.

MS. SCHIFF: I'm requesting that the State Lands Commission continue this matter and request two things.

One, an earnest effort on the part of the Port of
Oakland Board and staff to come up with a better exchange, and, B, assistance from the State Lands staff in achieving a better public process and discussion of the deacquisitioning of valuable land owned by us the citizens of this State.

In its eagerness to do what makes economic sense for the Port, is the Board of the Port credibly carrying out its responsibility as trustee for public lands? The answer is no.

Consistently, they and their staff have been focused on facilitating the reuse of the public lands for the promised housing under the OHP plan, and decided to purchase and then designate already purchased maritime support use for container handling. Not one of the higher priority exchanges under SB 1622.

There is a conflict between the Port's stewardship of State Lands and its Port mission. While following the letter of the law, so that the paper trail would be adequate, I do not believe that staff or Board tried hard enough to carry out the intention of the exchange in fulfillment of one of those higher priority possibilities.

At the Board level, those issues have not been fully discussed, except for staff advocacy of the Army Reserve land as the only sensible swap.
The main effort to find a trade to fulfill the higher priority recommendations in the legislation occurred during the big real estate boom. With the same changed circumstances now delaying the project, it would make sense to take a second look at whether a better trade is possible. There's no risk, since the Port forged ahead and bought the army base land without waiting.

The same economic circumstances which slowed this project and which formed the rationale for delayed payment really mean that we have the opportunity to improve the quality of the land exchanged on behalf of the public.

At the outset, when this was brought up, I held up, as a bad example, the Long Beach exchange of waterfront for a freeway median. People thought that was funny and that nothing like that could happen here.

Now, we contemplate receiving an inaccessible land-locked port services area in exchange for a valuable coastal site. As people realize what's occurring, they are going to be appalled.

Thank you.

CHAIRPERSON CHIANG: Thank you.

MS. OFFER: Good morning. My name is Judith Offer. I'm a playwright and poet, and I was -- I'm a former member of the Cultural Affairs Commission of the City of Oakland. And I'm here to suggest that this is
really not what the people of Oakland want.

First of all, there was -- there were a series of meetings and charrettes that were held when the first proposal was made for what to do with this property. And the citizens universally wanted this to be open land on the bay. It's at the end of the channel, which comes from the lake, which is, by the way right now, being currently approved to allow better access.

This is the last beautiful open -- potentially beautiful open space that would be available to the citizens. And they were very excited about having this part of their trail, part of the Bay trail. The exchange property is totally ridiculous, totally. It's a little bit of dry, you know, in the middle of all this port activity, and it's just not right at all to exchange this.

This development group held open meetings, but they never really gave you any opportunity to speak about having the open land there. The land -- the 50 percent -- a lot of that 50 percent is in the middle of apartment buildings. Nobody walking along a trail is going to go in the inside courtyard of an apartment building. It's not really -- it's not really welcoming.

At one time, the city council asked for -- was going to do a measure on this. And we easily got thousands of signatures against this exchange within a
week or a week and a half. And the city attorney figured out a way to say that we had gotten the signatures on the wrong measure just by a few words, which is the measure that had been given to us to find by the city council. And then we supposedly had gotten the signatures on the wrong measure.

Another thing is, my understanding is that the affordable housing, which we want to have, we like affordable -- in Oakland, we really like affordable housing, but it's not supposed to be on the property. They're doing another kind of wizbang exchange, and we, the citizens, are paying for the affordable housing elsewhere.

I think, please you guys really need to look into this. This thing has been pushed over on the citizens of Oakland and a lot of people don't like it.

Thank you.

CHAIRPERSON CHIANG: Thank you.

Sandy Threlfall and Joyce Roy.

MS. THRELFALL: Good morning, Commissioners, and welcome to the Commission, Lieutenant Governor Maldonado.

COMMISSIONER MALDONADO: Very nice.

MS. THRELFALL: Thank you. My name is Sandra Threlfall. I'm on the executive board of the Public Trust Group. And my issues today regard the 8.7 acres of
sovereign Public Trust Land that are involved in this trade.

The Public Trust Group has been advocating since 1994 that sovereign Public Trust Land needs to be preserved. We need to keep it where it is, as our population grows, and our general stress level grows, because coming to the shoreline helps. It's important.

Now, unfortunately, this trade is tied to a very important development, as you have heard. The labor groups, a number of community groups looking for low cost housing want it to happen. The Public Trust Group is not against the development. I think this is a very important point. We are not against the development. We oppose the trade of sovereign Trust Lands to expand the development.

And we're only talking about eight acres, give or take, out of roughly 64 acres, as I recall. So we're talking about a very small percentage. All right, more than 10 percent, but it is a small amount.

Now, there are a couple of items having to do with the legislation that quote permitted the trade, that was carried by Senator Perata two years after the city passed Measure DD, an almost $200 million bond measure to help build parks and open spaces along our waterfront and our lake. We had 80 percent of the people vote yes for this bond.
Two years later, Senator Perata writes a bill for the trade that says that there are no longer Public Trust uses on the sovereign acres. And the way he defines it is that there is no commerce, navigation, or fisheries. That definition is very old, and very limited.

And so my request to you is to continue this item, so that your staff can pursue other accepted Public Trust uses for these 8.7 acres. And I think you will find that the uses are there.

I'd like to cite the example of Treasure Island and Hunters Point. In both of these cases legislatively, the sovereign lands were traded for uplands. And what Perata's bill is saying that because these sovereign lands are above mean high tide, therefore uplands they are no longer of value to the Trust.

Again, we are not opposing the development. We are asking that it be reduced by 8.7 acres because those sovereign acres are important to the City of Oakland, to the Measure DD community, which allotted money to develop spaces there, and there's more.

A continuance will not, in any way, inhibit this project right now. The Port of Oakland has given OHP an extension to not have to start until 2015. And there is a lawsuit appeal going on that will probably take a year.

So your staff researching legitimate Public Trust
uses, so that we can preserve the sovereign Public Trust Lands would be very beneficial.

In addition, the condemnation act on the Army base, and it is cited in your staff report, there is conflicting evidence that the Trust Exchange Parcel retains a Public Trust interest. To me, that is critical. If the land that they're proposing as a trade already has the Public Trust on it, then you can't do it. So to me, that is another critical question that must be answered by your staff. Is it or is it not Public Trust Land on the Army base.

CHAIRPERSON CHIANG: Sandy, if you don't mind concluding. Your time has expired, plus I made the accommodation your friend --

MS. THRELFALL: Okay, I think that's it. I think that's it. I, again, ask for a continuance on this item, so that the research can be done. And we are not against the project.

Thank you.

CHAIRPERSON CHIANG: Thank you very kindly.

MS. ROY: My name is Joyce Roy, and I also request a continuance. This exchange is totally unnecessary. There is plenty of non-Trust Land for a significant housing project. No not maybe the 3,100 units, which is actually just totally unrealistic. That's
like nine Rincon Towers there on the estuary. But the
1,700, which was what the developer originally proposed,
would probably work without removing any Trust Lands.

And also, these Trust Lands are probably going to
come wetlands, because with global warming, it's
probably not even, from seismic reasons and global warming
reasons, a great place to put housing.

And it is not supported by the community, because
as some of us found when we were gathering signatures for
a referendum, all you had to say is, are you against a
developer putting 3,100 units on public land that was
designated for public space? And 9 out of 10 people would
sign that.

And it's certainly not smart growth. This is an
isolated site, with sort of like a bottleneck way of even
cars getting in there. There's no transit, so it's
just -- you can't call this smart growth at all.

And the community benefits that have been
mentioned are not being paid by the developer. They're
being paid by the public, by the city. The city has to
buy land from them to put housing for low income families
and low income seniors right next to the 880 Freeway on a
site that has no public transit, and that is not really a
public benefit.

Thank you. So please continue this and look into
this, because I think this is a totally unnecessary
exchange, and the builder can do a fine project without
taking any Trust Lands.

Thank you.

CHAIRPERSON CHIANG: Thank you very much.
Any other members of the public wish to speak?
Okay, let me pose some questions -- or pose a
question to the staff. Can you go over the appraisals.
There were questions about the exchanges and the benefits
on both sides.

EXECUTIVE OFFICER THAYER: Certainly. I'm aware
personally that the appraised value coming into the trust
is higher -- it's at around 10 million something versus
what's going out of the Trust. So that's one of the
criteria that has to be met.

But for the details, I'd defer to Jennifer
Lucchesi who made the staff presentation.

STAFF COUNSEL LUCCHESI: For the Oak to Ninth
site, there were two appraisals done, one in 2003 and one
in 2007.

The 2007 appraisal is the one that staff is
relying on as it's more accurate about the costs involved,
the infrastructure costs and the land values. And
we -- so without divulging any attorney-client privileges
here, we take a look at the appraisal, and look at --
that's one piece of evidence that we use when determining the value of our Trust Termination Parcel. We look at other materials, such as boundary and title evidence. And we take all that into account in determining the ultimate value of those parcels where the Public Trust interest is being terminated.

With regards to the Army Reserve parcel -- and I think this is where the question came up about any residual Public Trust interest there -- that we looked at valuation documents to come up to establish the land value of those parcels. And then we looked at what Public Trust interest claims there are according to historical title and boundary evidence. And we analyzed that. We made a case valuation about what any remaining public interests there are there.

And the finding that the Commission needs to make, and what staff was looking at, whether there was equal or greater value, so whether the Army Reserve parcels had an equal or greater value than the Trust Termination Parcels at the Oak to Ninth property. And our case evaluation -- staff's case evaluation and recommendation is that there is equal or greater value.

CHAIRPERSON CHIANG: Why is a 2007 valuation appropriate in 2010, in view of the material deterioration that has taken place for real property? So if we can get
that on the record.

STAFF COUNSEL LUCCHESI: And maybe I might refer to our appraiser, Colin Connor, who is also our Assistant Chief of Land Management. Maybe I'll have you answer that first.

LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

Sure. As background, the first appraisal was done in 2003. And by the time the process had gone on, that value was hopelessly out of date. So another appraisal was done. And unfortunately, the process has continued to carry on.

At this point, that is the most current, and by current I mean most recent, appraisal that we have. I mean, another appraisal could be ordered. By the time it is completed, you know, it might be several years down the road again. It's like trying to appraise a moving target. The difference is between the first appraisal and the second appraisal included the development of the additional details Jennifer noted on the property. The project originally started out at 1,700 units. And there was estimates of what the cost entailed, as well as remediation.

As those numbers became firmed up, another appraisal came in. By that time, the project had changed to 3,100 units. You also had much higher costs. And the
costs -- the estimate for remediation was greater as well. If we were to go forward again, we could certainly get more recent information. You know, other things might change as well, the costs. Even in the market, while values have declined, costs have not. You might get a situation where the value of the State's property could, you know, be less.

CHAIRPERSON CHIANG: So in the movement in cost and land valuation, is there any symmetry or is there no symmetry?

LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR: There's not always symmetry. Costs have continued --

CHAIRPERSON CHIANG: Can you give me -- sorry for interjecting. Can you give me a rough assessment for the parcels that we're discussing currently.

LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR: I'm not sure what you mean by assessment.

CHAIRPERSON CHIANG: On both sides. The -- I'm just trying to get the -- obviously, things have changed. I'm just trying to get a sense of whether it's still a relatively fair exchange.

EXECUTIVE OFFICER THAYER: If I could. I think what the Chairman might be asking is -- I mean, we have parcels on both sides of the equation here. Presumably,
if the overall real estate market has gone down, then the value of both properties have gone down. So the question, I think, is whether or not the depreciation is somewhat equal on both parcels.

LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
That would be — I wish it was that simple. On the one hand, you have primarily a residential property, that is the development — the proposed development. On the other hand, you have an industrial property. One value set might have gone down greater. One set of costs might have gone up more.

CHIEF COUNSEL FOSSUM: In fact, Mr. Chair, I think, you are bringing into light the fact that there have been two appraisals four years apart. What we did find is that the value of the Trust property that was being valued had gone down during that four years. So we took another look at it and would quite likely be the case again.

CHAIRPERSON CHIANG: And what methodology was used to value the property? I mean, do we do comparable sales? Do we do the salvage value? Do we do income indicator?

LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
The appraisal for the development of 3,100 units, the appraiser looked at what a value for each -- the land
based on comparable sales for 3,100 units of residential -- basically residential land sales for 3,100 units.

Then the developer -- or excuse me, the appraiser subtracted out the cost to get the property to that, you know, stage of development. That means site improvement costs, remediation costs. And those were the costs that were firmed up from the time of the first appraisal to the time of the second appraisal.

CHAIRPERSON CHIANG: And then I'm not sure who's the appropriate person to answer the question. What other lands did we look for exchange were under discussion?

STAFF COUNSEL LUCCHESI: The search for an exchange parcel began in earnest in 2005, shortly after the 2004 Exchange Act was signed into law. The process for looking for that exchange parcel is the Port of Oakland hired a broker and went out, met with various community members, and used their broker to search for various parcels.

In addition, Commission staff met with community representatives over the years. This lasted, you know, until just recently this search. We meet on a monthly basis with some of the community members that were interested in helping to find an appropriate exchange in parcel.
In addition, we had various additional specific meetings with community representatives and Port staff, and getting status updates about their search. In total, the Port looked at 40 different parcels -- potential parcels. And for a variety of reasons, such parcels were not available for acquisition. Some of it being not a willing seller. Some of it being not appropriate for -- some of the properties were not even within the four priority area geographic areas, as outlined in the legislation. Other considerations was the potential use of those properties in the future.

And so the process was, you know, started in 2005, included a lot of communication and dialogue with interested folks. And the Port hired a broker specifically to go out on their behalf to search for potential exchange parcels.

CHAIRPERSON CHIANG: Thank you. Any questions or comments?

Is there a motion?

ACTING COMMISSIONER BRYANT: I'll move approval of the staff recommendation.

CHAIRPERSON CHIANG: Okay, we have a motion to approve staff recommendation. Is there a second?

COMMISSIONER MALDONADO: Yes, I'll second.

CHAIRPERSON CHIANG: We have a second.
Without objection, the motion passes.
Next item, please.

EXECUTIVE OFFICER THAYER: The next item on the Agenda is Item 92. This has to do with proposed Commission approval of a report to the Legislature involving the Commission's Ballast Water Treatment Program. The presentation will be made by Nicole Dobroski
(Thereupon an overhead presentation was Presented as follows.)

STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Thank you. Good morning, Mr. Chairman and Commissioners. My name is Nicole Dobroski. I'm a staff environmental scientist with the Commission's Marine Facilities Division.

Today, I'll be summarizing the marine invasive species program's legislatively mandated report assessing the availability of ballast water treatment technologies to meet California's performance standards for the discharge of ballast water.

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STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: As a bit of background, non-indigenous species, or NIS, are organisms transported by humans to a region where they do not occur historically. NIS may have serious negative environmental, economic, and human health impacts in their...
NIS arrive in U.S. waters by way of a variety of mechanisms or vectors, such as recreational boating, intentional release and aquaculture. However, the ballast water of ships is one of the most important vectors of species release in marine and aquatic habitats. Ballast water is used to maintain the trim and stability of vessels at sea. And it is estimated that more than 7,000 species are transported around the world each day in the ballast water of ships.

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STAFF ENVIRONMENTAL SCIENTIST DOBROSKI:

Acknowledging the significant threat of species introduction from ballast water release and the need to more effectively manage ballast water discharges, the California Legislature passed the Coastal Ecosystems Protection Act in 2006, which directed the Commission to implement performance standards for the discharge of ballast water, and to write reports assessing the availability of treatment systems to meet those standards.

The performance standards' regulations were approved in October of 2007. The standards set limits for organism concentration as a function of organism size, class, and ballast water discharge. The standards will be implemented on a graduated time schedule based on the
vessel's ballast water capacity and status as a new or
existing vessel.

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STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: The
first technology assessment report was completed in
December of 2007. The second in January of 2009. The
2009 report concluded that technologies were available to
meet California's performance standards, and therefore
Commission staff proceeded with the initial implementation
of the standards on January 1 of 2010.

When the Commission addressed this item in the
fall of 2008, there was no opposition to the item.
Because of the time required to build a vessel, any ships
for which construction began on or after January 1 of 2010
won't be actually ready for service and likely to reach
California waters in 2011 or later. So thus, at this
point, we have not seen any vessels in California required
to meet the performance standards.

The current report assess the availability of
treatment systems for new build vessels with ballast water
capacity of greater than 5,000 metric tons. The standards
will be implemented for this size class of vessel
beginning January 1 of 2012.

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STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: As with
previous reports, the assessment of available ballast water treatment systems to meet California's performance standards is challenging due to a number of factors: Not all systems have data available for review. And the data that is available does not cover every environmental and shipboard condition.

The experimental designs for testing these systems is not yet standardized across systems. And thus, comparing one system to another can, at times, be an apples and oranges situation.

There are many questions about how much ballast water must be sampled to adequately assess the concentration of organisms in ballast water. This question is still up for debate as it brings together statistical, political, scientific, and practicality issues.

Finally, at this time, there are no methods to assess the number and viability of all viruses in a sample of ballast water, and thus Commission staff has had to proceed with the assessment of treatment technologies without considering this organism size class.

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STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Using the best available assessment methods, Commission staff reviewed 46 ballast water treatment systems for this
report. Significantly more information was available for this report than the last report, and the new data was of much higher quality. Eight systems have data indicating potential compliance with California standards. As the available data does not cover all possible environmental and shipboard scenarios, our assessment examines systems for the potential to comply.

This assessment does not constitute an approval of treatment systems nor does it guarantee compliance. All eight systems are commercially available, and seven of the eight are able to accommodate the ballast water pump rates of this largest size of classes operating in California waters.

Three systems show potential to meet the standards under more rigorous assessment criteria, which includes meeting the standards more than 50 percent of the time over multiple tests. And two of those systems have vendors that are willing to self-certify that their systems will meet California standards.

While the Commission does not require this certification, it may serve to assuage industry concerns regarding the availability of systems to meet California standards. Currently, no systems meet the standards --

CHAIRPERSON CHIANG: I'm sorry.

STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: I'm
sor-ry?

CHAIRPERSON CHIANG: Can you explain why?

STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Why for the self-certification?

CHAIRPERSON CHIANG: No. You drew this conclusion, right, and then yet we don't have anything up to standard yet. So there's a little gap for me, right. I want to drive this technology forward. I want compliance, but I'm concerned about people trying to comply with the standards in place.

STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Of course. Why if there are no standards -- systems that meet the standards a hundred percent of the time are we moving forward? I'm sorry, is that the question?

CHAIRPERSON CHIANG: You said it met staff's concerns. So I just want to say if we don't have technology -- recognized technology that can be there a hundred percent, why staff's concerns are mitigated?

STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: We are doing this report 18 months prior to the implementation date for the standards. So that date would be January 1 of 2012. And additionally, those vessels are for new build vessels. So the vessels will begin construction as of 2012. We likely won't see those vessels in California waters until at least 2014, because of the lag time.
required to build the vessels.

So we are looking at a snapshot of what's available today and projecting three, four, even five years down the road. There are systems that can meet the standards on a regular basis, not a hundred percent of the time, but, you know, a consistent basis. We believe that given the rapid increase in rate of technology development that these systems will be available for those vessels when they hit California waters three to four years from now.

CHAIRPERSON CHIANG: Yeah. I hope that we get there to the -- I should let you -- let me let you finish, and then I'll interject more.

STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Okay.

We are expecting to receive additional shipboard and land-based data from testing soon, and several more systems are expected to demonstrate the potential to meet the standards in the near future.

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STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Related to environmental impacts and water quality. Vessels will need to meet the conditions of the U.S. Environmental Protection Agency's National Pollution Discharge Elimination System permit for vessel discharges, which is also known as the vessel general permit, and any
California specific provisions added to the permit by the State Water Resources Control Board.

Commission staff conducted an initial review of the availability of systems to comply with the existing standards for chlorine as one toxicant due to its widespread toxicity. All eight of the systems that demonstrated the potential to comply with the performance standards can either meet the EPA discharge standard for chlorine or do not produce chlorine in the treatment process.

Currently, California defers to EPA for the regulation of chlorine discharges in ballast water, so that's why we were looking at the EPA standard.

Vessels and technology vendors will need to continue to work with the EPA and the Water Board to ensure that treated ballast water discharges meet all applicable laws, regulations, and permits.

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STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: So in conclusion, technologies have advanced rapidly since the 2007 and 2009 technology assessment reports. However, the scientific methods to evaluate system performance are not yet keeping pace and will require further development, particularly for bacteria and viruses.

Commission staff believe that given the data
currently available, multiple treatment systems have shown that they can meet California's performance standards. These systems will continue to be developed and refined as we approach the January 1, 2012 implementation date for new build vessels in this size class.

California's technology forcing standards serve to further progress in the development of systems to reduce or eliminate the discharge of non-indigenous species. And staff will continue to monitor progress and utilize adaptive management strategies as the standards are implemented and challenges are encountered.

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STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: And finally, in the report we make several recommendations to the Legislature. First, we recommend that the Legislature allow the Commission to proceed as planned with the implementation of the standards for new build vessels with a ballast water capacity of greater than 5,000 metric tons on January 1 of 2012.

Secondly, we ask the Legislature to continue to support staff involvement in the development of standards at federal and international levels. Shipping is an international industry and staff needs the flexibility to attend meetings, and coordinate with resource managers, as is necessary, to represent California and encourage the
development of uniform standards worldwide.

And finally, we ask the Legislature to maintain accessibility for marine invasive species program funds. The program is funded by an industry fee and does not draw from the general fund. Thus, the Legislature should ensure that the program funds are dedicated to priority research needs and are not compromised, particularly given the current budget climate.

With that, I'll take any questions.

CHAIRPERSON CHIANG: Thank you very much. Do you have questions? Please.

ACTING COMMISSIONER BRYANT: I just want to clarify in the 2006 legislation, did that actually -- did that put the standards that had previously been determined by you into statute? Are the actual numeric standards in statute or is it just authority for us to do the standards?

STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: It required us to implement the standards that were set forth in a previous report.

ACTING COMMISSIONER BRYANT: So the specific California standards, you know, no detectible living organisms. That specifically is in statute?

STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Yes, and
then we adopted them via regulation as well.

    ACTING COMMISSIONER BRYANT: Okay, thanks.

    EXECUTIVE OFFICER THAYER: And if I could respond to some of the questions or the line of questioning from the chair on this. I think Ms. Dobroski appropriately described the purpose of this report, which is consistent with the purposes of the prior reports that we're required by statute to prepare, which is to steadily evaluate and monitor and actually promote the technology that's being developed to deal with California's standards.

    You know, the basis for these standards, which were developed not just by State Lands Commission staff but through a working group, which involved environmentalists, scientists, and the shipping industry, is to come up with standards that would protect California from the burden of these invasive species. And I think the report talks in great detail about how expensive invasive species have already been for the United States and California, and the economic justification for trying to avoid new impacts like that.

    So it's a very serious problem. And these standards were the ones that were believed to be best suited to address those. The Chair and the Commission is quite right for being concerned about whether or not technology can meet those standards. As appropriate as
those standards might be, if they're impracticable, we can't live with them. We can't get it done, and we don't want to hamper the foreign trade.

It was as a result of that concern that after one of the earlier staff reports, the Commission recommended -- or the staff recommended to the Commission and the Commission in turn passed this recommendation on to the Legislature, that the initial implementation date of these standards be delayed by a year for the smaller vessels.

And so staff is not afraid to both characterize the actual state of the technology -- we're not cheerleaders for doing something that can't be done, and we're not afraid to recommend that the implementation dates be postponed.

We do think though, at this stage of the game, the technologies have shown so much more practice -- or practicability and implement -- they're more capable of being implemented than they were just a couple years ago, since the last report.

We would also note that the legislation requires yet another report in another two years, which will be before these are really in place in the new or larger category of ships. So the Commission will have the opportunity again, at that point, to review whether or not
we're hitting these -- the technology is going to be able to hit these standards.

And so I think the Commission has an opportunity to see whether or not the progress will continue and whether industry is going to be able to meet those standards.

CHAIRPERSON CHIANG: I think that's very instructive. I think for those who would make comment that we are imposing obligations that cannot be fulfilled, that, in fact, is not the case. We demonstrated that, as you pointed out, through the smaller vessels, and the fact that we are trying to act timely. And that's why I want to point out I think it's important that California, in the position we are, continue to drive forward in making these changes possible, but that we are sensitive to what's taking place as to -- on a practical level.

We have one public speaker, John Berge. John, if you'd please join us. And then we have another individual, Joe Angelo. So, Joe, you would follow John.

MR. BERGE: Thank you, Mr. Chairman, and Commissioners. John Berge with the Pacific Merchant Shipping Association. We represent container and dry cargo carriers that carry over 90 percent of the containerized goods moving through California's ports.

We must respectfully disagree with certain
aspects of the report. We do appreciate State Lands' efforts in mentioning in the body of the report some of the shortfalls in treatment technologies and testing methods available to assess their efficacy.

However, the report then proceeds to essentially ignore its own findings to jump to the conclusion, and I quote, "Given the data currently available, multiple treatment systems have shown they can meet California's performance standards with acceptable consistency."

I know that you've already raised some of these issues in your questions, but we believe this, along with some other statements in the report, is not accurate, is not supported by valid scientific analysis. It is misleading to California's elected officials. And this is the opinion of leading academics, scientists, the U.S. Coast Guard, the treatment technology vendors themselves, and even the data in the report.

We provided abundant evidence to you on our submitted written comments, so I won't elaborate here, but I'd just like to point out two, I think, compelling points. First, Dr. Mario Tamburri of the University of Maryland and the Director of the Maritime -- or the Maritime Environmental Resource Center, which is one of only four recognized testing centers worldwide.

He wrote in May of this year, "Given the current
testing approaches used and the available data on individual treatment performance, there are no treatment systems that have been proven to meet anymore stringent standards than the international standard", which is about one thousand times less stringent than California's.

This is not simply due to limitations in measuring stricter standards, but also a result of the basic abilities of current treatment technologies.

We understand the fact that these ships won't actually be built for approximately a year and a half. However, ship owners are already in the process of designing those ships, setting up a contract with potential vendors. Therefore, I think the report really needs to reflect the state of technology today, not what it's going to be several years from now.

So we therefore ask that the Commission ask that the report be amended accurately to reflect the fact that no treatment technology is demonstrated that can comply with the California standard on a consistent and regular basis.

No testing protocols exist to determine, with scientific validity, that a treatment technology can meet that standard.

And finally, that the report recommend that either the implementation schedule be postponed or the
standards amended accordingly.

Thank you. I'll be happy to answer any questions you might have.

CHAIRPERSON CHIANG: We'll take our next speaker.

Thank you, John.

Joe Angelo. Is Joe still here?

MR. ANGELO: Good afternoon. My name is Joe Angelo. I represent INTERTANKO, which is the International Association of Independent Tanker Owners, representing approximately 80 percent of the world's independent tanker operators around the world, many of which call on California.

Since I have limited time, I'll just simply say that we fully agree with the comments that were just made by John Berge of PMSA, emphasizing, number one, that the treatment technology does not exist to meet this standard right now. Number two, the protocol to test for this treatment technology does not exist right now.

I want to make one other comment. Prior to working for INTERTANKO I worked for the U.S. Coast Guard. I was the director of the standards. I was the head of the U.S. delegation that negotiated the Ballast Water Management Treaty back in 2004. And the U.S. submitted a document to that conference recommending a ballast treatment standard identical to what you have here, 0.01
living organisms per milliliter. So I don't know if California was following what the U.S. proposed back in 2004, but it is the same standard.

I can tell you emphatically that the U.S. government, which consisted of the Coast Guard, EPA, NOAA, the Department of State new back then that that standard was not achievable, could not be achieved. We submitted that proposal simply as a negotiating tactic, because the standard that was on the table wasn't even as good as ballast water treatment -- ballast water exchange. So we needed some sort of negotiating tactic to move the number from 100 to something lower than that.

We were somewhat successful in getting the standard that we thought was a little bit more achievable, but not what we wanted. But what we proposed back then, we knew was not scientifically achievable.

It is still not scientifically achievable. We commend the efforts of the Commission in moving forward and proactively trying to lead, not only the U.S., but the world in trying to achieve the proper standard, but we think there needs to be a little more time in developing the proper protocol, and the proper scientific technology to develop such a standard.

Thank you.

CHAIRPERSON CHIANG: Thank you.
Any questions or comments?

COMMISSIONER MALDONADO: I have a question, Mr. Chair.

CHAIRPERSON CHIANG: Please.

COMMISSIONER MALDONADO: Mr. Thayer, a question for you. I voted for the legislation that is before us, because I looked at it at the time, and I thought it was an important piece of legislation.

But when you have a process where someone is spending millions and millions of dollars on a ship, and they're in the process of building it now, and they're being asked to put equipment on that ship that might not meet standards in two years or a year, how do I sit here and vote for this and say, you know, well you'll have to just take that equipment out and put some new equipment on in two years, when we find the stuff that meets the standards? You know what I'm saying?

EXECUTIVE OFFICER THAYER: Absolutely. I think that's a great question and it's entirely appropriate for the Commission to consider that.

Again, our view is that the standards we're looking at now are the standards that will be imposed on newly built tankers for which the construction won't start for another year and a half. The standards apply to vessels where the construction has started after January
And our experience, in terms of compliance for the smaller vessels now, is that some of these vessels are under construction now, that have to meet these standards. And their approach, at this point, is to say, hey, look, you know, we can build most of this vessel before deciding which one we're going to put on, so they leave space on the ship, so that they can put on whatever technology is necessary.

So in terms of dealing with this issue for Mr. Berge's clients who are the large container ships, that kind of thing, 2012 isn't the date by which they will need to have identified the technology. It's going to be more like about 2014 before they reach the stage in their construction where they have to actually put in the technology.

That's four more years. And when you consider how far we've come in the last four years, we really do think that we're going to reach that. As Mr. Berge pointed out, we don't hide anything in our staff report. And there's lots in there in the way of data that lead to the concerns, which you've expressed and which the members of industry have also expressed, that there are problems in terms of developing these technologies. It is new technology.
And then this problem of measurement. Although, on that particular issue, we believe that if the measurement does not show that the organisms are there, then the technology passes. So to some extent, that aspect of technology, the measurement of technology trailing, doesn't create as much problems potentially whether or not the treatment technology has reached the appropriate point.

But again, we're not, as a staff, afraid to come to the Commission and say let's postpone the date until more is done. We don't think we've reached that stage yet, given how much time there is left, and that there will be this subsequent opportunity for the Commission to go back to the Legislature and say, you know, it's not there. The technology is not there. We have to return back to the Commission with a new report by July 1st of 2012, which is a year and a half before we think they'll actually be putting this technology on the new ships. So that there is still adequate time to back off from the compliance date, if necessary.

It's not a problem that we think -- we're not done with our consideration of this issue or the implementation of this program with this report. It's just the latest in a series of reports. And are there more milestones that have to be met? You're absolutely
CHAIRPERSON CHIANG: Have you concluded?
COMMISSIONER MALDONADO: Yes.
CHAIRPERSON CHIANG: Cynthia.

ACTING COMMISSIONER BRYANT: You just confused me a little bit. I thought that ships that were currently being built need to have this new technology put on them?

EXECUTIVE OFFICER THAYER: For the smaller vessels, that's right. And that that we expect sometime in 2011 or getting towards 2012, that those will be ready to be launched. And those --

ACTING COMMISSIONER BRYANT: But we still don't have -- they're still not --

EXECUTIVE OFFICER THAYER: They're still working on the same issues. That's correct.

ACTING COMMISSIONER BRYANT: Still not the technology that we know for sure works.

EXECUTIVE OFFICER THAYER: That's right.

ACTING COMMISSIONER BRYANT: So even a smaller ship would be having to be built with uncertain technology.

EXECUTIVE OFFICER THAYER: That's correct.

ENVIRONMENTAL PROGRAM MANAGER I FALKNER: Excuse me. I'm Maurya Falkner.

EXECUTIVE OFFICER THAYER: Staff is correcting
me. I may have this wrong.

ENVIRONMENTAL PROGRAM MANAGER I FALKNER: No, no, no. I just think it's very important that everybody remember that we are not requiring installation of ballast water treatment systems. We are requiring a discharge standard. Vessels can meet that discharge standard by retaining all ballast water on board, by discharging that ballast water to a shore-side treatment facility or a barge mounted facility of which there are few folks who are looking at that business plan.

Third would be to install a treatment system. So we are not mandating installation of a treatment system. And I think it's really important to remember that. There are other options.

EXECUTIVE OFFICER THAYER: Maurya Falkner, who just spoke, and heads up our ballast water program, has a good point, which I neglected to mention, which is even for the existing much easier to comply with management program, which involves these mid-ocean exchanges of ballast water, ships often decide for various reasons that they don't want to comply with that. Say they're coming from Mexico and they don't want to go the 200 miles at sea that they're supposed to go in order to find mid-ocean water, which wouldn't have the same invasive species on them, and instead choose to maintain -- keep the ballast
on board.

And, in fact, the vast majority of the ships that call in California do not charge ballast -- or discharge ballast water, in part to avoid having to meet that requirement. The same operational implementation of the standards is possible for this.

CHAIRPERSON CHIANG: Actually, I see, John, you're shaking your head no. Did you want to respond?

MR. BERGE: Yeah, thank you, Commissioner, Chiang.

MR. CLAYTON: Could you come forward to the mike.

MR. BERGE: Sorry for the delay.

Yes, that is true, of course, there are options, such as not discharging ballast. And some ships have that ability. Some ships do not. It's strictly a function of their cargo mix. For instance, if a ship is loading and discharging at the same time, they can counter balance whatever cargo they've lost with cargo they've added on. So therefore, they might have that option.

But a lot of ships don't. For instance, grain ships, ships carrying rice out of Sacramento or Stockton, those ships really don't have the luxury of not discharging. Their only luxury would be, or their only option would be to stop calling California.

COMMISSIONER MALDONADO: What percentage of the
ships are those?

MR. BERGE: I'm not sure what percentage of the ships that is, in terms of the entire population. I'm guessing it's --

COMMISSIONER MALDONADO: One percent?

MR. BERGE: -- in the teens or something like that.

ENVIRONMENTAL PROGRAM MANAGER I FALKNER: Approximately nine percent.

MR. BERGE: Nine percent, okay.

CHAIRPERSON CHIANG: Thank you.

MR. BERGE: Thank you.

ACTING COMMISSIONER BRYANT: Can I just make one more comment.

CHAIRPERSON CHIANG: Please.

ACTING COMMISSIONER BRYANT: So I actually -- you know, I think we're -- I'm trying to just look at this with what's in front of me, which is whether or not we let this report, as currently written, go forward to the Legislature.

And I do actually think that in the report all the information is there. It's really interesting and really well done, but I do think that in our effort to push -- I mean, there is this thing that you want to push the regulated community very hard to meet our standards.
And obviously, California has very strict standards, because we're usually a leader in this area, and obviously I support that.

But I think that report, if you're someone who just looks at the executive summary or someone who just looks at the conclusion, it doesn't really -- I don't want to say it's not -- I don't want to -- because I don't want to criticize it particularly, but I don't think it's very fair in bringing up that there's lots of questions remaining. And I don't even think if you were to look at the first few pages or the last few pages of the report, that, as a policy maker over in the Capitol, you would say, gosh, I better keep an eye on this, because we may have to make changes between now and 2012. And there's nothing -- it doesn't suggest that, when you look at it. If you skim it, it looks like, hey, this is easy. We can do this technology.

So I do actually have a little bit of concerns about how it's drafted. I don't have specific changes, because I'm not scientific enough, I don't think, but I don't think that it adequately -- unless you read it very carefully do you sense that the staff has any concerns at all about our ability to meet this. Like even what your comments just were, Paul. I don't think it comes out in the report.
EXECUTIVE OFFICER THAYER: Right. There are various ways to handle that. Of course, I'm looking at the executive summary here, which says that -- again repeats the same stat that was mentioned in the staff presentation, that three passed more than 50 percent, and no system has yet met California's standards a hundred percent of the time for either land-based or shipboard testing. So we try not to hide the ball even in the executive summary. And if we weren't successful in that, we'd be glad to go back and put something --

ACTING COMMISSIONER BRYANT: I guess it doesn't say something like, and in fact, it might -- you know, it might be impossible in an onboard thing. Although, I think the point you just made, when you were speaking too isn't really necessarily in here, because I'd kind of forgotten about that, even though I read that in the report, that there's other technologies.

But I think that to raise this specter that we are driving ourselves to a very strict standard, and we need to make sure that we have, you know, all the options on the table, and we don't want to end up having a big bunch of closed signs at our ports. Although, I don't really, after reading this, feel that's as big a risk as some might argue.

EXECUTIVE OFFICER THAYER: There's, again, a
couple of options. If that's the main concern of the
Commission, the staff recommended action allows for minor
editing to clarify the information presented. And if the
Commission would like, we can go back either -- if the
Commission wanted to approve it today, we'd go back and
add some language, which would emphasize the fact that the
Commission remains very concerned about whether the
technologies are going to be available and will be looking
at this question again in 2012, and make those changes.
Otherwise, we can make the changes and bring it back in
August. There's different approaches that can be made.

ACTING COMMISSIONER BRYANT: I think my
preference would be to see it again.

EXECUTIVE OFFICER THAYER: Okay.

CHAIRPERSON CHIANG: I'm comfortable with the
report as is. I think it's well done. I want to commend
the staff for doing so, but I want to accommodate my
colleagues to articulate their concerns.

And then there is the issue of the pace of
innovation. So I don't know -- Nicole, I don't know how
much onus you want added to your life. But if it's
instructive, since that is a key measure, at this point in
time, if perhaps we can do an interim report. Because
we're talking about innovation, technology, development,
instead of waiting till 2012, I don't have a clear sense
of how much is developing by day, by month, by year, if we could do one in between to see how far along we are.

Now, I don't know if you view that as constructive use of staff time, but if that is a determinant, we ought to be monitoring it or at least if we don't get a full report, the Board, the Commission, ought to have a sense of how those developments are unfolding.

EXECUTIVE OFFICER THAYER: Well, I think if the Commission is concerned, it's a good use of staff's time to address those concerns, because it also reflects concerns of the industry and that kind of thing. So we'd be happy to come back with an interim report, not wait the full two years. We could come back in six months or we could come back in a year, when we would have more data to really present.

And again, wanting to be accommodating of Commissioner Bryant's concerns, would -- but not -- and also wanting to meet the July 1st deadline, if the Commission is comfortable with a package, in essence, which would have us reword -- and we could work with your office on this -- the conclusions. Pass out the report today. Work with you, in terms of making sure the conclusions make sense. If we can't reach accommodation, we'd bring it back, but then have this additional report
in a year to look at all of this anew.

    ACTING COMMISSIONER BRYANT: And I think in the rewrite, we could put language in a rewrite that would suggest that the Commission is concerned about -- you know, wants to stay on top of this, and that we've put upon ourselves to do a second report.

    EXECUTIVE OFFICER THAYER: Sure.

    ACTING COMMISSIONER BRYANT: I think that would make it a whole lot better for me.

    EXECUTIVE OFFICER THAYER: And we, in fact, brought back, I think, in December an auxiliary report to the Commission just to update the Commission this last year that wasn't required by the legislation, as something we thought was important for the Commission to review. And so we're happy to do that.

    ACTING COMMISSIONER BRYANT: Well, for this Commissioner, December would be a good month.

    (Laughter.)

    EXECUTIVE OFFICER THAYER: Well, I understand, but I'm not sure how much --

    ACTING COMMISSIONER BRYANT: Yeah, I think that what -- and I thought -- I also wanted to make this other one comment.

    CHAIRPERSON CHIANG: Wait, you're going to be here in December, right?
ACTING COMMISSIONER BRYANT: Yeah, that will be my last meeting.

The number two on the recommendations I think is critically important. And I think one of the things this has done for me is elevate the issue. And I think part of the report and doing our own interim report is to this notion of really working on this federally and internationally, because we don't want to do is, A, it would be nice if everyone adopted our standards, and B, it would be really nice if we didn't set up a system where it makes it difficult to come to California for shippers.

I'm not persuaded that's an issue yet, but I think it's an important issue that we stay on top of, that we make sure that we don't, in our quest for having the strictest environmental standards, that we don't somehow or another, create a system where we just have lots of, you know, just empty ports in the State.

EXECUTIVE OFFICER THAYER: I understand. I guess I would say though, in terms of preparing a report for December, I'm not sure what -- how much of an increment we would -- more that we'd know by the time we actually prepared the report we'd be done with it in four months.

ACTING COMMISSIONER BRYANT: That's okay. I'll continue to follow your activities in my private life.

(Laughter.)
EXECUTIVE OFFICER THAYER: So I guess I would ask, as staff, whether Commissioner Bryant would be satisfied with these changes if the Commission adopted this now, and was directed by -- staff was directed by the Commission, as we proposed in the action, we're proposing to make whatever clarifying changes the Commissioners want, and that we would work with your office to make those changes. If not, then we could bring it back in August and do it however you want.

ACTING COMMISSIONER BRYANT: That works for me.

CHAIRPERSON CHIANG: The initial proposal to keep working on it and then come back with changes to --

EXECUTIVE OFFICER THAYER: I think what we would do is take advantage of the authority, which we already authorized in the proposed action, which would enable staff to make clarifying changes in the report, but have the Commission approve it today. We would work with Commissioner Bryant's office to make sure we were addressing her concerns. If we can't, we would bring it back.

But I think we would try -- and over the next couple of weeks do that and get it to the Legislature. But if we're not able to reach a resolution, then we would bring it back in August. That way we make sure that there's a fail-safe for Commissioner Bryant's concerns to
be addressed.

And then otherwise, we would then -- so our recommendation is that the Commission go ahead and approve this today with that understanding -- with that direction, that we work with Commissioner Bryant to make sure the concerns are addressed, and then bring back a whole new report in a year, which would be a year sooner than we'd otherwise be doing.

ACTING COMMISSIONER BRYANT: I think I'd prefer if it came back, just as I'm sitting here.

EXECUTIVE OFFICER THAYER: Okay.

ACTING COMMISSIONER BRYANT: Yeah, that would be -- if it just could come back for a once over in August, so my colleagues could see it. And with the interim -- with a report in a year, that would be perfect.

EXECUTIVE OFFICER THAYER: We can do that.

CHAIRPERSON CHIANG: Have we scheduled our August meeting?

EXECUTIVE OFFICER THAYER: We have not yet.

CHAIRPERSON CHIANG: Because I'd like to conclude this as quickly as possible, so it's provided to the Legislature.

ACTING COMMISSIONER BRYANT: It could be in a Consent item even in August, assuming that...

COMMISSIONER MALDONADO: I'm okay with August.
EXECUTIVE OFFICER THAYER: Then if that's the Commission's direction, then that's what we'll do.

CHAIRPERSON CHIANG: Is that a motion?

ACTING COMMISSIONER BRYANT: So moved.

CHAIRPERSON CHIANG: Is there a second?

COMMISSIONER MALDONADO: Second.

CHAIRPERSON CHIANG: Second.

Without objection, the motion passes.

Next item.

EXECUTIVE OFFICER THAYER: The next item is an informational item. This is an update on the dust control measures being undertaken and management generally of Owens Lake. As the Commission knows, it approved a Consent Calendar item, which allowed for tillage to help address this issue. But staff believed that because we've visited this several times over the last year, that it's appropriate to have a general update on what's happening there.

(Thereupon an overhead presentation was Presented as follows.)

LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

Good afternoon, Mr. Chairman and members of the Commission, and welcome, Lieutenant Governor.

My name is Colin Connor. I'm the Assistant Chief of the Land Management Division. And I'm here to present
an update to the Commission on the status of various projects on the dry bed of Owens Lake, including dust control measures, the solar demonstration project, groundwater monitoring wells, and progress on the master plan.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
This is very sensitive.
First, I want to start off with just some slides showing Owens Lake. This is from the bed of the lake looking west towards the eastern side of the Sierra Mountains. This picture was taken in April. You can see it's stark, but very beautiful in the background.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
This is basically from the same spot. Now, I'm looking southwest. And the reason I took this was you can see the dust that's blowing across the bed of Owens Lake. And also in the foreground -- or excuse me, kind of the near background, if you will, so that area of shallow flooding.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
I'm going to start off the presentation with dust control measures. There are presently three approved Best

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Available Control Measures, that's known as BACM, that are approved to control dust on Owens Lake. They are gravel cover, managed vegetation, and shallow flooding.

I don't have a picture of the gravel cover.
First of all, in this picture right here, the blue areas around the outside are areas of shallow flooding. The yellow area towards the bottom is managed vegetation. There is a very small area up towards the top that is dust. And as I said, I don't have a slide of dust.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
This is a picture of managed vegetation. You can see it's in rows.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
Here's another picture of managed vegetation.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
This is an area of shallow flooding. You can see they've built up berms on the side. The Sierras are in the background. And there's some birds that use this for coming down, landing in.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
This is also an area of shallow flooding. But
what's interesting about it, is the native vegetation has really taken over and pushed out. We'd like to see a lot more of this on the lake.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEFCONNOR:

All three of these measures have been used in Owens Lake. However, because the City has recently had efforts to control or limit the amount of water used for dust control on the lake bed, there's a push to come up with new methods of controlling the dust.

One option that was studied recently was for Moat and Row. And that option was denied at the April Commission meeting. It was denied, because it was found to be inconsistent with Public Trust needs, resources, and values of Owens Lake, and was not in the best interests of the State.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEFCONNOR:

So the City went back to the drawing board, and on May 18th submitted an application for another dust control concept. This one is tillage. And this is actually a picture of a tillage that they did last year, kind of as a temporary type measure.

Tillage is a process whereby the surface of the soil is roughened or made uneven to make it more resistant
to wind erosion. The roughness reduces wind velocity along the surface and provides furrows to catch windblown soil particles. So that's an aerial of it.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

And this is a -- the next couple slides are some concept drawings that kind of give you an idea about it. The furrows in the prior slide were straight. What we're approving or what the Commission is considering today, it would involve more wavy lines and give it more of a natural appearance. There would be breaks in the tilled rows to allow for maintenance vehicles, as well as animal passage. The distance between the individual furrows would vary depending on the soil type. The depth of the furrows would also vary based on the soil types.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

Benefits of tillage include relatively quick implementation with immediate effectiveness. No infrastructure is required. It has a low profile that does not obstruct the views and does not use water.

Tillage does not -- excuse me, tillage also does not have the same long term adverse impacts of Public Trust values as did the Moat and Row proposal. The difference is the Moat and Row is much higher and had sand
fences on the top. The tilled areas are very low lying, so anyone on the lake bed isn't going to see a very large structure. Another concern with the Moat and Row is it could turn out to be permanent, especially if needed armoring with gravel cover.

Tillage is intended to be a temporary method of dust control until a long-term solution is found. Some other options that may be explored in the future include using brine instead of fresh water for shallow flooding. And the reason for that is there's a large brine pool in the middle of the lake. And they think that rather than using water, if they can find a way of moving the brine about into some of these shallow flooding areas, they could save water.

So we have using brine instead of fresh water for shallow flooding, a variation of gravel cover using rocks and boulders of differing sizes to give a more natural appearance, seeps and springs, which involves planting and nourishing native vegetation around existing natural seeps and does not only -- excuse me, not only to reduce dust, but also to create habitat.

And that would be similar to that one picture of the shallow flooded area that had a lot of native vegetation. That's what's envisioned by the seeps and springs option.
And lastly another method that is being considered is using solar arrays in conjunction with earthen berms and gravel cover to keep the dust down. None of those have been implemented or tested.

Another idea that is being discussed is the use of tillage, which we've just talked about, in conjunction with shallow flooding. And that would be -- that's another of the tillage concepts. This is tillage in conjunction with shallow flooding.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
This is that same area that was part of the prior aerial. It was tilled first and then subsequently flooded. The advantage to doing this is that -- and actually it would be done in the reverse order. You would have an area of shallow flood. You'd pump the water out of that area, then you'd till it. The moist soil would be more resistant to wind erosion and last longer than just tilling dry soil.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
So in summary, there's three approved BACM, gravel, managed vegetation, and shallow flooding. There are a number of alternative measures being proposed. However, these alternatives will require more research and
testing before they can be approved as best available control measures.

Commission staff continues to work with City staff, as well as the staff of the Great Basin Air Pollution Control District and Fish and Game to develop effective dust control measures that do not adversely impact Public Trust values on Owens Lake.

I'll now move on to discussing the solar demonstration project.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

Last summer -- just to kind of recap. Last summer, the city approached Great Basin, the Air Pollution Control District, with the idea of using solar arrays as a dust control measure.

In response to that inquiry, the District established criteria for dust mitigation through the use of solar arrays. The general premise is to -- that the solar arrays would prevent the wind from whipping up. And therefore, the dust would stay down.

So on February 24th, the city submitted a lease application to the Commission for the Owens Dry Lake Solar Demonstration and Information Collection Study. The city initially proposed to use an 80-acre portion of cell T1A-4 at the south end of Owens Lake to install and test solar
panel configurations.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
And also to determine the ability to achieve dust control. You can't see it here, but the original cell is way -- excuse me, to the south.

I'll go back here.

The original -- let's see. Oops, that's not what I wanted to do.

I'm going to walk over to the overhead. The original solar dust control -- excuse me, solar demonstration project was going to be right here, 80 acres of that cell. And how would I get that off the -- thank you.

All right, so the city's original plan called for a schedule for the demonstration project that would involve completing CEQA, and getting lease approval from the Commission by August 2010, site preparation commencing in October 2010, installation of solar equipment in January of 2011, and commercial operation commencing in July of 2011.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
On June 2nd a meeting was held in Sacramento to update Commission staff on the progress and changes to the
solar demonstration project. In the meeting, city staff stated that they were no longer considering the 80-acre site in the southern part of Owens Lake and were now considering two separate 20-acre sites, one in cell T37-1, which is to the left and the other is called Study Area 1. Both of those are to the left of the screen.

The change in sites was necessitated by poor soil conditions in cell T1A-4, which would significantly increase the costs of the foundation for the solar arrays.

The two alternate sites will require additional geotechnical study for the load bearing capacity of the soil. City staff also discussed the challenges of meeting the district's dust mitigation requirements for solar as a Best Available Control Measure, and that to do so may also involve the use of berms, gravel cover, or sand fences.

The berms will basically be placed around the edges of the solar arrays to keep the wind from getting underneath it.

City staff informed the Commission staff that their next step will be to submit an application for a geotechnical permit to study soil conditions in the two areas. Once the investigation is concluded, the city plans to revise their application to address the new locations, and provide a detailed project description, which would include the type solar array technologies that
would be used.

At this point, they're leaning towards standard flat plate photovoltaic, which is what this is.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

City staff believes that even with these new intermediate steps that they could have a solar demonstration project constructed and operating no later than October 1st, 2011. And that concludes the update on the solar demonstration project.

I'd next like to move on to the status of the Owens Lake Groundwater Evaluation Project. In July of last year, the city submitted an application for a lease of seven clusters of monitoring wells. The purpose of the groundwater evaluation project and these wells is to evaluate the groundwater supply under Owens Lake to determine if the water -- the groundwater can be used for dust control measures on the dry lake bed.

The original proposal called for drilling of up to 30 groundwater wells in clusters of three at various locations on the lake bed. On January 28th of this year, the city withdrew their application in order to conduct additional analysis of existing seismic data.

As previously mentioned, city staff and Commission staff met in Sacramento on June 2nd. The
status of this project was also discussed. City staff stated that they have reviewed the existing seismic data and have revised their project. The revised project will involve fewer wells on sovereign land. There will be a total of eight new wells drilled and one existing well previously drilled by Great Basin will be utilized as well. It will still be three clusters, but just three clusters of three.

As previously proposed, the wells will be drilled in clusters of three. Thus, there would be just three clusters.

Let me go to the next slide here.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
The three clusters are down on the lower side, DWP 5, 6, and 7, the lower right-hand side of the lake.

Thank you.

Each cluster would have four -- excuse me, it would have four-inch diameter bore holes.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
This is what it would look like -- and it would be drilled to different depths, with none being greater than 1,500 feet.

All well drilling and associated site work would
be done after Snowy Plover breeding season, which ends in mid-August.

These three wells are on DWP property. At the time of our site visit in April, they had finished the drilling. The footings around them were going to be filled with concrete. But this is essentially what the clusters on sovereign land would also look like.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
These are the locations.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
And basically, where the vehicle is, is approximately where the wells would go. And this is the existing well right here to the right of T-16.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
Right there, thank you. And the well site here would be kind of the dot on the other side of the managed vegetation. This is all managed vegetation here on the lower right-hand side.

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LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
The city anticipates resubmitting a lease application for this project in the next few months. And
that's the update on the groundwater monitoring wells.

Lastly is the master plan. One of the conditions of the eighth amendment to the lease, approved by the Commission at its December 2009 meeting, is for a long-term conservation plan or a master plan approved by the Department of Fish and Game and the Commission.

On January 25th, 2010, city staff -- Los Angeles City staff informed Commission staff that Ms. Gina Bartlett with the Center for Collaborative Policy at California State University, Sacramento, had been hired as a facilitator to assist in the development of a master plan.

Ms. Bartlett was here earlier, but I think she had to take off for another commitment.

Ms. Bartlett has since identified the stakeholders in the process, interviewed many of the key players and formed a hierarchy of groups representing the stakeholders and their interests. The stakeholder structure consists of a planning committee, an agency forum, a coordinating committee, a stakeholder forum, and working groups that will be formed as needed.

The planning committee is the stakeholder group that will work to develop a consensus-based plan and take it to their respective agencies and organizations for potential adoption.
To date, there have been four planning committee meetings, one in March, one in April, one in May, and the most recent on June 9th. The April meeting was a guided site visit to the lake bed where some of the earlier pictures were taken. Committee members were able to view the various dust control measures on the lake and also experience the wind-driven dust.

The topics that were discussed at the earlier planning committee meetings included recognizing the interests of the various stakeholders, identifying the uses on or influenced by the lake, such as dust control, wildlife habitat or mining, and creation of a charter to guide the master plan process.

The most recent meeting was more focused, with topics such as exploring water efficient dust control measures, and solar projects on the lake bed. Future planning committee meetings will address defining the project area, identifying the vision for the lake bed, drafting objectives, and recognizing stakeholder interest and concerns within that framework.

The next planning committee meeting is scheduled for this coming Wednesday, June 30th. In addition to the planning committee meetings, an agency forum meeting was held in Sacramento on June 16th. Present at the meeting were representatives from the city, Inyo County, Great
Basin Air Pollution Control District, Department of Fish and Game, the California Department of Water Resources, the State Water Resources Control Board, and the Commission.

The purpose of this meeting was to identify the various agencies that may be involved in the master plan process, what their roles would be, what their concerns are, what their internal processes are, any potential policies or practices that could impact or constrain the master plan, and consider the type of legal framework of the master plan.

There was also discussion about the sequence — excuse me sequencing of the CEQA process relative to the master plan process.

The master plan process is scheduled to be completed by the end of this year, with the CEQA review scheduled to be completed sometime in 2011. The master plan and CEQA document could then be considered for approval by the various agencies, including the Commission.

This concludes my presentation on the update of the various activities on Owens Lake. Staff is available to answer your questions, and representatives from the city are also here.

CHAIRPERSON CHIANG: Thank you. We have one
MR. ADAMS: Good afternoon. My name is Marty Adams. I'm the Director of Water Operations for L.A. Department of Water and Power. And I just would like to quickly underscore what Colin has reported, and thank this Commission and the Commission staff for participating with us very actively in the master plan process, and in trying to change the face of Owens Lake and what we're doing.

As Colin stated, we're making a lot of progress. The Master plan is our guiding document that we're working for toward the future. We do have interim dust control measures that we have to do. We have an existing commitment for October 1st dust control, with the loss of Moat and Row, the gain of tillage today, with your approval by Item 33, will allow us to at least make some positive steps on the lake bottom, so we can control dust. It does not exactly meet the SIP, but it does meet, we believe, the spirit of what we're trying to do in terms of controlling dust.

And last month, I attended the Great Basin board meeting in Bridgeport. And the board was, across the board, encouraged us to do whatever methods we could to try to keep the dust down as much as possible by using alternate methods, and have it done by October 1st next year, so that we could continue to try to mitigate the
dust to the greatest extent possible.

I would like to reiterate that L.A. Water and Power remains very concerned about water use on the lake. Presently, we're using 95,000 acre feet a year of water on the lake. That's the water supply for Long Beach and Santa Monica. It is also the same amount of water that the citizens of L.A. conserved this last year by going to two-day a week watering.

Water on the lake now is costing the city about $46 million a year. So about one and a half months of the average homeowner's annual water bill just pays for replacement water in the lake. So this is a big financial issue for the city, and we have probably about a billion dollars invested at this point.

Lastly, we do continue to look to the Commission for guidance on dust control in the future. Colin mentioned gravel, which is an issue that is a question about whether it's consistent with the Public Trust. We are looking for alternatives for dust control that did not involve water. We understand that Moat and Row is not acceptable, and we've moved on from that.

We hope that tillage has a future, but we are desperate for trying to find methods for control to control additional areas. We currently have about five to six miles of area that still need control. Other areas
will be ordered following that. And we have the existing acreage, about 43 miles, on the lake that's controlled, that we do need to convert some of that away from water. So any guidance that this Commission could give us is greatly appreciated.

Thank you very much.

CHAIRPERSON CHIANG: Great. Thank you, Marty. Next item, please.

EXECUTIVE OFFICER THAYER: That concludes all of the Regular Session items.

CHAIRPERSON CHIANG: Or do we have to do 35?

EXECUTIVE OFFICER THAYER: Oh, I'm sorry, you're right. We have -- Item 35 was taken off the Consent Calendar.

Item 35, the presentation will be made -- I'm not sure -- do we need to make a presentation?

LAND MANAGEMENT SPECIALIST FOSTER: I have some background information.

EXECUTIVE OFFICER THAYER: This is the item that consists of a proposal by the Port of San Diego to lease land from -- in San Diego Bay from the Commission, which it would add to -- the Port would add to land that it controls, in order to have one lease for the continued restaurant use. There used to be a restaurant there, which will be reconstructed and relocated at this site.
We have received opposition from the local union down there, who I believe is here to represent their perspective.

(Thereupon an overhead presentation was Presented as follows.)

LAND MANAGEMENT SPECIALIST FOSTER: Good morning, Commissioners. My name is Ken Foster. I'm a Public Land Management Specialist with the Land Management Division. And I'm going to present some basic background information on Calendar Item 35, which asks you to consider authorization of a lease of sovereign land to the San Diego Unified Port District and approval of a sublease to the Sunroad Asset Management Company for the redevelopment of a floating restaurant in San Diego Bay at the end of Harbor Island, that is known as the Reuben E. Lee.

Slide one, please.

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LAND MANAGEMENT SPECIALIST FOSTER: As you can see in the slide, the Reuben E. Lee is a replica of a stern wheeled steam ship, but it has no internal means of propulsion. It has served as a floating restaurant on the east end of Harbor Island in San Diego Bay since about 1969, but it ceased operations in 2003 when Sunroad Asset Management acquired it.

Slide 2, please.
LAND MANAGEMENT SPECIALIST FOSTER: The barge's location on sovereign lands was not known to us, the staff, until 2008, when Port staff actually brought the issue to our attention, and subsequently submitted an application to us for approval of the sublease -- or approval of the lease and the sublease that's being considered by you today.

LAND MANAGEMENT SPECIALIST FOSTER: Approximately 60 percent of the barge is located on ungranted sovereign land with the remainder located within the Port's legislatively granted sovereign land, as you can see in the detail.

LAND MANAGEMENT SPECIALIST FOSTER: The detail on the right there shows the proposed lease area and the barge's orientation, with respect to the U.S. pier-head line, and that happens to be the grant line as well.

Next slide, please.

LAND MANAGEMENT SPECIALIST FOSTER: Now, the Reuben E. Lee was a stand-alone restaurant, but the renovated barge is one component of the land-based restaurant development that is to be known as 880 Harbor.
The barge is expected to be towed off site for renovations to the South Bay Boat Yard, and that's in Chula Vista. It's an approved vessel repair facility in Chula Vista and it's expected to be returned to the same location once renovations are complete. So there would be no actual renovations done to the barge on site.

Renovations would include the demolition of the superstructure down to the deck level, construction of a galley and covered seating, and also provide for an uncovered seating area. And you can see in -- this is a conceptual of what the barge and the, as yet to be constructed, upland restaurant facility is expected to look like.

The first year's rent that's shown on the calendar item is a minimum amount based on the value of the submerged land occupied by the barge and its marine protected pilings. The rent for the next two years includes an increase in the minimum rent, as well as a percentage of gross rent, which would be due once the restaurant begins generating revenue.

The minimum and percentage of gross rent due in the fourth year and on, assumes the restaurant will be operating and generating revenue at full capacity. And those are based on some pro forma projections.

Once the restaurant begins generating revenue, a
percentage of rent for the barge, as discussed in the
calendar item, would be based on a percentage of the gross
revenue received by the Port as the lessee, with a minimum
rental figure collected against a percentage of gross
revenue.

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LAND MANAGEMENT SPECIALIST FOSTER: This
concludes my background presentation. And I'm available
to answer questions. And I understand Irene McCormack
with the Port is also available to answer questions as
well.

ACTING CHAIRPERSON ARONBERG: Thank you. I have
two speaker cards on this item. Do any of the
Commissioners have anything to say before we start calling
on speakers?

Let's call Irene McCormack followed by Lee
Strieb.

CHIEF COUNSEL FOSSUM: Madam Chair, I'd like to
mention one thing. In an earlier version of the staff
report, there was a statement as to approvals having been
acquired already involving the Corps of Engineers, the
Coastal Commission, Port District and regional water
quality control board. That's been amended to say that
those are required as a condition of our lease, rather
than they've already been obtained.
ACTING CHAIRPERSON ARONBERG: Thank you for the clarification, Curtis.

Ms. McCormack.

MS. MCCORMACK: Hi. Good afternoon, Chairman. My name is Irene McCormack, Assistant Vice President of the Port of San Diego.

The item before you today has been continued several times. And the Port is hopeful, in working with your staff, that we have provided enough information for you today.

The Board of Port Commissioners has been looking forward to the redevelopment of this restaurant site since 2003, when the floating restaurant closed, hence shutting down public access to one of the best public views of the San Diego skyline.

The Reuben E. Lee, a now dilapidated faux steam boat, had been in operation for more than 35 years, providing dining and prom memories for San Diegans and visitors alike.

After the Reuben E. Lee's closure, Port staff realized in early 2008 that the Port needed to enter into a lease with State Lands for the ungranted sovereign land in which the restaurant floats.

If granted, the Port intends to sublease to Sunroad Asset Management, which is to redo the restaurant
and improve public access to the east end of Harbor Island.

In June 2008, the Board of Port Commissioners accepted Port staff's determination that the project is categorically exempt under the CEQA guidelines in Section 15302, Class 2, replacement or reconstruction, because the project will be located on the same site and will have substantially the same purpose and capacity as the restaurant being replaced.

Moving the barge, which is more like a boat, to the breakwater on the land, does not affect any contaminants at this time.

Your approval of the lease is one of the first steps in the process for the improvements of this outdated facility. While under construction, and when fully functional, it will provide revenue for both the Port and State Lands. The Port supports Commission staff's recommendation to authorize the issuance of a general lease to the Port and authorize the approval of a sublease to Sunroad Asset Management.

Thank you. And if you have any questions, I will answer them to the best of my ability.

ACTING CHAIRPERSON ARONBERG: Thank you.

MR. STRIEB: Good afternoon, Commissioners. My name is Lee Strieb. And I'm here today on behalf of UNITE
HERE Local 30, which is the San Diego hotel workers union. And we're here today asking you to deny the approval of this lease and sublease, and for the Reuben E. Lee development until there's the proper environmental analysis done for this project starting with a good initial study.

You've received, I think, in your packets or on your desks, a letter from our attorney at Adams, Broadwell, Joseph, and Cardozo. I'll summarize the points there quickly.

Basically, as you've probably read in the staff report, the staff believes that the project is exempt from CEQA. And our view is that that exemption from CEQA is not proper for several reasons, primarily because the project involves new development, including new infrastructure for the barge, a new land-side restaurant, in addition to what's happening in the water, as well as removal of trees. And again, there's a removal of an existing structure and its replacement with a new restaurant on the barge. That whole project needs to be reviewed and analyzed under CEQA. It's not simply a replacement that's taking place here.

Furthermore, that exemption doesn't apply because the project has changed since the exemption -- the CEQA exemption was originally granted. Moving the barge now
involves taking out the breakwater and potentially releasing contamination into an already contaminated part of the San Diego Bay. And that potential impact is another reason why the proposed exemption isn't proper.

Based on the documents that we've received, there hasn't been that initial study prepared, and there's not evidence that the Board of Port Commissioners itself made the decision around this. It seems like it was a staff level decision. And there really is not a rush here in this case.

The Port approved Sunroad's request for an extension of their option on this property, because of the economy. And under the new schedule, the Port is not expected to issue the development permits on this until March of 2011. So, for all these reasons, we're urging you to comply with CEQA and to reject the lease and sublease in this case, and to direct staff to complete their environmental analysis of the site prior to your considering this further, the lease and sublease that are before you today.

Thank you for protecting our coastal resources.

Thanks.

ACTING CHAIRPERSON ARONBERG: Thank you. Staff, Mr. Strieb raises some issues that I think were raised in a letter sent late last week. Did you want to address
them?

EXECUTIVE OFFICER THAYER: Certainly. We didn't get this letter until Friday. And our attorneys in the AG's office have taken a look at the allegations that were made both in this presentation and in the letter, and I think Pamela Griggs, who is one of our staff counsel, will respond to those issues.

SENIOR STAFF COUNSEL GRIGGS: Good afternoon, Commissioners. My name is Pam Griggs. I'm a Senior Staff Counsel with the State Lands Commission.

We had a chance to review the letter. And I think I'll just address the comments right now that were addressed here. And then if there's additional questions on contents of the letter, I'll address those.

First of all, we believe a categorical exemption is appropriate. The State Lands Commission is acting as a responsible agency in this case. The Port approved the project in June of 2008. And the period for a challenge to the project as a whole has already run.

The State Lands Commission, as you were shown on the slides, is being asked to approve a lease just for a portion of the sovereign ungranted lands, where the Reuben E. Lee is floating. So our role is only to approve that small portion of the project.

The land-side restaurant has already been
approved by the Port and is not under our jurisdiction, under the State Lands Commission's jurisdiction.

Also, I believe there was a misunderstanding about the breakwater. We have confirmed with the Port, and I believe they can also answer to this, but the breakwater will not be removed. So as far as sediments being released from removal of the breakwater, that is not going to occur.

So again, the exemption is appropriate for us, State Lands Commission acting as a responsible agency. A responsible agency is very limited in the actions it can take, when an action has already been approved by the lead agency. And there is a -- there are exceptions to when you can use exemptions, if there are unusual circumstances. But in this case, there are no unusual circumstances. The boat is simply tethered to the shore with mooring lines and can be backed out with any removal of bay sediment.

ACTING CHAIRPERSON ARONBERG: Thank you, Ms. Griggs.

Is there any comment from Commissioners? Any other public comment? Do we have a motion?

COMMISSIONER MALDONADO: I'll move approval.

ACTING CHAIRPERSON ARONBERG: We have a motion.
Is there a second?

ACTING COMMISSIONER BRYANT: Second.

ACTING CHAIRPERSON ARONBERG: Without objection, Item 35 is approved, staff recommendation.

I have two public comment speaker cards, one from Ms. Gravanis and one from Ms. Threlfall, but I see -- ah, there they are.

Let's start with Ruth Gravanis and then Sandy Threlfall and any other speakers during the regular public comment period.

MS. GRAVANIS: Thank you. For the record, Ruth Gravanis, the last time.

First, I want to thank Paul Thayer for remembering Eve Bach, our friend and colleague. I will inform her family that she was remembered here today, and I know that that will mean a lot. Sandra Threlfall had to leave. I think she's busy drowning her sorrow.

As you heard earlier, some of us are very concerned about the way that we determine that a land -- a piece of land is no longer suitable for Trust purposes. And one of my biggest personal concerns is with the proposed exchange from Treasure Island to Yerba Buena Island.

And what we have in the authorizing legislation, SB 815, are statements that say that it's suitable to
impress the Trust on portions of Yerba Buena Island, because of its great views of the hills and the bridges and because of its potential for recreational uses.

Well, Treasure Island, the portions where we're proposing to lift the Trust, also has views of the surrounding hills and bridges and the water and the cruise ships and the sail boats and the pelicans. So what we're saying here is that looking at the hills from YBI is a Trust use, but looking at the hills from Treasure Island is not a Trust use.

And that's pretty hard to support. Obviously, the recreational uses we're thinking about for Yerba Buena Island are not at all water oriented. Those very same recreational uses could also go on the parts of TI, where we're proposing to lift the Trust. We need to think about this. I don't think it sounds quite right.

I'm especially concerned about the challenge that we have, a new and unprecedented challenge, where we're actually proposing to place The Trust on hilltops Mare Island, Yerba Buena Island and Hunters Point Hill. Here, we really need to rethink this, because we're talking about saying that when a piece of land is cutoff from tidal action, that supports a finding that it's no longer suitable for Trust purposes. And then we turn around and we place the Trust on pieces of property that never ever
were anywhere near tidal action. How do we justify that? How do we explain that?

I am not opposed to lifting the Trust from portions of Treasure Island, so that we can put housing there. I totally support the basic program being proposed for TI/YBI development. But currently, we do not have a proposal before us that guarantees that there will be a net benefit to the public and a net benefit to Trust values.

So I strongly urge that before we get too much farther in the direction of the enabling action that this Commission needs to take, that we address those issues. I'm also concerned about training of the trustees. We've talked about that before. It becomes really important now, when we're asking the trustees basically to take over the job that your staff has been doing. Your staff has been educated for years and years, and has been steeped in the meaning of the Trust and all the applicable statutory laws and legislation. And now, we're just saying to people who have no experience at all, okay, well you decide what's Trust consistent and what's not. I urge you to provide whatever resources you can to your staff, so they can provide a meaningful education program to your trustees.

And also, I see that my time is out, but a
particular concern on Mare Island and Yerba Buena Island is that a very important Trust value, and one worth putting the Trust on is the preservation of habitat. But we don't currently have any means to assure that that habitat will be indeed preserved. And right now, the very Trust values that we say make it suitable to put the Trust there are being lost as invasive exotic species take over our wonderful native habitats.

I'm happy that this Commission is aware of the damage done by the invasive microorganisms in ballast water. Well, we have the same kind of problem in the terrestrial species that are destroying the habitats that are so important to our wildlife. So we have some issues ahead of us that I hope will get a very, very thorough discussion.

Thanks.

CHAIRPERSON CHIANG: Thank you.

Any other public speakers?

Okay, I think we've concluded.

EXECUTIVE OFFICER THAYER: And if I could just respond to the last speaker. The Commission will be hearing this Treasure Island exchange. I'm not exactly sure of the timing on that. But an element of that, in fact, will be a proposal to do just as the previous speaker described, which would be to allow for the
elimination of the Public Trust designation from the interior parts of Treasure Island, and impose it on Yerba Buena Island.

And I think our perspective as a staff is that we're doing everything to assure that public access along the shoreline, a significant breadth of the shoreline, will be preserved on Treasure Island, and that the Yerba Buena Island sections we think are Trust consistent and suitable for inclusion in the Trust, because they provide wonderful views of San Francisco Bay, and we regard that as Public Trust consistent.

But nonetheless, while that's our perspective, ultimately this will be a policy decision for the Commission, and you'll have free rein to decide whatever you think is appropriate when we bring this matter to you.

CHAIRPERSON CHIANG: Very good.

We've concluded.

Thank you very much.

(Thereupon the California State Lands Commission meeting adjourned at 1:14 p.m.)
CERTIFICATE OF REPORTER

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

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

That the said proceedings was taken before me, in shorthand writing, and was thereafter transcribed, under my direction, by computer-assisted transcription.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of July, 2010.

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