APPEARANCES

COMMISSION MEMBERS
Mr. Gavin Newsom, Lieutenant Governor, Chairperson
Mr. John Chiang, State Controller, represented by Mr. Alan Gordon
Ms. Ana J. Matosantos, Director of Finance, represented by Mr. Pedro Reyes

STAFF
Mr. Curtis Fossum, Executive Officer
Ms. Jennifer Lucchesi, Chief Counsel
Mr. John Dye, Staff Counsel
Ms. Jessica Rader, Staff Counsel
Mr. Gregory Scott, Chief, Mineral Resources Management Division
Mr. Drew Simpkin, Public Land Management Specialist

ATTORNEY GENERAL
Ms. Alice Reynolds, Deputy Attorney General

ALSO PRESENT
Mr. Edward Clark
Mr. Lester Denevan
Ms. Leonie Mulvihill, City of Newport Beach
Mr. Warren Truitt, Save the American River Association
Mr. Mike Valentine, California Energy Commission
Mr. David Webb, City of Newport Beach
INDEX

I 10:30 A.M. - OPEN SESSION   1
II CONFIRMATION OF MINUTES FOR THE MEETING OF April 28, 2011   1
III EXECUTIVE OFFICER’S REPORT   3
IV CONSENT CALENDAR C01 - C133   6
VI REGULAR CALENDAR 134 - 140


135 CITY OF LONG BEACH, CALIFORNIA STATE LANDS COMMISSION (PARTIES): Consider the execution of a Compromise Title Settlement and Land Exchange Agreement pursuant to Public Resources Code section 6307 involving certain parcels adjacent to Queensway Bay, adjacent to the Pacific Ocean, within the Colorado Lagoon and Marine Stadium Park, within the City of Long Beach, Los Angeles County. The result of the proposed Agreement is to terminate any and all Public Trust and sovereign property rights in certain filled tide and submerged lands adjacent to Queensway Bay, acquisition of certain parcels adjacent to the Pacific Ocean and within Colorado Lagoon and Marine Stadium Park, and the issuance of two 49-year leases of the lands acquired by the State Lands Commission to the City of Long Beach, as trustee.   19
136 CALIFORNIA STATE LANDS COMMISSION (PARTY):
Consider the scope of work for the implementation and completion of an Environmental Protection and Facility Safety Audit for the Long Beach Unit, Wilmington Oil Field, Los Angeles County. 29

137 CALIFORNIA STATE LANDS COMMISSION (PARTY):
Consider requesting the United States Department of Interior and the United States Department of Justice to agree to jointly petition the United States Supreme Court for entry of a fifth supplemental decree in the case of United States of America v. California (1965) 381 U.S. 139, No. 5 Original, to permanently establish an agreed offshore boundary between the United States and California, in the location as jointly agreed to by the Mineral Management Service (now known as Bureau of Ocean Energy Management, Regulation and Enforcement) and the State Lands Commission in 2009, and already in effect for administrative purposes. 38

138 RONALD T. VANDERBEEK AND BILLIE J. VANDERBEEK; CALIFORNIA STATE LANDS COMMISSION (PARTIES): Consider authorization for the staff of the California State Lands Commission and/or the Office of the Attorney General to take all steps necessary, including litigation, for trespass by a portion of an existing fence located on sovereign land in Lake Tahoe adjacent to Assessor’s Parcel Number 083-162-038, 1640 Sequoia Avenue, near Tahoe City, Placer County; consider an exercise of the public trust easement over a portion of the same existing fence located below the high water mark of the lake; authorize the removal of those portions of the existing fence and all prior fence remnants from state owned land and from within the public trust easement; and compensate the property owner for the value of any lawfully placed improvements within the public trust easement. 6
Edward Leroy Clark, Jr., Trustee of the Ed Clark Family Trust Dated September 8, 2010 (Applicant): Consider application for a new General Lease - Recreational Use, of sovereign land located in Huntington Harbor, Huntington Beach, Orange County; for the use and maintenance of an existing access ramp and boat dock previously authorized by the Commission; the use and maintenance of an existing, boat lift and cantilevered deck not previously authorized by the Commission; and the denial of an existing hot tub, gazebo, and tiki bar not previously authorized by the Commission.

California State Lands Commission: Consider a resolution acknowledging the 50th anniversary of the Save the American River Association.

VII Public Comment
VIII Closed Session
Adjournment
Reporter's Certificate
CHAIRPERSON NEWSOM: All right. We'll get this meeting started. I'll call this meeting of the State Lands Commission to order. All the representatives of the Commission are present. I'm your Lieutenant Governor and Chair of the State Lands Commission, Gavin Newsom. And I am pleased that we have the Deputy Controller and Commissioner alternative, Alan Gordon, who's here, and Pedro Reyes representing the Department of Finance on my respective right and left, your left and your right.

And for the benefit of those in the audience, we say these perfunctory comments, the State Lands Commission administers certain property interests owned by the State including mineral interests. Today, we'll hear proposals concerning the leasing and management of these public property interests. That concludes the perfunctory remarks.

And we will move to the first item of business, and that's the adoption of the minutes, the Commission's April 28th. We had a special meeting on April 28th. And, Mr. Fossum, just anything you want to add to those minutes or anything from staff perspective? Or if you have nothing to say, we'll just ask for a motion to approve those minutes.

EXECUTIVE OFFICER FOSSUM: That would be fine. I
have nothing to add.

    ACTING COMMISSIONER REYES: Move approval of the
minutes.

    ACTING COMMISSIONER GORDON: Second.

    CHAIRPERSON NEWSOM: Without objection, we'll
move those forward. The minutes are now unanimously
adopted.

    Next order of business is the Executive Officer's
report. And by the way, I agree with all of you that are
polite enough to think it -- or rather polite enough not
to say it, but to think these things -- we've got to sort
of protect and preserve our environment. So I think we
should look to -- I can personally purchase some iPads for
the team, but we can --

    EXECUTIVE OFFICER FOSSUM: Thank you.

    (Laughter.)

    CHAIRPERSON NEWSOM: Wait a second. I didn't
just say that, did I?

    (Laughter.)

    CHAIRPERSON NEWSOM: I was expecting to you go,
"Oh, you don't need to".

    (Laughter.)

    ACTING COMMISSIONER REYES: Mr. Chair, I have my
own, just because I sit on over 40 Boards and Commissions
and I find it a lot easier to carry a small iPad, and be
able to read when I have free time.

CHAIRPERSON NEWSOM: I lost my staff as we walked from the Capitol, who was carrying both of these.

(Laughter.)

ACTING COMMISSIONER REYES: It is a form of exercise.

CHAIRPERSON NEWSOM: This turns out to be the thickest agenda in some time, but that should not necessarily equate to your time being lost with an agenda. Most, of course, on the Consent Calendar. And with that, Mr. Fossum, you have your executive order -- or your Executive Officer's report.

EXECUTIVE OFFICER FOSSUM: Thank you, Mr. Chairman. And first of all, I'd like to congratulate you and Mrs. Newsom on the birth of your son.

CHAIRPERSON NEWSOM: Very kind of you. Thank you.

(Applause.)

EXECUTIVE OFFICER FOSSUM: And I'd also like to welcome Alan Gordon, Deputy Controller, to the Commission for his first meeting.

ACTING COMMISSIONER GORDON: Thank you.

EXECUTIVE OFFICER FOSSUM: Staff has been proceeding with compliance with the Governor -- with Governor Brown's cell phone and vehicle reduction goals.
We've also been working on the strategic plan update. And we've had 3 meetings so far, and we're actually having another one as soon as this meeting is over this afternoon. And we hope to be able to report a final version of that at 1 of the next 2 Commission meetings.

Interesting you should bring up the binders, we are hoping to implement some changes to both the calendar format, how it's presented to the Commission, as well as making it more accessible on line for those people fortunate enough to have iPads. And we hope to have that available before the next meeting as well.

On the alternative Energy front, we've got a couple items to report. One is Item 134 that you'll be hearing later today, the Memorandum of Agreement, on the Desert Renewable Energy Conservation Plan and the Resources Renewable Energy Action Team, that we will be participating with. And we're also working on AB 982, which is Assemblyman Skinner's bill on the Solar Parks Program.

On other legislative matters, 2 bills sponsored by the Commission have made it out of the Senate and will be heard in the Assembly this next week. One is SB 152 by Senator Pavley that deals with fair rent for private piers on State property. The other one is SB 595, Senator Wolk, dealing with abandoned vessels removal.
Also, advancing are a couple of Assembly bills and one Senate bill that the Commission has voted to support, and they'll be heard next week as well, AB 752, Brownley, on the sea level rise action plan, and AB 935, Huffman, dealing with OSPAxF funding for our oil spill prevention program. And finally, Senate Bill 935, which is actually a Committee bill dealing with our ballast water program. So we're pleased that those things are advancing.

And 3 bills that the Commission voted to oppose never made it out of the Committee, so we're also happy about that.

We've been monitoring, advising a number of other -- and advising on a number of other bills with legislative staff, including tideland grants in San Francisco and -- involving both San Francisco and Pittsburg.

We're at a point now with the Bureau of State Audits audit of the Commission's operations -- it was initiated over a year ago -- it's coming to a close. We're having a meeting with them this week, and another one in July. We anticipate the report will be released in August. And we are pleased that we've learned a lot from questions they've asked and issues they've raised. And we believe we've already improved many of our practices based
on their inquires.

As you mentioned, and as you're quite aware, this is an immense calendar this month. That's the first time in the 73-year history of the Commission that we've had 140 items on the agenda. There's only been 5 occasions in all those years, when there's been over 100.

I think it's also impressive that of all those items on the agenda, there's 29 different counties being represented of the 58 counties the State has, and 25 different waterways that the Commission manages are also involved in that.

And before we move on to the Consent agenda, I would like to ask the Chair if we could move the last item on the agenda, Item 140, honoring the Save American River Association be heard immediately after the Consent Calendar.

And as far as items on Consent, Item 134 I'm pleased to announce that the property owners at Lake Tahoe who've had a fence blocking public access and use of the lake below the high water mark have agreed to remove it in less than a month, and thereby making Item 13 -- excuse me, 138 unnecessary.

CHAIRPERSON NEWSOM: Great.

EXECUTIVE OFFICER FOSSUM: One other item that's on the Consent agenda, and that is if the Commission does
not remove Item 42 from the agenda, then we would ask that
43 be removed, because it is unnecessary to vote on. So I
don't believe, at this point, we've had any requests.

Kimberly.

CHAIRPERSON NEWSOM: We've had -- I do have a
request to speak on Item number 42.

CHAIRPERSON NEWSOM: Is that only if it comes off
the agenda?

CHAIRPERSON NEWSOM: Stephen Lesher. Stephen?

MR. LESHER: Only if it comes off of the agenda.

CHAIRPERSON NEWSOM: Perfect.

EXECUTIVE OFFICER FOSSUM: So if the Commission
leaves that on the agenda, we would ask that Item 43 be
removed.

CHAIRPERSON NEWSOM: Be removed, pulled from the
Consent?

EXECUTIVE OFFICER FOSSUM: That ends my report.

CHAIRPERSON NEWSOM: Okay. So just so I
understand this, if we don't -- if we don't choose to pull
that item, you would like Item 43 to be pulled for
discussion?

EXECUTIVE OFFICER FOSSUM: Correct.

CHAIRPERSON NEWSOM: Well, let's move then to the
Consent Calendar --

EXECUTIVE OFFICER FOSSUM: I'm sorry not for
discussion, but to remove it from the agenda in its entirety, yes.

CHAIRPERSON NEWSOM: Just table it. Okay, that was the distinction. All right. And then in that stead, also on the Item 138, you'd like that tabled as well?

EXECUTIVE OFFICER FOSSUM: Yes.

CHAIRPERSON NEWSOM: Okay. So let's first move to the Consent Calendar. And I'll ask if there are any items you'd like removed?

ACTING COMMISSIONER GORDON: No.

ACTING COMMISSIONER REYES: No.

CHAIRPERSON NEWSOM: So we'll -- and then I'll ask the public any items? No one wish to remove any items from the Consent Calendar?

We'll see that we'll move forward with the Consent Calendar with 2 amendments that we will remove Item 43. And -- oh, that's it. So let's move forward. Is there a motion to support with Item 43 --

ACTING COMMISSIONER GORDON: I move the Consent Calendar.

CHAIRPERSON NEWSOM: Moved.

Second?

ACTING COMMISSIONER REYES: Second.

CHAIRPERSON NEWSOM: Without objection, we'll do that. On Item 43, is there a motion to -- well, any
public comment on Item 43?
None.

Is there a motion to table Item 43?
ACTING COMMISSIONER GORDON: So moved.
ACTING COMMISSIONER REYES: Second.
CHAIRPERSON NEWSOM: Without objection.
And item -- I'll take this out of order. Item 138, was there anyone who came here expressly to speak on Item 138?
Anyone wish --
EXECUTIVE OFFICER FOSSUM: Yes, Mr. Chair. I'd like to present a short presentation --
CHAIRPERSON NEWSOM: Summary.
EXECUTIVE OFFICER FOSSUM: -- on that, a summary.
And we do have a few gentlemen here who are representing SARA that we would like to --
CHAIRPERSON NEWSOM: On 138?
EXECUTIVE OFFICER FOSSUM: Oh, I'm sorry, 138.
CHAIRPERSON NEWSOM: Anyone wish to speak on 138? So we will look to then, if we could, table Item 138?

ACTING COMMISSIONER GORDON: So moved.
ACTING COMMISSIONER REYES: Second.
CHAIRPERSON NEWSOM: Without objection, 138 is tabled. And we will then move out of order the last item.
And we will call Item 140, which is considering a resolution acknowledging the 50th anniversary of Save the American River Association.

And, Mr. Fossum, I'm sure you have a lot to say on this. And I know a number of people are here appropriately to add their voice as well.

EXECUTIVE OFFICER FOSSUM: Yes. Thank you, Mr. Chair. Save the American River Association was formed in 1961 as a grass roots organization to protect the American River from encroaching urbanization and other threats. SARA joined forces with the Environmental Defense Fund in 1972 to sue the U.S. Bureau of Reclamation and East Bay MUD to prevent diverting substantial flows through the Folsom South Canal, which would have resulted in significant damage to the Lower American River.

The Commission and Department of Fish and Game later joined this lawsuit. And in 1990 the case, after 17 years in court, was won with a judgment protecting the river from the proposed devastating diversions. It's a great opportunity to thank SARA on their 50th birthday for the many accomplishments they've made in protecting the American River and the American River Parkway, which is fundamental in protecting the river.

Public interest groups like SARA provide a fundamental public service in seeking to protect quality
of life issues and serve an important role in protecting our environmental treasures.

Today, Warren Truitt the President is here. He's joined by Felix Smith and I believe some other members of the Board. And we have a resolution to be signed by the Commission to present to them. So I'd like them to come forward and...

CHAIRPERSON NEWSOM: Great, Mr. Truitt. Thank you for being here. And there's a mic over there and right across. You can run across. Thank you.

And anyone else that wishes to speak on this item, you can make your way closer to the mic, and we'll go in order.

MR. TRUITT: Thank you. I am Warren Truitt, President of the Save the American River Association.

CHAIRPERSON NEWSOM: Warren, if you could, just move the mic. Thank you so much.

MR. TRUITT: And we did celebrate our 50th anniversary on June 4th. And Mr. Fossum happened to be there on a horse, as part of the equestrian patrol. And they started with this organization 50 years ago, and were a big part of our future and history. And we did it in the rain. And we had about 208 people there. And it was fun.

I just wanted to say real quickly what we did 50
years ago was create the parkway, help create the parkway, the citizens of Sacramento, and the electeds at the time. And now here we are 50 years later and we're rescuing the parkway, because of funding issues. And so we're doing the same thing in some ways.

This is -- I just wanted to show the audience.

This is a little piece of paper that was a deed for 1 square yard of parkway that people paid a dollar for. You got 1 square yard. And your 1 square yard was wherever you stood at the time, put your hands on your hips and that was your square yard of the day. And we raised enough money to buy the first 7 acres donated to the parkway.

So we thank you very much for what you're doing for us today. Thank you.

CHAIRPERSON NEWSOM: Appreciate it.

MR. TRUITT: This is -- by the way, I wanted to introduce Felix Smith.

CHAIRPERSON NEWSOM: Mr. Smith.

MR. TRUITT: Felix was here in 1961 on the first ride down the river when the organization was founded. Clyde MacDonald is SARA's Vice President and he recently retired from the Legislature. And Bill Griffith back in the far corner with his hand up back there --

CHAIRPERSON NEWSOM: Thank you, Bill.
MR. TRUITT: -- was there in the beginning as well. And he's in the film that we created 50 years ago. So I thank them all and all of our predecessors for all that they've done.

CHAIRPERSON NEWSOM: That's tremendous. Thank you very much.

Mr. Fossum, you have a presentation.

EXECUTIVE OFFICER FOSSUM: I'd like to present this resolution from the Commission to the Save the American River Association on the 50th anniversary. Congratulations.

MR. TRUITT: Thank you very much.

(Applause.)

MR. TRUITT: Thank you.

CHAIRPERSON NEWSOM: Thank you, Mr. Truitt. And we'll have a signed copy to give to you. That's the unsigned version.

MR. TRUITT: Okay.

CHAIRPERSON NEWSOM: The signed version is right here. We just have to get someone who knows how to replace those things and put them in.

MR. TRUITT: Thank you very much.

CHAIRPERSON NEWSOM: Thank you for your leadership and your stewardship. Thank you all very much. Is there anyone else who wished to speak on this
item?

Seeing none, we'll thank everybody for taking the time to be here. We're grateful. And we'll close public comment on this item.

CHIEF COUNSEL LUCCHESI: Mr. Chair?

CHAIRPERSON NEWSOM: Jennifer.

CHIEF COUNSEL LUCCHESI: May I request that the Chair and the Commission expressly vote on the Consent Calendar. I don't think that was expressly done earlier, just to make sure.

CHAIRPERSON NEWSOM: Oh, okay. I thought we did, but God bless. We'll do it again, if we didn't.

CHIEF COUNSEL LUCCHESI: Thank you.

EXECUTIVE OFFICER FOSSUM: Insurance.

CHAIRPERSON NEWSOM: Insurance. Yeah. No. Otherwise, we have 132 items that will be left hanging.

(Laughter.)

CHAIRPERSON NEWSOM: Is there a motion to approve the Consent Calendar as amended?

ACTING COMMISSIONER GORDON: So moved.

ACTING COMMISSIONER REYES: Second.

CHAIRPERSON NEWSOM: Without objection, that will be --

CHIEF COUNSEL LUCCHESI: Thank you.

CHAIRPERSON NEWSOM: -- the reinforced action of
this body.

On Item number 140, we closed public comment.

This was not an action -- well, it was an action item, because we want to approve the resolution. Is there a motion to approve the resolution?

ACTING COMMISSIONER GORDON: So moved.

ACTING COMMISSIONER REYES: Second.

CHAIRPERSON NEWSOM: Without objection.

We will then move to the regular agenda in order.

And I will ask that Item 134, which is a Memorandum of Understanding between the State Lands Commission and other State and federal agencies to participate in California's Renewable Energy Action Team, and Desert Renewable Energy Conservation Plan.

We'll take time to hear a presentation from staff and have an opportunity to hear from all of you.

Thank you.

EXECUTIVE OFFICER FOSSUM: Yes, Mr. Chair. John Dye, our staff counsel, who's been working on this is presenting the item today.

CHAIRPERSON NEWSOM: Mr. Dye.

STAFF COUNSEL DYE: Good morning, Commissioners.

My name is John Dye, staff counsel for the Commission.

Staff respectfully requests your consideration of Calendar Item number 134, a Memorandum of Understanding
between the California State Lands Commission and the
Renewable Energy Action Team for participation in the
Desert Renewable Energy Conservation Plan or DRECP.

The Renewable Energy Action Team is comprised of
2 State and 2 federal agencies, the California Energy
Commission, the Department of Fish and Game, the U.S.
Bureau of Land Management and the U.S. Fish and Wildlife
Service.

The purpose of the team is to advance State and
federal conservation goals for the desert region of
California, while enabling timely permitting of renewable
energy projects. In May of 2010, the team agency signed a
planning agreement for the DRECP pursuant to the Natural
Community Conservation Planning Act.

This chapter of the Fish and Game code was
designed to promote the preservation of natural ecosystems
while enabling appropriate development within the planning
area.

As shown on this map, the DRECP planning area
lies within the blue boundary line. The yellow squares
within this area represent roughly 300,000 acres of school
lands under the jurisdiction of the Commission. The
proposed memorandum would facilitate coordination between
the goals of the DRECP and the Commission's management
objectives for these school lands.
The memorandum would also enable Commission staff to work with a broad spectrum of federal, State, and local agencies as well as stakeholders to develop the DRECP. The memorandum expressly preserves the Commission's jurisdiction over California school lands and does not obligate the Commission to take any action with respect to those lands.

In October of 2008, the Commission adopted a resolution supporting the environmentally responsible development of renewable energy on school lands. Engagement with the DRECP process will help accomplish that objective.

Staff therefore recommends the Commission authorize the Executive Officer to execute the proposed Memorandum of Understanding.

Thank you.

CHAIRPERSON NEWSOM: Thank you very much. And thank you for all the good work on this.

Without editorializing, let me first ask that members of the public that wish to speak on this item, unless there are questions directly at this moment from Commissioners?

Come on up.

And I have one speaker's card formally written out by Mike Valentine.
Mr. Valentine, you're here. There you are.
Please.

EXECUTIVE OFFICER FOSSUM: I'd like to acknowledge the fact that Mr. Valentine is a former staff counsel and Assistant Chief Counsel for the Commission, as well as the Chief of the Land Management Division, and subsequently the General Counsel for the Department of Fish and Game. So he doesn't have a lot of experience in this area.

(Laughter.)

CHAIRPERSON NEWSOM: And we'll disregard the comment and move to --

(Laughter.)

MR. VALENTINE: I should also disclose that even though Mr. Fossum was there when all those hiring decisions were made, he's not implicated in any of them.

(Laughter.)

MR. VALENTINE: So his record is clean.

CHAIRPERSON NEWSOM: Turn the page.

MR. VALENTINE: I'm really here as a representative of the DRECP planning process on behalf of the Energy Commission. And mainly to respond to any questions that you may have. If that would be helpful, I'm happy to respond. If not, I'm happy to sit down and clam up.
And obviously, the Energy Commission and the other members of the Renewable Energy Action Team support the proposed action.

CHAIRPERSON NEWSOM: Yeah. I mean, is there any opposition whatsoever, could there possibly be to collaboration and coordination?

ACTING COMMISSIONER REYES: Mr. Chair, I move the staff's recommendation.

ACTING COMMISSIONER GORDON: Second.

CHAIRPERSON NEWSOM: Now you're talking. All right. Well, without any other person here that could be upset with the fact they haven't spoken, we'll close public comment.

And then we have a motion to support and seconded.

Without objection, we'll move this item forward appropriately. Thank you for your good work.

The next item on the calendar is Item number 135, which is consider title settlement and land exchange agreement involving parcels within the City of Long Beach.

EXECUTIVE OFFICER FOSSUM: Mr. Chair, Staff Counsel Jessica Rader will be presenting this item for the staff.

CHAIRPERSON NEWSOM: Ms. Rader.

(Thereupon an overhead presentation was
Presented as follows.)

STAFF COUNSEL RADER: Good morning, Chair, Commissioners. My name is Jessica Rader, Staff Counsel with the Commission.

Commission staff respectfully requests your consideration and approval of Calendar Item 135, the title settlement and exchange agreement with the City of Long Beach. The proposed agreement is between the State, acting by and through the State Lands Commission, and the City of Long Beach as a trustee and as an municipality.

All land is located within the City of Long Beach. The city council unanimously approved this agreement on Tuesday.

The first slide shows the trust termination parcel, which is a 10-acre parcel. And the exchange will terminate the State's sovereign interest on it. In exchange, the State will acquire 3 Public Trust parcels totaling approximately 38 acres located at --

--o0o--

STAFF COUNSEL RADER: -- Bixby Park, which is shown here, and at the Colorado Lagoon and Marine Stadium Parcels, shown here.

--o0o--

STAFF COUNSEL RADER: In addition, the city as the trustee will lease the 3 parcels from the Commission,
until such time as its legislative grant can be amended to reflect this exchange. Staff believes that the evidence supports the findings necessary to comply with the Public Resource Code, Section 6307, and that this agreement is in the best interests of the State.

That concludes my presentation, and I'm available for any questions.

CHAIRPERSON NEWSOM: These are the 49-year leases?

STAFF COUNSEL RADER: Yes.

CHAIRPERSON NEWSOM: Are there any -- please.

STAFF COUNSEL RADER: Oh, I was going to say the City is also here.

CHAIRPERSON NEWSOM: City of Long Beach is here good.

EXECUTIVE OFFICER FOSSUM: And we have one member of the public who wishes to speak. And we have received also letters from one other member of the public who isn't present today that are in your packet.

CHAIRPERSON NEWSOM: Okay. Good. If there are no questions directly from the Commission, let me ask, I see Lester -- and I apologize for the pronunciation, Enevan.

MR. DENEVAN: Denevan.

CHAIRPERSON NEWSOM: Oh, it's D. God Bless.
Well, that makes more sense. Please, Mr. Denevan.

MR. DENEVAN: Today, the main issue is the resolution of land use in the public tidelands, and in the uplands, including 40 acres of city-owned parks. I have to go back into some of the history of this.

But today, it's actually what they're seeking, all parties, is a remedy of problems created 10, 12 years ago. This matter originally went to the City Council. It went to the Coastal Commission, which said we'll approve this shopping center in the form of public beach, conditioned on that the Lands Commission says these uses are permitted by the tideland grants of 1911. This is Public Trust land.

A former beach -- I'll pass out 2 copies of the site before somebody -- some people decided a shopping center was better than what we had before.

So going back to early 2000 and 2001, and before that a planning process that took about 5 years, I was on a member -- I was a member of one of the planning committees -- I was a member of one of the Planning Commission's appointed members to the Coastal Development Advisory Committee of Long Beach, and all of this very carefully over the years.

Finally, a developer came in. They decided to put aside the plan and give the developer, more or less,
what he wanted, which is partly in contradiction of the
Public Trust, a shopping center on a former beach on land
owned by the State of California.

So this process went ahead. And I was concerned. And
over several years, I came to Sacramento 3 times,
talked to your staff twice. I got up and spoke to the
entire Lands Commission. And I practically begged the
Commission come on down to Long Beach and see what's
happening, and get involved.

And the Commission looked the other way. The
staff recommended the shopping center on the former beach.
And the consequences are disastrous.

We had a lawsuit. And I was a party to that, the
California Earth Corps. We spent a million dollars on
attorney fees. It took years and years and years, and
went all the way on appeal to the State Supreme Court.
They say you can't do it.

Now, we have 24 vacant shops down there that they
can't use.

CHAIRPERSON NEWSOM: And Mr. Denevan, the red
light represents the time limit, but you can, if you
could, wrap up your comments. I'd be grateful.

MR. DENEVAN: Well, you know, this is important,
you know. I just --

CHAIRPERSON NEWSOM: Just try to be respectful
for the 100 people in the room.

MR. DENEVAN: I know. And maybe it could be continued to the next time, because -- in any case, the lawsuit was filed, and we won on appeal. And so we have a situation now to remedy.

So the remedy is to take 40 acres of city parks, turn it over to the State, and then take the tideland parcel and to give that to the city. And, of course, that probably will -- land that would be available for hotels.

It would be available for shopping center, office buildings.

So on these parks along the shoreline, they're dedicated in perpetuity for parks. So the question is for the Commission, what will the public gain by transferring this land to the Lands Commission?

I'll mention just one example, Bixby Park. You look on your topographic map, and you'll find that Bixby Park is 50 feet above sea level, landward of Ocean Boulevard. Now, what are we gaining?

And then finally, I'd like to make the point that the Park Commission of Long Beach, I appeared before them 7 days ago, they don't know anything about this project. The Park Director doesn't know. They finally took it to the City Council Tuesday.

And so this project is going ahead. And what I
ask then is to deny this request for the transfer of property. And, of course, the title questions, the maintenance of Marine Stadium, they can wait. The only reason they want to settle this boundary dispute is if nobody knows where the boundary is, how are you going to transfer ownership?

See that's why eventually that has to be addressed. But it is a park, and the idea is leave it in City ownership and leave the downtown parcel under the Lands Commission. You're collecting rent down there, how much rent?

How much rent are you giving up on 10 acres of valuable property?

CHAIRPERSON NEWSOM: All right, Mr. Denevan. We'll get to those questions. I appreciate your comments, and I appreciate you taking the time to be here today.

MR. DENEVAN: Thank you.

CHAIRPERSON NEWSOM: Mr. Fossum, do you want to take up -- well, first of all, are there any other public comment? I know the representatives of the City of Long Beach are here as well. We can certainly ask them to answer some of those questions that were posed by Mr. Denevan. Mr. Fossum, any reflection or thoughts in terms of what you've heard?

EXECUTIVE OFFICER FOSSUM: Well, I would like to
state that the Commission and the staff have been working to try and resolve this problem for over a decade. And Mr. Denevan is right, that ultimately the challenge that they brought was successful, in the sense that they found that the particular code section is written at the time was one in which the Commission and the city had not complied with.

However, while on appeal to the Supreme Court, the Legislature amended that code section. It's the one we're using today, and clarified it, because the reading that the Court of Appeal made really didn't make any sense and couldn't comply with it basically.

So that part of the story is true. Mr. Denevan has been very active on this, wishing to preserve as much of the area of Long Beach and parks as possible. However, this area, for nearly 100 years, has been used for other purposes, such as the old Pike down there, which was a amusement park, if you want to call that a park, and sat for over 40 years as a vacant lot basically, before the City got a Coastal permit to put in the commercial, retail establishment.

When the Commission and the staff found out about it, we did object, but the resolution, at that time, was the City had already entered into leases. And at the direction of the Commission at the time, the staff came up
with a exchange. That exchange is not the one before you today. We have what we think is a much better exchange for the public, and will allow wetlands restoration and connections between the Colorado Lagoon and Alamitos Bay. And we're very supportive of this transaction and appreciative of the City and their cooperation on this.

As to that bluff park, it's very similar to a park down the block, if you will, that the Commission authorized many years ago, the City of Long Beach, to acquire with tidelands oil revenues because of the benefits to the public of keeping the viewshed from the highway. An individual was going to build a house there, blocking the views.

Presumably, the City ultimately could get a zoning change or something of these areas, and it could become residential. If you go to the prior slide -- somebody -- I don't know if I can do that.

You can see there's houses on both sides. The view and access and the benefit of the public to be able to see those areas and the view from the highway we think is important. There's so many places, like in Malibu, where you can drive for miles without evening seeing the ocean. These are benefits to the public and we strongly support this.

ACTING COMMISSIONER GORDON: Mr. Fossum, are
there any habitat value in the land that we are giving up?

    EXECUTIVE OFFICER FOSSUM: Not to my knowledge.

The question was whether there was any habitat value in
the Pike area? And no, in fact, people don't even tend to
go there it appears, not enough to make it commercially
viable anyway, at this point.

    CHAIRPERSON NEWSOM: Very good. Is there anyone
else that wishes to speak on this item?

    Seeing none, we will close public comment. I
appreciate the diligence --

    MR. DENEVAN: Could I just answer briefly?

    CHAIRPERSON NEWSOM: We break every precedent and
protocol at peril. And so I just, in an effort to avoid a
perilous situation, I'll respectfully take the time after
the meeting, if I may, to hear from you. We've extended
your public comment twice as long as we typically do.

    MR. DENEVAN: Just remember the last time, if
you'd listened to me, you would have saved millions of
dollars, including for DDR, the City of Long Beach, and
the State Lands Commission.

    CHAIRPERSON NEWSOM: I respect that. Thank you.
And again, I appreciate your being here and your diligence
and your advocacy.

    MR. DENEVAN: Mr. Fossum has said this land is
almost useless.
CHAIRPERSON NEWSOM: Thank you. I appreciate the staff's hard work on this. And I appreciate their analysis, and I support it. And I do think there is a good Public Trust and public good here. And I do think this is an item that we should support. And I appreciate Long Beach and their unanimous support of this item as well.

ACTING COMMISSIONER REYES: I concur with the Chair's comments, so I move the item.

ACTING COMMISSIONER GORDON: Second.

CHAIRPERSON NEWSOM: Without objection, we will move Item 135.

And we now are on Item 136, which is to consider the scope of work for the implementation and completion of an environmental protection facility safety audit for the Long Beach unit, something we spent a great deal of time on. We don't need to get back in the particulars today, but I appreciate the staff's hard work on this. And I am respectful for their need to extend a time period. And I think there's a good justification.

But with that, let's hear, Mr. Fossum, from you and others to explain why.

EXECUTIVE OFFICER FOSSUM: Thank you, Mr. Chair. Chairman and Commissioners, Greg Scott, the Division Chief for the Mineral Resources Management
Division will be presenting this item.

(Thereupon an overhead presentation was
Presented as follows.)

CHAIRPERSON NEWSOM: Great. Mr. Scott.

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

SCOTT: Good morning, Mr. Chair and Commissioners I'm Greg
Scott, Division Chief of the Commission's Mineral
Resources Management Division. And I'm presenting Regular
Item number 136 for consideration of the scope of work for
implementation and completion of an environmental
protection and facilities safety audit for the Long Beach
Unit Oil Operations in the Wilmington Field.
Could I get those slides up, please.
I've provided you copies of these slides for your
reference.

CHAIRPERSON NEWSOM: Yeah, we got it.

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

SCOTT: Are they up?

CHAIRPERSON NEWSOM: There you are.

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

SCOTT: At its April 28th, 2011 Commission meeting, staff
presented the Long Beach Unit 5-year program plan and
annual plan for approval. The Commission found the
program plan did not contain adequate detail to show
absence of significant environmental and safety risk, and
therefore ordered the program plan be revised to include an environmental safety audit of the Long Beach unit operations, and that it be completed within 15 months.

Staff was directed to return to the Commission within 60 days with a detailed scope of the audit that would include identification and analysis of the unit's environmental and health risks and provide follow-up recommendations to improve the unit operations and the program plan.

In addition, the Commission was directed that the safety audit would be conducted in a manner not to impact the net revenues of the State's general fund.

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MINERAL RESOURCES MANAGEMENT DIVISION CHIEF
SCOTT: This calendar item describes in detail the Mineral Resources Management Division's safety audit program, its objectives, methodologies, and processes that are followed when conducting audits. A scope of audit has been prepared, which is included as Exhibit B to the calendar item, describing the purpose of the audit, a description of the facilities to be audited, and some of the audit categories to be investigated.

The facilities will be audited to identify risk, using accepted codes, industry standards, and established practices. And those are listed in Exhibit C, as they
apply to the long Beach unit operations.

   State Lands Commission staff, with the assistance
of an electrical consultant, will conduct the entire
audit. However, the City of Long Beach and Occidental
Petroleum staff have been consulted on the audit scope and
they concur with the concept and methodology.

   CHAIRPERSON NEWSOM: Good.

   MINERAL RESOURCES MANAGEMENT DIVISION CHIEF
SCOTT: And the audit duration required staff resources,
estimated costs, and funding source are also described in
the calendar item, as is the staff's recommendation as to
the timing of this audit.

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   MINERAL RESOURCES MANAGEMENT DIVISION CHIEF
SCOTT: To give you a sense of the size, complexity, and
range of facilities to be audited, this is a photograph of
1 of the 4 offshore islands that makes up the Long Beach
unit. This is Island Grissom. All 4 islands are equipped
similarly. And the State's audit staff will examine their
entire systems, their engineering design, records, and
protective equipment, in addition to the 4 islands, an
onshore production facility, a storage tank form, a
production processing facility, and a production shipping
facility, which will also be included in the audit.

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MINERAL RESOURCES MANAGEMENT DIVISION CHIEF
SCOTT: The categories to be audited are shown here. These are equipment, function, and integrity, complete electrical component investigation, a technical design evaluation, which checks the design -- engineering design of all the facilities, a complete administrative record review where operating manual, safety plans, spill plans and emergency response plans are examined. And then the final phase of the audit is an assessment of the Long Beach unit safety culture and safety management systems.

All 6 audit staff technicians, engineers, and supervisors will participate full time in this audit. The City of Long Beach and Oxy personnel will also participate by providing on-site support, but will not participate in the actual audit process.

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MINERAL RESOURCES MANAGEMENT DIVISION CHIEF
SCOTT: The audit is estimated to cost one and a quarter million dollars. This covers all 6 MRMD safety audit staff in the field, plus an electrical consultant.

The State's audit staff is presently funded from the Oil Spill Prevention Administration Fund, which will be the source of funds for the auditors for the time they spend in the Long Beach unit.

As a result, there will not be an impact to the
State general fund. Any findings that need to be
corrected as they apply to maintenance and repair will be
made at unit cost, however.

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

SCOTT: The Long Beach unit receives considerable
oversight and review at the present time, as can be seen
from the agency and control jurisdiction shown here. The
plan safety audit will assure that adequate protections
are in place to enable continued safety unit operations.

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

SCOTT: Because the Long Beach unit audit will be lengthy,
the State's present offshore platform and facility audit
program will be considerably delayed by approximately 15
months.

The table on this slide shows the State lease
facilities currently planned for auditing and their
respective schedules. These facilities undergo audits
every 5 years. Platform Holly, which is located offshore
Santa Barbara and is next on the schedule, was last
audited in 2006. And MRMD staff believes that delaying
the start of the Long Beach unit audit till after Platform
Holly is audited would be a prudent scheduling option.

Considering seasonal weather factors, Platform
Holly can be audited during the upcoming summer months before inclement weather conditions occur making for safer conditions for the audit personnel.

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

SCOTT: This last slide is staff's recommendation. Staff recommends, therefore, that Platform Holly be audited first, this summer, as originally scheduled, then followed by the Long Beach unit, which would result in only a 5-month delay in the Long Beach unit audit.

That concludes my presentation. Thank you very much.

CHAIRPERSON NEWSOM: In terms of the Rincon Island and Rincon offshore, when do we have dates the last time those were audited?

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

SCOTT: Yes, we do. We have completed Rincon Island audit twice since we've begun the audit program. I don't have the exact month that was completed.

CHAIRPERSON NEWSOM: Just, I guess --

EXECUTIVE OFFICER FOSSUM: Mr. Chair, if I could interject. Rincon is not producing oil at this point. It is shut down. And --

CHAIRPERSON NEWSOM: So the consequences -- I guess I'm arguing the consequences of a delay they're not
MINERAL RESOURCES MANAGEMENT DIVISION CHIEF SCOTT: They're not significant. However, by the time we complete the Long Beach unit audit and the Platform Holly audit, we expect Rincon Island to be up and producing again.

CHAIRPERSON NEWSOM: By that time?

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF SCOTT: Yeah.

CHAIRPERSON NEWSOM: And then the others would -- along the same thread.

EXECUTIVE OFFICER FOSSUM: It ends up being about a 6-year -- for this particular schedule, a 6-year delay, rather than the 5-year that normal routine audits that we do for each of these leases that the State has issued.

CHAIRPERSON NEWSOM: And in the past, those -- the routine leases have been fairly perfunctory in terms of the findings, or have you found sort of significant red zones? I mean, and I know in auditing parlance, there's always significant findings that from the public's perspective may not be as significant as are asserted. But what is your general assessment?

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF SCOTT: As I mentioned, we have done -- we have done repeat audits on every facility now twice. The first
audit was our initial review of those facilities to the
degree and comprehensiveness that this audit program has.
During the initial audit, we did find a significant number
of, we call them, action items.

Those action items are categorized into 3
priority rankings, number one, being the most severe. We
found very few number one items in everyone of the
facilities.

We found a series of less severe deficiencies in
some of the other categories. In the repeat sequence, we
found a significant diminishment in the number of items
that were identified. So we expect that -- and that is
really one of the values of this audit program is to
identify those items, and let those deficiencies be
remedied. And hopefully the remedies will continue for a
long period of time.

CHAIRPERSON NEWSOM: Of course. Is there anyone
that wishes to speak on this item?

We'll close public comment.

Are there any questions?

ACTING COMMISSIONER REYES: Mr. Chair, I just
want to thank the staff for the work and for finding an
alternative funding source for this activity. At the last
meeting we discussed this issue at length. And one of the
concerns I had raised was the potential impact on the
general fund. So I want to thank staff for being creative and looking for alternative funding sources.

    CHAIRPERSON NEWSOM: And let me thank you for your guidance and direction along those lines. It was very helpful. And I want to commend staff as well. And I certainly appreciate Platform Holly the argument to push this back a little bit. And again thank you for your responsiveness to the Commission. And we certainly look forward to supporting this.

    Is there a motion to support the report?

    ACTING COMMISSIONER GORDON: I move the item.

    ACTING COMMISSIONER REYES: Second.

    CHAIRPERSON NEWSOM: Without objection.

    We will then move on to the next item on our agenda, which is Item 137. It's requesting the Department of Interior and the U.S. Department of Justice to jointly petition the Supreme Court, the U.S. Supreme Court, to permanently establish an agreed offshore boundary between the United States and our great State of California.

    What say you on this matter?

    STAFF COUNSEL RADER: Well, you took over most of my presentation.

    (Laughter.)

    CHAIRPERSON NEWSOM: That was pretty much it.

    STAFF COUNSEL RADER: So I'll be brief.
ACTING COMMISSIONER REYES: Let me finish it up then, because she did such a great write-up, I'd like to move staff's recommendation,

(Laughter.)

STAFF COUNSEL RADER: Works for me.

CHAIRPERSON NEWSOM: It works for me.

STAFF COUNSEL RADER: The only thing -- since you have introduced my item for me, the only thing I would like to highlight is that the Commission staff has been working with the staff of MMS, which is now BOEMRE, off and on, and sometimes cooperatively and sometimes not, since 1955. And we finally completed the location of the boundary in 2009.

CHAIRPERSON NEWSOM: Wow.

ACTING COMMISSIONER REYES: But you've not been involved that long though?

STAFF COUNSEL RADER: No.

(Laughter.)

EXECUTIVE OFFICER FOSSUM: I would like to add that, in fact, I spoke to the executive director of the Oregon State Lands Commission yesterday, just to assuage any fears that we were taking over Oregon as part of this attempt. And they're also interested in doing the same thing we're doing here, as well as the State of Washington. So we're hoping the west coast is going to be
able to be successful with the United States in fixing this line.

ACTING COMMISSIONER GORDON: How much is this going to cost to litigate -- to petition the Supreme Court?

STAFF COUNSEL RADER: Last we had talked with the Attorney General's office, it was going to be done kind of as a pro bono basis.

ACTING COMMISSIONER GORDON: Okay.

STAFF COUNSEL RADER: The people that worked on it are very passionate about it and would really like to see it done, so there's a lot of volunteer work.

EXECUTIVE OFFICER FOSSUM: Other states have conducted this, so there is a -- Louisiana and Texas have partied on this. So we have been in litigation with the United States for -- maybe since the 1930s, certainly the early forties, on the offshore boundary and those issues. The oil that we're bringing in from Long Beach, for example, all that oil, the U.S. Supreme Court ruled that it was federal property back in the 1940s. And it was only after going to Congress that that was corrected.

So this is a long-term effort on behalf of the State. And we hope that it will be successful to resolve it once and for all.

CHAIRPERSON NEWSOM: Yeah. Excellent. Does
anyone wish to speak to this item?

Seeing none, we will close public comment.

Is there a motion to move this forward?

ACTING COMMISSIONER GORDON: Move it.

ACTING COMMISSIONER REYES: Second.

CHAIRPERSON NEWSOM: Without objection. Thank you very much.

Next item is Item 139. It's to consider an application for a new general lease of sovereign land located on Huntington Harbor.

Mr. Fossum.

EXECUTIVE OFFICER FOSSUM: Drew Simpkin from your Land Management Division will be presenting this item.

CHAIRPERSON NEWSOM: And I have one public comment request. And anyone else, again, who wishes to speak on this, you can fill out a form, if you'd like. Otherwise, we'll ask you to make your way towards the microphone after our presentation.

PUBLIC LAND MANAGEMENT SPECIALIST SIMPKIN: Good morning, Mr. Chair, members of the Commission. My name is Drew Simpkin and I'm a Public Lands Management Specialist with the Commission's Land Management Division. And I'm here to present the information on calendar Item number 139.

This item asks the Commission to authorize a
general lease recreational use for Mr. Edward Clark's boat
dock, boat lift, access ramp and cantilever deck and to
deny approval for the existing, but unauthorized hot tub,
gazebo, and tiki bar currently located on State-owned
sovereign lands in Huntington Harbor, Huntington Beach.

Could I please get those slides up.

As background, the State of California acquired
fee ownership of the harbor's Main and Midway Channels in
1961, as a result of the land exchange between the
Commission and the Huntington Harbor Corporation.

Could I get that slide up, please.

(Thereupon an overhead presentation was
Presented as follows.)

PUBLIC LAND MANAGEMENT SPECIALIST SIMPKIN:
Projects, including new development or maintenance of
existing facilities extending into these channels beyond
the bulkhead or seawall line require obtaining a lease
from the Commission. Mr. Clark's upland property is
located along the Main Channel of Huntington Harbor.

Previous leases dating from 1968 have authorized
the use of the subject property solely for a boat dock.
On September 19th, 2000, the Commission authorized a
recreational pier lease to the previous property owner for
the use and maintenance of an existing boat dock.

This lease expired on August 31st, 2010. On
September 5th, 2001, the property was deeded to Edward Clark. Staff was unaware that a change of ownership had occurred until the lease renewable process had started. On July 23rd, 2010 staff notified Mr. Clark that his property had an associated 10-year recreational pier lease with the Commission, and that as the new owner, he would be required to submit an application for the continued use and maintenance of his boat dock.

On January 31st, 2011, Commission staff received a lease application from Mr. Clark for his boat dock and cantilever deck adjacent to his property. At this time, staff became aware of the hot tub, gazebo, and tiki bar located on the boat dock.

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PUBLIC LAND MANAGEMENT SPECIALIST SIMPKIN: You can see the gazebo and hot tub on the far left. On February 3rd, 2011, Commission staff sent notification to Mr. Clark informing him that the hot tub, gazebo, and tiki bar are not used for the docking and mooring of boats and are therefore considered unauthorized improvements.

Commission staff informed Mr. Clark that the hot tub, gazebo, and tiki bar would need to be removed. Upon staff's -- upon receipt of staff's letter, Mr. Clark contacted staff to request approval to maintain the hot tub, gazebo, and tiki bar. Staff explained that the
authority to approve such a use could not be approved at a staff level.

On May 4th, 2011, the Executive Officer sent Mr. Clark notification that the request for maintaining the hot tub, gazebo, and tiki bar in the lease could be requested, but that staff would recommend denial of the improvements in the staff report to the Commission.

On May 31st, 2011, Mr. Clark submitted an Email to staff and the Commissioners asking for their support and approval of the hot tub, gazebo, and tiki bar.

Staff has also learned that in July 2002, Mr. Clark received a permit from the Public Works Department of the City of Huntington Beach to add new piling and finger deck to the existing pier, resulting in the current V-shaped configuration.

However, the City could find no permits or approvals in their database for the hot tub and gazebo or the water and electrical services to the hot tub.

At this time, staff recommends approval of the existing boat dock and access ramp, retention of the boat lift and cantilever deck, and denial of the existing gazebo, hot tub, and tiki bar.

Furthermore, staff is recommending that the Commission authorize the staff and the Attorney General's office to take all action necessary and appropriate,
including litigation, to remove the unauthorized facilities. Staff is available to answer any questions you may have.

CHAIRPERSON NEWSOM: So fundamentally, you're alleging someone did something without permission and authorization and that's simply why you want to remedy and fix it. Is that it?

PUBLIC LAND MANAGEMENT SPECIALIST SIMPKIN: Correct.

CHAIRPERSON NEWSOM: Does that sum it up? And that even without local authorization as it relates to all levee permits, et cetera.

EXECUTIVE OFFICER FOSSUM: Excuse me, Mr. Chair. The Commission, you know, has control over these public lands, and generally is fairly solicitous when people want to put docks out in front of their property to be able to moor a boat. And so we routinely do approve those things. When they start trying to convert these areas, that are public property, into uses not associated with a docking of a boat, then they're really converting public property into a very exclusive private use that we believe is inconsistent with the responsibilities that we have.

So in this instance, we have an opportunity to make sure that this kind of thing isn't going to happen and proliferate where people just go out and do actions
that aren't authorized, that they not even get a local permit for it, but certainly not even comply with any existing leases that exist from the Commission.

It's a problem that we have, not only in Huntington Harbor, but it exists other places. And so we're trying to be consistent, whether it's at Lake Tahoe or the Sacramento River and Delta, or southern California.

CHAIRPERSON NEWSOM: Very good.

ACTING COMMISSIONER REYES: How is this different from the sun deck that was approved in Item 109?

EXECUTIVE OFFICER FOSSUM: There are a number of facilities that in the past the Commission has approved, whether giving them due consideration or not, whether the staff was aware at the time, and whether or not those things were considered to be interference. Some of them -- for example, at Lake Tahoe there are some sun decks that have been in existence for many decades, and it's been the position of the staff in recommending allowing those to remain.

That if those -- I'll call them nonconforming uses -- are ever damaged or need to be repaired and over 50 percent of the value of that would go into the new improvement, that they would have to remove it in its entirety. So, in essence, those have been grandfathered because of prior Commission action.
Here you have no Commission action authorizing this type of use in the past. We do not recommend any new facilities like that, but where they have been grandfathered back in the sixties or seventies or earlier times, we have not requested the Commission to have those removed. They do pay rent for them, but we do not ask them to be removed. But that's the Commission's prerogative, they could require that they be removed.

ACTING COMMISSIONER REYES: Thank you.

CHAIRPERSON NEWSOM: I appreciate it. I think, Mr. Clark, you're here.

MR. CLARK: Yes, sir.

CHAIRPERSON NEWSOM: Obviously, you'll have a strong point of view that you wish to share.

MR. CLARK: Good morning, gentlemen, Mr. Chair and Commission. My name is Ed Clark. I live at 17061 Bolero Lane in Huntington Beach.

I was brought aware of this lease when I was notified by the State Lands Commission. I was not aware when I purchased the property that I had this. I did pull a permit with a local contractor to do the -- to add to the dock space, in which I was under the impression, until just now, that the gazebo -- this was all part of the plan, so I thought it was permitted through the City of Huntington Beach.
These facilities were installed back in 2003. There has never been a complaint by a neighbor. I've got a document signed by my neighbor that would be the most affected where the gazebo is. There's absolutely no issue. There's not an environmental impact. I understand the position of the Commission. I understand the folks that have been involved. They've been good to work with. I understand that they don't have the authority to make the decision to authorize continuance of the facilities. I understand that comes from you folks.

I don't -- I've talked with everybody up the chain of command in the State Lands Commission, and I haven't heard any negative impact from anybody offering, other than the fact that it wasn't supposed to get done. So I'm here to ask you for your consideration. I'm happy to work with whoever I need to for whatever language we need to satisfy the State.

If there's ever a problem whatsoever, this is -- there surely is not an environmental impact. This is not a public safety issue. There's no cost to the State. In fact, there's a disadvantage if the facilities are removed, because my home has become a bit of a landmark, in that all the commercial tours that go through Huntington Harbor at Christmas time, my home is a landmark to come show tourists. There's not a day go by where
people don't bring their kids and grandkids by to see the pirates. I've got pirates and cannons and all kinds of stuff out there. It's actually quite a fun place.

But if there's a way to include the facilities. And I'm happy if there's ever an issue down the road where it becomes an issue for the State where say somebody else is trying to use that as a leverage to get facilities, put it -- make it a conditional use permit.

I just think there's got to be a way. It's been up there for 8 years without a complaint. It's never been an issue. And like I said, I had no idea I even had a lease. My neighbor right next to me doesn't have a lease with the State Lands, because apparently the dividing line from the Main Channel and the side harbor is between our 2 homes.

So I would appreciate any consideration you guys can give. Obviously, there's a lot to be lost here from an entertainment standpoint in the harbor from everybody involved if we're asked to remove the facilities.

I'll share with you, obviously if I can't get this approved by you guys, I'll remove the facilities. That's not going to be an issue. There's not going to be litigation required. But, you know, I'm just here to ask for your help and ask if you can work with these guys and help us come up with language that satisfies everybody.
CHAIRPERSON NEWSOM: All right. Mr. Clark, I appreciate your reasonable tone and tenor. And, you know, often times that's not the case. So I do -- you know, it's -- well, are there any comments or questions?

ACTING COMMISSIONER GORDON: Mr. Clark, when you purchased the property, did you do a title search?

MR. CLARK: Yes. As a matter of fact, I did. I'm sure -- you know, if it was in my documents, way back then, you're going to laugh because I own a title insurance company.

(Laughter.)

MR. CLARK: I didn't back then. But I'm sure if I were to research the documents, they're probably there. I just was not aware of them.

CHAIRPERSON NEWSOM: All right. Just before we move on. Any other public comment on this?

We'll close public comment.

So Mr. Fossum, you know, I mean your concern is precedent. Your concern is if we march down this path here, we'll have more difficult time in the future if others find themselves in the same situation or say, "Hey, wait a second. You know, you were accommodating to him, but not me. That's outrageous and unfair. My hot tub is smaller or my version of this unauthorized use is even more modest than that. And there seems to be a point of
fairness there. Is that the spirit of the concern here?

EXECUTIVE OFFICER FOSSUM: It certainly is. Your predecessor in the office was very concerned with people who got leases from the Commission for a particular type of use and then built something much different, unauthorized use, and the idea that it's easier to ask forgiveness than permission.

We don't recommend permitting any of these type of uses to anybody else. And as a matter of fairness, if somebody builds it illegally, we don't think that that justifies giving them a pass.

CHAIRPERSON NEWSOM: Yeah. Fair enough.

ACTING COMMISSIONER REYES: I'm going to have to support staff's recommendation on this. I think that set a precedent. For me, it's come forward, ask for it, and then we'll say yes or no and then move forward. If folks go out there and invest their money and do whatever they do with the hope and a prayer that the governing body will take a different action later, that's the risk they take.

And, at this point, unfortunately from my perspective, the risk did not payoff. So I'm going to move staff's recommendation.

ACTING COMMISSIONER GORDON: I'm going to second, Mr. Clark. I'm in the same place. I have some sympathies for your situation. However, the -- it's really the same
circumstance, if we start allowing folks -- it would be nice if -- you know, I understand that none of your neighbors have complained, but they're not the ones who are responsible for enforcing the State's interests.

It would be nice if we had enough staff at State Lands to patrol the coast, so as nonconforming uses came in, 8 years wouldn't go by before somebody discovered it. Unfortunately, that's not the case. I don't see it happening any time in the near future. So that this doesn't come up until someone raises these issues or a new lease is requested.

So I just think it's a really bad precedent. I discussed it with the Controller and that's -- he's going to back up the staff recommendation as well.

CHAIRPERSON NEWSOM: And I'll associate myself with the comments that were made and support the staff as well. And again, in the spirit of my appreciation for the spirit that you have brought in terms of this dialogue, and your -- I'm grateful. I understand your circumstance, but I think it would be inappropriate for us to allow this exemption. I don't want to see the pirates and cannons necessarily appropriately going away during the holidays, so don't take all the fun out, but I will certainly support the motion and that was seconded, and we will unanimously support staff's recommendation.
But thank you for coming up, Mr. Clark. I appreciate it.

MR. CLARK: All right.

CHAIRPERSON NEWSOM: I believe that may be the last item on today's agenda.

EXECUTIVE OFFICER FOSSUM: I believe it is too, unless there is -- I believe there is a couple people who wanted to -- have put in requests to speak during the public comment period representing the City of Newport Beach.

CHAIRPERSON NEWSOM: I have 2 names here. David Webb. David, are you 1 of the 2 that wish to speak?

And I have Leonie Mulvihill. I apologize. I can barely read my own writing, let alone others. But anyone who wishes to speak, please come on up to the mic.

MR. WEBB: Thank you. If I could get a -- I have a short PowerPoint I'd like to just have pulled up.

CHAIRPERSON NEWSOM: Have we got that?

MR. WEBB: Thank you, Commissioners. Appreciate the time today. We just wanted to come and fly up here today to bring an issue to your attention. Hopefully, we can come to some resolution. We've been working along with State staff. They've been very appropriate in helping us with this, but I think we've come to an impasse on an area and may need your assistance on this. And what
we're really looking for is to come to resolution and get this on your August agenda. You'll be down south. We'd like to have this issue heard and resolved.

I'm going to introduce the issue just a little, and then I'm going to introduce Leonie Mulvihill. She's our Assistant City Attorney and she'll go through the issue in a little more detail, and we'll be out of your way.

CHAIRPERSON NEWSOM: Leonie's last name again?

MR. WEBB: Mulvihill.

CHAIRPERSON NEWSOM: Mulvihill.

ACTING COMMISSIONER GORDON: So what is your position, I'm sorry?

MR. WEBB: I'm the city engineer, Deputy Public Works Director for the City.

(Thereupon an overhead presentation was Presented as follows.)

MR. WEBB: I've got a pair of location maps just for those who don't know Newport Beach. I'm going to point to this one here and you guys have it over there. John Wayne Airport is up in the far corner up there. We have the City of Costa Mesa on the upper side of this map. That's the neighbor to the north of us. And then the City of Newport Beach surrounds Newport Harbor and the upper Newport Bay.
The project site is down on the Newport peninsula.

Next slide, please.

--o0o--

MR. WEBB: Or actually I have it here somewhere. There it is.

The project we're talking about today is Marina Park. The City has started in 2007. We'd like to be building a new park. This area right here between 19th street, Balboa Boulevard, and 15th street is on the bayward side of the peninsula. It's an area mostly owned by the City, and it currently has uses of a mobile home park on it. There's a Girl Scout house, a community center, existing park, some other facilities on there. And it's rather old. And we really want to rejuvenate this and turn it into a wonderful public asset.

We're looking to spend $30 million on this project.

Can I get the slides back up, please?

We're looking to spend $30 million. We have that money ready to go. We've processed this project through. We have an Environmental Impact Report on file. It's already been certified. We've got our 401, 404 permits. We're going through the Coastal Commission, but we have a current problem. We have a boundary issue on this.
Can I have the next slide, please.

--o0o--

MR. WEBB: This is a -- the next slide will show you a picture of what we're proposing to do in this area. And you'll see where the mobile home park is, the park here, the current beach.

CHAIRPERSON NEWSOM: Are you guys able to -- let's try to click next slide. There we are. Yes. This is what we're envisioning to build on that, if it comes up. Basically, it's a new community center.

CHAIRPERSON NEWSOM: We'll get 2 ahead, if we could.

Next.

MR. WEBB: There you go. Thank you. Oops.

CHAIRPERSON NEWSOM: One back.

MR. WEBB: The park we're building here basically has a new community center, a sailing center which we'll be working with the regional area, and also UC Irvine would like to have an operation going out of there. We propose to build a new marina in the area. That's going to be a visitor's serving marina for folks who transient up and down the coast, a place to park and reside.

We're going to build a new Girl Scout house. There's a current one existing over here now. We'll build
a new one here. Parking facilities. A playground on the
sandy area. Redo an existing restroom over here, and put
beach parking in and then open park area on this.

That's pretty much the project we're trying to
move forward. As I said, we have most of the permits. We
are actually at -- next slide, please.

--o0o--

MR. WEBB: We've actually applied for a Coastal
permit and we've -- at the point now that the Coastal
Commission said we can't go any further unless we resolve
the State Lands issues. So we really need some assistance
with you maybe hopefully moving that forward.

That issue I'm going to let Leonie go into a
little more detail on.

CHAIRPERSON NEWSOM: Great.

MS. MULVIHILL: Can we have the next slide,
please.

--o0o--

CHAIRPERSON NEWSOM: One more. Thanks, guys.

MS. MULVIHILL: Well, actually I do want to point
out this is a letter from the Coastal Commission. Our
application is complete, except for the notification from
the State Lands Commission that our title boundary issue
has been resolved.

By way of history, next slide, please.
MS. MULVIHILL: We have been working with staff for the past year. I appreciate Mr. Fossum, as well as his entire staff. They've been most helpful. And I do think that given the proposed project, what's contemplated, everybody can agree, this is a great use of the tidelands as far as removing a mobile home park and putting in some uses that are absolutely consistent with the Tidelands Trust.

With that in mind, what we have right here, and what this map will show you, is a number of lines. One of these lines we believe is the existing tidelands boundary. It will see that the most bayward line, which is the bulkhead line, is on either side of this particular project, has been deemed by the superior court and is ratified by the Legislature to be the current mean high tide line, the tideland boundary.

We have a white hole on our project, in that we don't have any such superior court decree. So it is part of our settlement titlement -- title settlement agreement, we will be establishing what is the appropriate tidelands boundary.

We believe that the bulkhead line is the appropriate line. State Lands Commission staff has researched, looked at their historical documents, and they
are the most bayward possible line, which is from 1912, and/or a, what we call, Finley meander line, which is slightly in between.

But in essence, we have a big disagreement as to what the current tideland boundary line is. That's important, because as far as the settlement exchange agreement that we would be asking you to approve, the finding that you must make is that the acquired tidelands are greater and/or equal in monetary value than the released tidelands. That determination will depend on which one of these lines is the current state of affairs.

For the next month, we absolutely wish to continue working with staff. We understand staff's position. It is based on precedent. We agree that they -- as to why they are at the most bayward line. However, we don't think that is consistent with case law or historical precedent.

We then respectfully request that the Commission direct that this item be placed on the August agenda. Between now and August, we will continue to work with staff, hopefully come up with a settlement exchange agreement that can be placed on the Consent Calendar, because I do agree you guys handle your Consent Calendar better than any legislative body I've seen. We'd like to be there.
If we're not, we'd like to be here in August, get a determination from you, so that we can move forward to the Coastal Commission and get this project built.

And with that, we appreciate your time this morning.

CHAIRPERSON NEWSOM: Thank very much. Thank you for your comments.

Anyone else that -- I didn't get any other speaker cards, but if someone was here with a burning issue that they wanted to present.

We'll close public comment now formally and ask questions.

ACTING COMMISSIONER GORDON: Question. How long has the mobile home park been there?

ACTING COMMISSIONER REYES: Closer to you.

ACTING COMMISSIONER GORDON: How long has the mobile home park been there?

MR. WEBB: The mobile home park has been there roughly since the forties. Before that, it was a city campground. It goes back into the twenties. The title gets a little cloudy beyond that. We have various uses. All kind of been open public though, but the mobile home has been about 60 years.

ACTING COMMISSIONER GORDON: How many units are involved?
MR. WEBB: I believe 57, if I recall.

ACTING COMMISSIONER GORDON: And there's the mobile park homeowner, is this a consensual situation? Is he willing to sell out or vacate?

MR. WEBB: Well, we've actually done the work on that. We had a settlement action already determined. And the mobile homes are basically that agreement has been made and we have a 90-day notice we issued to them for vacation as soon as we have our permits.

ACTING COMMISSIONER GORDON: And are these low income units or what is the --

EXECUTIVE OFFICER FOSSUM: I think they're second homes for the most part. There are a few individuals who actually may have primary residences there. But we've been working on this for about 30 years at the Commission level. And as Don said, this started out as an area -- and if we went back a couple slides. I don't know those are still available. I can give a little more background on it for the Commissioners.

But this one is fine. Do I have the pointer here?

This is the bulkhead line that the Corps of Engineers set in 1917. The line back here was the mean high tide line that the Corps also, I believe, did in 1912, so what the Corps of Engineers did in the teens.
And about the same time as the City originally received a grant from the Legislature, was it went with -- it had a swamp basically in there. Lower Newport Bay was marshy and swampy. And the idea was let's put a harbor in there. And it's now, I believe, one of the largest recreational harbors in the world maybe for small vessels.

At that time, by setting bulkhead lines, they were basically straightening out the natural shorelines so that they could be filled, bulkheaded and so forth. And that's a Corps of Engineers function for navigational purposes. It doesn't affect the title to property.

So when the staff of the Commission and the City, and we actually hired a former staff -- or the City hired a former staff member of the Commission to do a study, they looked at all these things. We have detailed reports leading up to the history of this.

When it was filled, it was filled -- and initially, the area out in here, I think it was Pacific Electric Company or some railroad had a right of way in the area. They wanted to fill some of that area. And when the dredging and filling was being conducted in there, they gave the City a deed for their property -- their waterfront property along that area. So the City owns whatever is above the mean high tide -- the old natural mean high tide line.
They also received the dredge spoils from that operation that filled in this area. So as early as the twenties, people were using it as a camp ground. The City owned it, either through the grant or from the -- excuse me, the grant from the railroad or from the Legislature. And so that's the crux of the matter is where was that boundary before it got filled in.

We've worked very closely with City staff in the last few years. In fact, the staff of the Commission is the ones that urged the City to remove the residential use of these public lands many, many decades ago. And it's taken them a long time to do it. They've done an excellent job in moving that forward.

What they're proposing though is not just waterfront park lands, but as they pointed out a Girl Scout facility here. And the problem -- the most problem that we have with the facility is there's 2 things. There's a water activities facility here, but this is going to be a community -- for community use. So it's really a local benefit rather than a statewide benefit. And it's not associated with the waters.

So staff in negotiations -- and we've come fairly close I believe in negotiations -- has come up with a plan to try and work around their facilities that we do not believe are consistent with the Trust, because they don't
provide a statewide benefit, but are a local one. And in
doing so, we've had to come up with, as Leonie said, an
equal value-type assessment, as we did in Queensway.

And so we're working on that. The City hasn't
agreed, at this point, as to that location. I believe we
can be prepared to bring that to the Commission. It may
not be on consent because of the position we're in right
now.

Part of the dilemma is over things like parking,
where all of this would be city lands at the end. It
would just be what types of uses can you use it for. And
if there's revenues generated, which fund does it go into,
the harbor fund or the City's general coffers.

And so parking, for example, will generate
revenue. Part of that would go -- under the discussions
we've been making, would go into the harbor fund, part of
it would go into the City's fund.

It's just a matter of coming up with a plan that
will allow their plan to proceed. We're not trying to
change their design. We're trying to accommodate that.
And it's just a matter of coming to agreement on that.
And certainly we can brief the Commissioners on any
details if they want to before then.

CHAIRPERSON NEWSOM: What's your -- I mean, if
not, August or it's still possible? I mean, it just
EXECUTIVE OFFICER FOSSUM: We could have done it today if we'd reached the agreement.

CHAIRPERSON NEWSOM: Yeah, so you're still working through that.

EXECUTIVE OFFICER FOSSUM: Yeah.

CHAIRPERSON NEWSOM: All right. So it's incumbent upon, as we say, both sides to further those discussions.

EXECUTIVE OFFICER FOSSUM: Well, let me clarify a few other things. Lower Newport Bay is rather unique in that after these -- this filling and dredging that took place, it is the only place in the United States where Congress set the pierhead lines. We call them Corps pierhead lines.

But in essence, rather than the Corps of Engineers, there was enough political wherewithal that Congress actually designed this, probably with some local help at the time, about 1919, I believe, 1917. There has been a lot of legislation -- excuse me, litigation over the boundaries. The litigation tended to reflect the conditions after the dredging and filling had taken place.

I won't call them friendly lawsuits, but they reflected the conditions afterwards. We would not participate in an action today that acquiesced to that,
because that's not what the law reflects.

However, those quiet title actions between upland owners and the City were not only resolved by a trial court, but were subsequently blessed by the Legislature. They're the only ones we know of in the state that had that.

That doesn't resolve the problem here. There's been several other places where the City owned the uplands, and only in recent years, the Balboa Bay Club was another one. We had to have special legislation to deal with that one, because residents had been placed on the property. And also in Beacon Bay, where the City owned the upland, and we had to have special legislation to deal with that.

So because of the unique situation in Newport Beach, we've had to go to the Legislature to resolve some of these uses, unless we can reach this kind of an agreement. As I've said, I've worked with probably 3 generations of City staff on this trying to resolve it, and we're getting close.

CHAIRPERSON NEWSOM: Getting close.

MS. MULVIHILL: We are very close.

(Laughter.)

MS. MULVIHILL: And we'd like to be on the August agenda. We absolutely do.
CHAIRPERSON NEWSOM: Well, I hope we can accommodate. So we'll do our best.

EXECUTIVE OFFICER FOSSUM: Mr. Chair, we'll make every effort to do that.

CHAIRPERSON NEWSOM: Look at that.

MS. MULVIHILL: Thank you.

CHAIRPERSON NEWSOM: What a way to end this open session.

MR. WEBB: Thank you for your time.

CHAIRPERSON NEWSOM: Thank you both for taking the time. Thanks for the presentation. And we close public comment. This ends the open session of the Commission.

We're going to now enter into closed session, so I'd ask that everyone that is here that's not here in an official capacity, as we enter into the closed session, if they could make their way towards the lunch lines.

Thank you all for being here.

(Thereupon the California State Lands Commission meeting adjourned at 11:51 a.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 27th day of June, 2011.

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