APPEARANCES

COMMISSION MEMBERS

Mr. Gavin Newsom, Lieutenant Governor, Chairperson, represented by Mr. Chris Garland

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

Ms. Michelle Andersen, Granted Lands Representative

Mr. Dave Brown, Chief, Administrative Services

Ms. Mary Hays, Public Land Manager

ATTORNEY GENERAL

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Mr. Jon Ballesteros, Port of Oakland

Mr. Cory Briggs, San Diego Navy Broadway Complex Coalition

Mr. Alex Esparza, representing Los Angeles Mayor's Office

Mr. Jim Hirsch, Port of San Diego

Ms. Irene McCormack, Port of San Diego

Mr. Michael Warburton, Public Trust Alliance
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PROCEEDINGS

ACTING CHAIRPERSON GARLAND: We'll call this meeting of the State Lands Commission to order. All the representatives of the Commission are present.

I'm Chris Garland, Lieutenant Governor's Chief of Staff. I'm joined today by Deputy Controller and Commissioner Alternate Alan Gordon and Pedro Reyes representing the Department of Finance.

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

The first item of business will be the adoption of the minutes from the Commission's September 1st meeting.

May I have a motion to approve the minutes?

ACTING COMMISSIONER REYES: So moved.

ACTING COMMISSIONER GORDON: Second.

ACTING CHAIRPERSON GARLAND: Moved and seconded.

All those in favor?

(Ayes.)

ACTING CHAIRPERSON GARLAND: All opposed?

Motion carries. Minutes are unanimously adopted.

EXECUTIVE OFFICER FOSSUM: Mr. Chair, if I could
clarify. Today, we have two alternates for the Constitutional officers.

    ACTING CHAIRPERSON GARLAND: I did not vote.
    (Laughter.)

    EXECUTIVE OFFICER FOSSUM: That's fine.
    I just want the public to know as well that only two of the commissioners will be able to vote and participate today because of the requirement that at least one Constitutional officer be present if all three are to vote. So with that understanding.

    ACTING CHAIRPERSON GARLAND: Excellent. Thank you for that.

    Next order of business, if you'd like to stay on the microphone, is the Executive Officer's report from Mr. Fossum.

    May we have your report.

    EXECUTIVE OFFICER FOSSUM: Thank you, Mr. Chair, commissioners.

    Pleased to announce that at the last meeting while we were still awaiting the final outcome of several bills in the Legislature, that at this time we're able to announce not only did they pass through the Legislature, but Governor Brown has signed those bills. So we have Senate Bill 152 (Pavley), the fair rent bill; Senate Bill 595 from Senator Wolk dealing with abandoned vessels;
Assembly Bill 982, Assemblywoman Skinner, whose solar energy bill will hopefully help us do exchanges with the Bureau of Land Management for alternative energies in the desert; and Assembly Bill 1112 from Assemblyman Huffman, which was able to increase the per barrel tax on -- or fee on the importation of oil into California. So that that actually saved us 16 positions in our Oil Spill Prevention Program. So we're pleased to announce that.

The Governor also signed a number of bills dealing with San Francisco and the Bay Area dealing with the America's Cup, Hunters Point, Candlestick, and the Pittsburg grant.

And finally I'm pleased to announce that we have finally received some applications and the exam is in progress to fill our eight-month vacancy of our Legislative Liaison position. And we have some very interesting and qualified candidates, so I'm pleased to announce that as well.

The Controller has asked us to take opportunities to educate both the public and the Governor's decision makers on the need for additional resources. And this week and the next week we've actually been involved in four different events talking about the audit and the Commission's programs. So on Monday we did respond to the Bureau of State Audits and delivered our 60-day response
to the Bureau.

Tuesday the Little Hoover Commission had a meeting at which we participated along with the Bureau of State Audits again and General Services, talking about our challenges and opportunities there.

Today, of course, we're going to be going over the Audit Action Plan that you requested at our last meeting.

And we have -- and I want to note that we have placed all of these items on our website for the public to be able to share in and review in detail both the audit as well as the responses that have been made.

And next Tuesday, the Assembly Budget Subcommittee will be having another presentation by the Bureau of State Audits and the Commission staff in addressing both the audit and the Commission's status in responding to that audit.

I'd also like to announce that -- I'm very pleased to announce in fact the Commission has received a commendation from -- a proclamation from the City of Goleta for dealing with the Hazard Removal Program. And I'd like to show you that plaque that's been presented by them. And I'll read it.

"Whereas Ellwood Beach and Haskell's Beach were once the site of extensive oil and gas
Whereas, the California State Lands Commission received notice that the Governor of California released funds and authorized implementation of the Beach Hazards Removal Program; and,

"Whereas, the California State Lands Commission sought and obtained all necessary permits and utilized State funds to remove several types of hazardous structures, including piles, sheet piling, H piles, well casings, abandoned pipeline from Ellwood Beach and Haskell's Beach; and,

"Whereas, the California State Lands Commission completed authorized work along the City of Goleta coastline with the intention of returning to the region including the City of Goleta to further remove additional beach hazards.

"Now, therefore be it resolved, on this 4th day of October, 2011, that the City Council of the City of Goleta does hereby proclaim its appreciation to the California State Lands Commission and its employees for protecting the environment and citizens of Goleta through
implementation of the Beach Hazards Removal Project, thus ensuring the health, safety, comfort, and quality of life of Goleta residents and visitors."

I would like to say that this is one of several areas along the Santa Barbara beach where we have had to go in and deal with removal of hazards that were placed on those areas long before the Commission ever existed, but do remain on the beach from prior oil operations and other activities there. And so we're very pleased that the Commission is also recognized in that regard.

The next item, I'm also pleased to announce that the Commission staff has been facilitating the Department of Fish and Game's restoration of the ecological reserve at Batiquitos Lagoon. There's 524 acres of Public Trust Lands in that lagoon that we've been involved in restoring for the last few decades. The dredging projects there have stalled. And your staff and its expertise in pushing through contracts, it was agreed by all the players that we should be doing that. And so next month they'll begin that dredging project. They're going to remove 118,000 cubic yards of beach-quality sand and put on the adjacent beaches there.

We also want to acknowledge that the funding for this project came from the Port of Los Angeles and their...
mitigation for some of the port projects years ago.

And, finally, this is one of the highlights of California's response to trying to create new habitat for the California Least Tern and Western Snowy Plover, and it's been very successful in that regard. So we're pleased to announce that.

I also want to acknowledge that on Item 24 on the consent agenda is the Salt River restoration. This is one of the largest tidal and wetlands and restoration projects in the northern part of California that's ever been attempted. And I also want to acknowledge that Donna Chambers is here today from the Humboldt County Resource Conservation District, and she's heading up that effort. Next year will be the next phase of that, and I think we'll try and present a presentation to the Commission at that time.

On another note that I think is important for our economic and energy -- clean energy efforts, the geysers in northern California, Calpine has just announced that they're spending $700 million in expanding the geysers. It's already the largest geothermal operation in the world, producing 725 megawatts of clean energy. That is enough to power the electrical needs of San Francisco. Unlike other alternative energy projects, this operates 24 hours a day, seven days a week.
This is the first new power plant - and there's going to be two of them - that have been built at the geysers in 22 Years, so we're really excited about that. It's going to provide almost another 100 megawatts and 190 jobs -- construction jobs that's using 100 percent reclaimed water. It hopes to generate $7 million in annual property taxes, $12 million in sales taxes, and $17 million in expenses for operations annually to the local economy there. It will also reduce about between 139,000 and 199,000 tons of CO₂ per year, while paying a million dollars in federal royalty; a million and a half in private royalties; and, most importantly, a million and a half dollars in State royalties to the Commission for the benefit of STRS. It's up for its final vote on November 8th before the Sonoma County Board of Supervisors. So we're hopeful that that goes forward.

And, finally, we have some good news and some bad news. First the good.

I'm pleased to announce that we were able to convince Don Hermanson to come out of retirement to head the Commission's Marine Facilities Division. Don previously spent 15 years in the Coast Guard, 17 years with the Commission before retiring last year. And we had a number of excellent candidates for that position. And Don was agreeable to come back out of retirement to serve
us in that role. And I'd like to introduce Don at this
time.

If you could stand up.

(Applause.)

EXECUTIVE OFFICER FOSSUM: And my final statement
is the bad news; and, that is, for the Commission, is that
Gregg Scott, our Chief of the Marine Facilities --
Management Division -- Mineral Management Division - help
me out here - has announced that he will be retiring in
January. And I'm not going to go into it any further
because we'll be giving him a proper bon voyage at our
next meeting.

And with that, that ends my Executive Officer's
report.

I will add that we have removed three items from
the agenda. Those are C 16, C 21 and C 31. And we'll be
removing from the consent agenda C 35 and putting it on
the regular agenda. We have a number of people who wish
to speak on that, and so we'll provide that during the
regular agenda portion.

ACTING CHAIRPERSON GARLAND: I believe we
discussed pulling C 36 as well since we have a speaker.

EXECUTIVE OFFICER FOSSUM: Yes, that's correct.

Oh, I'm sorry. That's only if it's taken off the
consent agenda, they're prepared to respond to any
questions basically. So it's just 35 at this time.

ACTING CHAIRPERSON GARLAND: Then we are pulling just C 35?

EXECUTIVE OFFICER FOSSUM: Correct.

ACTING CHAIRPERSON GARLAND: All right. The next item on the agenda is the Consent Calendar.

Does anyone in the audience wish to speak to the Consent Calendar?

ACTING COMMISSIONER GORDON: So I'll move the calendar.

ACTING CHAIRPERSON GARLAND: Calendar is moved. Do I hear a second?

ACTING COMMISSIONER REYES: I'll second.

I do have a question on C 10 though.

ACTING CHAIRPERSON GARLAND: You want to turn your mic on.

ACTING COMMISSIONER REYES: There we go.

EXECUTIVE OFFICER FOSSUM: Yes.

ACTING COMMISSIONER REYES: I do have a question on C 10.

Clearly, the --

EXECUTIVE OFFICER FOSSUM: Yes, this was -- if I could introduce this item. This was an item that comes up regularly for the Commission as a rent review. Every five years many of our leases are available for the Commission
to make decisions on either raising rent, lowering rent, or maintaining it at the same level.

The applicant, in this regard, had asked to have his minimum rents reduced — not the formula for percentage rents but his minimum rents — because he had suffered less than minimum rent in his percentages for two of the last three years. Typically, we would look at if it was consistently over three years or over five years, then it didn't qualify. However, we're also looking at raising his bond and insurance levels. And so we did recommend to the Commission, and that is on the consent, that we would lower his minimum by $1,000. I think he sought a $5,000 minimum rent. He's actually out of the country. We encouraged him to send a representative.

He also has the opportunity actually to apply to the Commission obviously to change his contract, if he so desires. This was the Commission staff's opportunity to bring to the Commission its recommendation. And if we don't do it at this time, if it's pulled from the agenda, then basically we have to wait a year to bring this kind of issue back to the Commission, or he would have to apply, and that would typically cost him money to go through the application process. And he can still do that regardless of what the Commission does at this meeting.

ACTING COMMISSIONER REYES: For my own
edification, how long is the process of conversations
between you and the applicant up to this point?

EXECUTIVE OFFICER FOSSUM: If I could, I'd like
to have Mary Hays of our Land Management Division speak to
that, because she's been directly involved in it. And it
has been, I believe, at least a year, but I'll let her
answer that question.

ACTING COMMISSIONER REYES: Thank you.

PUBLIC LAND MANAGER HAYS: We first notified the
lessee in the fall of 2010 was our first contact with him.
And actually we were -- we had calculated rent as of that
date, which would have raised his rent because we were
looking at the past five years.
So we gave him the opportunity to wait a year to
see, in fact, if he had had a third year of a downturn.
And his minimum for that third year was actually above his
minimum. So we gave at least a year, and so at the same
time he was still asking to lower his rent.

ACTING COMMISSIONER REYES: Okay. Thank you.
I'm good.

ACTING CHAIRPERSON GARLAND: And just to be
clear. This does not preclude him from requesting another
review at his expense?

EXECUTIVE OFFICER FOSSUM: That's correct.

ACTING CHAIRPERSON GARLAND: Satisfied?
ACTING COMMISSIONER REYES: I'm satisfied. Thank you.

ACTING CHAIRPERSON GARLAND: Any other questions or folks who'd like to speak on the Consent Calendar?

We had a motion --

ACTING COMMISSIONER REYES: -- and a second.

ACTING CHAIRPERSON GARLAND: -- and a second.

All those in favor?

(Ayes.)

ACTING COMMISSIONER REYES: Two out of three.

ACTING CHAIRPERSON GARLAND: All those opposed?

The Consent Calendar is adopted.

We are going to move now on to the pulled item, which would be C 35 if you're keeping score.

May we have the staff's presentation on that item.

EXECUTIVE OFFICER FOSSUM: Yes, Chair. Speaking on that item will be Michelle Anderson, our one Granted Lands Representative for the State of California.

ACTING CHAIRPERSON GARLAND: If I might, just give it a second for the room to clear. Apparently, we had a bunch of folks here for the Consent Calendar who are now clearing the room.

Thank you for coming. Have a good day.

(Laughter.)
EXECUTIVE OFFICER FOSSUM: They get an early lunch.

ACTING CHAIRPERSON GARLAND: All right. We appear to be calmed down now and the room cleared. Thank you.

GRANTED LANDS REPRESENTATIVE ANDERSEN: Good morning, members of the Commission. My name's Michelle Anderson. I'm the granted lands representative for the Land Management Division.

On July 15th of 2011, staff received an application from the San Diego Unified Port District for the construction of a pile-supported concrete mooring dolphin and a catwalk at the end of the B Street Pier within the San Diego Bay.

As proposed, the mooring structure would extend 170 feet into the bay onto ungranted sovereign land. The existing pier is located within lands that have been legislatively granted to the San Diego Unified Port District.

The project site currently operates as a cruise ship terminal and often accommodates cruise liners that extend beyond the existing thousand foot pier.

As proposed, this project will allow the mooring lines of longer ships that extend beyond the west end of the pier to be safely secured to two mooring bollards on
the proposed dolphin.

Staff is recommending authorization of a 49-year General Lease - Public Agency Use for the construction of the concrete mooring dolphin and catwalk.

Irene McCormack, Vice President of External Relations; Mark Taylor, Marine Terminal Superintendent; and James Hirsch, Land Use Planning Manager with the Port District are here today to answer any questions.

ACTING CHAIRPERSON GARLAND: Thank you for your presentation.

Comments from the Commissioners on this item?

Excellent.

Moving on to public comments.

EXECUTIVE OFFICER FOSSUM: And, Mr. Chair, if I could. Apparently, we don't have our three-minute timer today. And so my secretary, Kim Lunetta, will give you a signal when their time has expired. And you'll be able to then make your judgment on that.

ACTING CHAIRPERSON GARLAND: Excellent. Or we can set an iPhone, if somebody has one.

(Laughter.)

ACTING CHAIRPERSON GARLAND: We're just going to go in the order in which came in. So I've got a Cory Briggs.

If you'd like to step to the microphone. And
while we don't have our three-minute timer, I'd ask you to use your internal clock, if you would.

He's here. He's running around the back.

And down the stretch he comes.

And we will not take this away from your time.

(Laughter.)

MR. BRIGGS: Can I get a little bit of time to recover from rushing?

ACTING CHAIRPERSON GARLAND: Catch your breath and then start when you're ready.

MR. BRIGGS: Commissioners, thank you for the -- or Alternates, thank you for the opportunity this morning.

I'm Cory Briggs. I'm here on behalf of the San Diego Navy Broadway Complex Coalition. We encourage you not to approve this lease today until there's been full compliance with CEQA.

Playing before you is a video of the B Street Pier as it is now. This is the traffic and congestion we get with the current cruise ships.

You're being told that the mooring dolphins and catwalk are for safety. Not true. I submitted a letter this morning. The original with the DVD that's playing, along with all the exhibits, was submitted. You should have the copies - I also gave three copies - that includes excerpts of the documents I'm talking about this morning.
The Port is not playing straight with the Commission. The Commission has received the Port's application, and it says that the purpose is to increase the size of cruise ships and increase the number of passengers coming to the terminal. On the video is what we live with now. There will be increased environmental impacts. You've got to do a CEQA analysis. My letter details all of the impacts.

One thing you should know is that the Coastal Commission a couple of years ago approved a 150-foot mooring dolphin and catwalk for BAE Systems, which also came before the Commission. The Coastal Commission imposed conditions of approval because they needed to mitigate potentially significant environmental impacts due to shading that affected foraging birds. They didn't have to impose any conditions because of the loss of public access, because BAE's pier was already off limits to the public. B Street is not off limits to the public. People on the bay concurrently sail up to the pier when there's no cruise ship there. You're now going to take the 170 feet away.

On top of that, we have federal security regulations that require a 300-foot security zone around any docked cruise ship. If these ships are longer, the security zone gets bigger and more of our bay is blocked.
off. None of these impacts have been analyzed under CEQA. What's more troubling is that the Port took this to the Coastal Commission and got a coastal development permit waiver based on a CEQA exemption that the Port gave itself. This is Exhibit E in the packet that I gave you. And at the bottom of page one, the top of page two here's what they said. And you can see stamped received by the Coastal Commission.

"No substantial public impacts to the public would be anticipated. The project would not attract more people to the area or enable additional people to use the area."

Based on that lie, the Executive Director of the Coastal Commission unwittingly approved a waiver of the Coastal Development Permit. The public was not informed of any of this until after the fact, until it was a fait accompli. It wasn't even listed on the Commission's agenda other than a deputy director's report.

But I show you the agenda in your exhibits as well and you can see there isn't even a link to any documents. So nobody following the Coastal Commission would know that the Port has gone there.

ACTING CHAIRPERSON GARLAND: Let me stop you there --

MR. BRIGGS: Sure.
ACTING CHAIRPERSON GARLAND: -- for just one second.

The upside to your presentation is it's an excellent presentation. The downside is there's actually a running timer on your video.

MR. BRIGGS: And I'm close to three minutes.

ACTING CHAIRPERSON GARLAND: You've been up for about three and a half minutes.

MR. BRIGGS: Okay. So let me just wrap it up and tell you that if you approve this today, you're basically putting the imprimatur on a process that excluded the public.

My client has been involved with the Port for years trying to work on the redesign of the waterfront. They're currently redesigning what's known as Phase 2 of the North Embarcadero Plan, which is where the cruise ships are. They're doing the redesign, and now they're here expanding the terminal with no public input before the Coastal Commission based on an exemption.

If you approve this today, at least get an indemnity provision in your lease, because we'll sue under CEQA. This is not acceptable until there's a full environmental review, but don't let this agency have to pay for it.

Thank you.
ACTING CHAIRPERSON GARLAND: Thank you.
Next up is Michael Warburton.

MR. WARBURTON: Good morning. I've appeared before you as Executive Director of the Public Trust Alliance, which acts to protect public rights in sovereign lands and resources.

I'm here today as a Californian and mostly as a parent of a 13-year old girl who I want to explain why things happen the way they do. She's a beneficiary of the Public Trust. Usually when you have a trustee making an application for either a lease or construction, the public benefits are so clear and that they outweigh the public costs.

Planning has been going on for San Diego Harbor for a long time. In 1908 the Nolan Plan -- city plan said that industrial and maritime uses would be concentrated south of Broadway, cultural and public access, recreational activities would be concentrated north.

Cruise ship lines are very, very much a -- they're not a maritime use. They're basically floating hotels. And I think the Commission has a -- I mean they're huge. They're walls blocking views, blocking access with the new security zones. They actually impede people being able to use the waterfront for views or for recreation. And what's happening is you have a lull in
the cruise ship industry because of the violence in Mexico, so that far, far fewer boats are actually coming to San Diego. And you have a study going on that maybe the 10th Avenue Marine Terminal is a better place to have cruise ships, which will block public access.

So in its present form, what you have is a gift to a moribund industry and at tremendous public sacrifice in terms of parks and mitigation. All of this has been done through exemptions and di minimis declarations. And yet it's just a qualitative change of what the whole waterfront will be.

The Port of San Diego dissolved its Citizens Advisory Committee when they seemed to be getting, you know, dissenting views. The League of Women Voters made a very, very articulate plea for good government.

And the approval of this under exemption is totally inappropriate. The City of San Diego is already the only modern metropolis discharging phenomenal amounts of sewage under a waiver from the Clean Water Act. Everything is done under waiver, and it's done at great public cost. And the State Lands Commission should be acting to protect public rights and public property, which is being given away in this situation.

ACTING CHAIRPERSON GARLAND: Thank you for your presentation.
ACTING COMMISSIONER GORDON: Do we have a representative from the Coastal Commission here, by any chance?

I will tell you, at this point in time - and I'm very concerned about the process that went on at the Coastal Commission and would like someone -- maybe if State Lands staff is familiar what that was. We have a fairly serious allegation that this waiver was granted without public knowledge or opportunity to comment at the Commission. And I'm very strongly leaning towards abstaining on the vote, at this point in time, until I learn a little bit more from the Coastal Commission or about the process that went on there.

Anyone?

EXECUTIVE OFFICER FOSSUM: I don't believe we have anybody from the Coastal Commission, but we do have representatives from the Port and also our Planning and Environmental Management Division on the CEQA issue and, you know, the action that the Coastal Commission took.

But, you know, the allegations against the Coastal Commission, if they failed to comply with the Coastal Act, for example, then there are remedies there as well.

ACTING CHAIRPERSON GARLAND: All right. As we try and maybe figure this one out, I'll ask our next
speaker to come to the podium.

   Excuse me if I get this wrong. Irene McCormack.

   Is that correct?

   MS. McCormack: Yes, sir, that is.

   ACTING CHAIRPERSON GARLAND: Thank you.

   MS. McCormack: If you would like us to answer

   the question about the Coastal Commission and how we

   prepared our Coastal Development Permit for the Coastal

   Commission and then they asked us just to go for a waiver,

   I have our expert here from the Port of San Diego who

   worked on that particular issue.

   If not, that's fine.

   ACTING COMMISSIONER GORDON: That's not going to

   satisfy my answer. As advocates for the Port, I

   understand your position fairly well.

   And I just want to make it really clear, no one

   should ascertain that substantively I'm making a decision

   as to how I will vote ultimately. What this is about for

   me is process --

   MS. McCormack: Correct.

   ACTING COMMISSIONER GORDON: -- and following the

   proper notice requirements giving the public an

   opportunity to testify at the Commission. And if that did

   not occur, if that wasn't noticed, my inclination would

   be -- and I would also like to ask a question to State
Lands and the Port - let me then follow with this
question - would be, if we were to put this decision off
until our next meeting when we would have someone from the
Coastal Commission here to testify, what negative impact
would that have on the Port's plans?

MS. McCORMACK: Okay. If I might start and then
I can also answer that question as I'm speaking, sir, that
would be great.

ACTING COMMISSIONER GORDON: Yes.

MS. McCORMACK: Hi. I'm Irene McCormack,
Executive Vice -- I'm a Vice President of External
Relations at the Port of San Diego. And thank you very
much for hearing us today.

This is an operational issue for the Port of San
Diego. We did a lot of work on CEQA, and the length of
the pier needs to be lengthened because of the length of
the cruise ships in port. We don't accept any ships at
our port right now over a thousand feet, because we don't
have the capacity. And even if we did accept the cruise
in port, we would never -- ships in port, we would never
have more than 6,000 passengers on that pier at any given
time, no matter what. The acreage of the pier does not
allow us to have anything more.

Just so you know, the Port has been in the
business of the cruise industry since the 70s. It is in
an ebb right now, cruises, because of the situation in Mexico along the west coast, has declined. But we do expect it to get bigger as we go along, I mean to increase. But that's all -- you know, that has a lot to do with the condition in Mexico. Really there's only certain places we can go there.

We also -- we have a lot of jobs that come from the cruise operations there. The longshoremen have about 200 longshore workers who work there and are very interested in this and have sent a letter to the Commission just to let you know their support for us as well.

For us this is an operational safety issue. We need this mooring dolphin in order to tie up cruise ships. If we don't, a tidal surge, a tsunami, any kind of storm when a port is -- when a ship is berthed at that pier could affect the workers who work there. It could become unsafe. So that's why we pursued this to begin with. We weren't doing it to increase operations over above what our capacity are on that pier. We could never have any -- like I said, if there are two cruise ships in port, the number of passengers has to be less than 6,000 -- 6,000 or less. So we're not going to get mega-ships there. We're just going to try to keep this issue to an operational issue.
We did apply to the California Coastal Commission for a coastal development permit. The Coastal Commission staff suggested that, based on the work we did of CEQA and our capacity issues at the pier, that it be a waiver. And they granted us a waiver instead -- instead of going through the Coastal Development Permit, as we had asked.

So for us, it is a safety issue. It's an operational must for our cruise industry. Whether or not the cruise ships stay there for, you know, 20 years or 30 years, moving a cruise ship operation to any other place in the bay will take a long process to plan it, look at it and see if it's worthwhile for San Diego.

If you have any questions, I welcome to answer them for you at any time.

ACTING CHAIRPERSON GARLAND: I believe there was one outstanding question from --

ACTING COMMISSIONER GORDON: Yeah.

So am I to understand that you did not request the waiver, that the Coastal Commission granted it on their own behest?

MS. McCORMACK: Yes. We went and we were going to -- we filed a coastal development permit and they said it was a waiver.

MR. BRIGGS: That's not true.

ACTING CHAIRPERSON GARLAND: And there was one
other question I asked earlier about what the ramifications of a delay would be if this were not taken up today.

MS. McCORMACK: You know, if we could take it up within the next month, I think we'd be okay. We're looking to get this mooring dolphin in place for our cruise season that starts in 2013, not any time sooner. So September 2013 is when we'd like to get it in place. I think a month delay would not be an issue for us right now.

We do have other permits we have to work through with the Army Corps of Engineers and several others, and we have to design it as well. So that's what we're looking at.

ACTING COMMISSIONER GORDON: One thing asked -- there's one thing about your testimony that's -- maybe I'm just being dense here. So you're claiming this is -- your testimony is that this is about safety for the workers and for the environment. You've got an existing capacity for 6,000. My understanding of the cruise ship industry is they are supersizing these boats, that they're getting bigger. So what you're telling us is that you have an existing capacity for 6,000 people at one time. I'm guessing today that means maybe two smaller ships. And what you're trying to do is design this so you can take
one of the larger floating hotels?

    MS. McCORMACK: Yes, but probably -- we usually have the smaller ships in San Diego. But we don't know what the capacity -- you know, what the cruise lines are going to be building. If you look at what cruise lines are building now, they're building, you know, 1200-foot ships that have a capacity for 5,000 passengers on them. So if a ship like that were to dock in San Diego, we could only handle one ship at a time. We would never put two ships there. So we'd never have more than 6,000 passengers on that particular pier because the acreage of the pier can't handle it. The operations of the pier couldn't handle putting stores on that ship or taking the bags off the ship when you have, you know, more than 6,000 passengers.

    But that isn't typical nowadays and within the next five years what the Port of San Diego does. Ships that big usually go to Long Beach or Los Angeles because of the ability that they have up there and the longer piers they have up there right now.

    Some of the ships -- the new ships that the cruise lines are building, even -- they still have the same number of passengers, like 2,600, maybe 3,000, but they're building them because of the amenities on the ship. They're building them longer and a little bit
higher because of what tourists want on the ship. So it's not necessarily getting bigger in passenger size, but it's getting bigger in the amenities that are on the ship for people to enjoy.

ACTING COMMISSIONER GORDON: Answers my questions.

ACTING CHAIRPERSON GARLAND: Thank you. Thank you for taking our questions as well.

MS. McCORMACK: Thank you.

ACTING CHAIRPERSON GARLAND: We have one final speaker on this agenda item. It's Jim Hirsch.

Jim, thank you for being here.

MR. HIRSCH: Thank you, Mr. Chairman, commissioners.

I just want to make a few comments here. Number one, I do have a copy of the Coastal Development Permit that was filed with the Coastal Commission with me here today. I can certainly make that a part of the record. And it was their own determination to grant the waiver, not our request.

With respect to CEQA, we did issue the categorical exemption and based it on the fact that there was a capacity threshold of 6,000 people on the pier. So the feeling was we were not exacerbating or aggravating that as long as we were able to stay below that.
With respect to the public process, one of my functions at the Port for the past six months has been as the project manager of the North Embarcadero Port Master Plan Amendment. And within that area is the B Street Pier, and it's certainly been a focus of discussion.

And what I am reading in the letters that you received is that the individuals, two of whom indicated - and they were - members of the Citizens Advisory Committee, that they were totally in the dark. They had no idea this was going on, and further that there had been no discussion. I actually have the minutes of the meeting of July 8th, which was our eighth meeting, with me. I can certainly make that a part of the record. They're minutes taken by two different sources. And in those minutes it's clear that there was a discussion, a brief discussion albeit, but nevertheless it was bandied about, that there was a mooring dolphin that had been approved by the Coastal Commission a month before, June 15th. So this is now July 20th.

And one of the writers to you, Diane -- and this is Diane Coombs, who indicated she was totally in the dark, actually suggested at that meeting that perhaps given that the Broadway Pier, which has been certainly a subject of controversy, since that pavilion and pier is now operational, that we make lemons out of lemonade, as
she put it, and say that that is our primary pier from now on, and why don't we move this mooring dolphin to that location. So I really can't understand, for the life of me, how someone can say they had no idea about it when they were, in fact, suggesting that perhaps we put it in an alternate location. Clearly she knew about it. Clearly it was a subject of discussion.

So that concludes my response, unless you -- do you have any further questions?

ACTING CHAIRPERSON GARLAND: Questions from the commissioners?

Thank you for your presentation.

MR. HIRSCH: Thank you very much.

MR. BRIGGS: Can I please have 30 seconds -- just 30 seconds?

ACTING CHAIRPERSON GARLAND: We have a process and you've already spoken once to -- to an extended time period.

MR. BRIGGS: I understand. But they're not telling you straight.

ACTING CHAIRPERSON GARLAND: So I'm going to ask you to --

MR. BRIGGS: Just keep in mind that the July 8th meeting was after the June Coastal Commission meeting when this happened. It was disclosed after the fact. And
please just look at Exhibit C, which is the Port's application here. There's no mention of safety or security anywhere.

Thank you.

ACTING CHAIRPERSON GARLAND: Thank you.

ACTING COMMISSIONER GORDON: Curtis, when is our December meeting? I know we've moved it around all over the place. When is our next meeting scheduled for at this point?

ACTING COMMISSIONER REYES: It's a rolling date at this time.

EXECUTIVE OFFICER FOSSUM: It's posted as being December 22nd on our website. That's when the Commission chose earlier in the year to set that date. But it's my understanding that we won't have a quorum for that date, so we're searching to find alternative dates either earlier in December or in the early part of January.

ACTING COMMISSIONER GORDON: This is my inclination at this point in time, speaking only for myself and, frankly, having not had an opportunity to discuss this with the Controller yet: I think the allegations over what the Coastal Commission did or didn't do are significant. I'm not looking to give the opponents of this project two bites at the apple, meaning Coastal Commission and State Lands Commission, and looking to
avoid litigation. So my inclination, at this point in time, is to abstain if there's a vote. But I would make a motion to put this decision over until our next meeting, as the Port has testified that there would not be negative impacts to them, put this over until our December meeting, have an opportunity to talk with the Coastal Commission in the meantime, bring them in, if necessary, if we're not satisfied to put them on the record as to what happened at their July meeting, and vote after hearing from the Coastal Commission.

ACTING CHAIRPERSON GARLAND: Well, the motion would take precedence.

So we've got a motion from the Controller's representative.

Does it have a second?

ACTING COMMISSIONER REYES: I guess, as I'm listening to the debate and the issue being brought forth, as long as this does not have an impact on the development if they were to move forward. If this has a negative impact or limits the ability for the Port to move forward, that causes me concern, because I'm ready to support the staff's recommendation right now. I think that the expansion of the pier by an additional 57 yards, 56 1/2 yards out, while it does impact the waterways and so forth, the fact of the matter is ships are getting bigger,
therefore more amenities, not necessarily for more people. The very big ships actually end up going to cargo areas in some cases, which in my opinion also creates other health issues, problem issues in terms of the safety of the passengers, because they're now dealing with forklifts and trucks.

And the picture that I saw is not uncommon on any of the ports I've ever been to where I've taken a cruise ship - Tampa, Puerto Rico, you name it - the same issue comes up.

The day of departure and arrival you've got twice the volume of the ship being processed at the same time within a short period of time anyway.

But I'm looking at the folks in the back. And if this is extended for another month or month and a half, it has no detrimental impact on the project. And I'm hearing the yes.

So I will second the motion then to postpone, if staff also tells me it does not create an issue.

EXECUTIVE OFFICER FOSSUM: We've been informed by the Port as well that they don't believe a one-meeting delay will significantly interfere with the project.

ACTING COMMISSIONER REYES: Okay. Well, in that case, I will second the motion for the delay.

ACTING CHAIRPERSON GARLAND: All right. We have
a motion and a second to pull this item and table it until
the next meeting of the Commission.

    All those in favor?
    (Ayes.)

ACTING CHAIRPERSON GARLAND: Opposed?

The item is put over until the December meeting
of the Commission.

Thank you to both sides for your presentation and
for being here today. We appreciate it very much.

Moving on now to -- we haven't pulled 36, so
that's not happening.

We're now on to the regular items. And that
begins with Item No. 54, the Commission staff's Audit
Action Plan.

    And while the room clears again, we'll take a
brief -- a second here to let the commotion die down, and
then ask the staff to make its presentation.

    Whenever you're ready. Thank you.
    (Thereupon an overhead presentation was
    Presented as follows.)

EXECUTIVE OFFICER FOSSUM: Let me just say that
this informational item to the Commission in response to
its last request is one that we've put a lot of time and
effort into. And Dave Brown, who is our Chief of the
Administrative Staff, will present this. And additional
staff are available to answer any questions the Commission may have.

ADMINISTRATIVE SERVICES CHIEF BROWN: Good morning, Mr. Chairman and commissioners. My name is Dave Brown and I am the Chief of the Administrative Services Division of the State Lands Commission and will be presenting staff's Audit Action Plan in response to the Bureau of State Audits Report 2010-125.

The Commission directed staff, at its September 1st meeting, to prepare a plan to address the findings by the Bureau regarding the Commission's management of leases of State property. Their report describes areas where auditors noted a failure of staff to perform certain duties or to pursue certain debts or lessees.

Staff has reviewed the findings and, as reported previously, found most to be reasonably accurate if not somewhat sensationalized and without perspective of the Commission's overall responsibilities and accomplishments.

Many of the findings revealed process breakdowns or an inability to maintain certain responsibilities due to staffing limitations.

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ADMINISTRATIVE SERVICES CHIEF BROWN: As I reported to the Commission back in February of this year, the Commission's General Fund is supported -- General-Fund
supported positions have been eroding for the past 20 years. In 1990, the Commission had 242 positions supported by the General Fund. The current budget has only 62. This is a 74 percent reduction over that period.

These core General Fund positions are those that perform lease compliance and trespass enforcements, appraisals and rent reviews, oil and gas reservoir analysis and production engineering, royalty accounting and financial auditing, hazard removal and litigation support.

They are also responsible for much of the Granted Lands Trust Management Program; all activities that are vital to the effective management of the Public Trust assets and entrusted to the Commission's care and, not coincidentally, those for which the Commission is now being criticized for not performing effectively.

Nonetheless, over the same period, through careful prioritization of activities to maintain its income stream, the Commission has continued to earn revenues of over $3.8 billion. In spite of this record of generating substantial non-tax revenue income, the Commission has never been considered a revenue-producing agency for the purpose of being exempted from across-the-board budget cuts.

As I also noted in February, the General Fund
portion of the Commission's budget has been suffering from death by a thousand cuts, none alone that would be fatal but over time have been debilitative to many of the General Fund activities.

The Commission has received additional positions from other funding sources for new regulatory programs regarding oil spill prevention and marine invasive species programs, and has also relied much more heavily on reimbursements from project applicants to cover staffing.

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ADMINISTRATIVE SERVICES CHIEF BROWN:

Commission staff still numbers just over 200. But because of the limitations dictated by funding sources, these other positions must be devoted only to those programs that are not available to address the issues pointed out in the Bureau's report.

The little blue portion there is the General Fund. The other colors are other funding sources that must be devoted to those program activities.

The Bureau acknowledged this staffing issue in Chapter 3 of the report, and I quote: "Significant reductions in staff have hindered the Commission's ability to conduct activities necessary to ensure that the State receives appropriate revenues and that lessees comply with lease terms."
Repeated requests to prior administrations for staffing have gone unheeded. Several past budget requests have been submitted directly addressing those deficiencies that have now been identified in the Bureau's audit findings. The Commission staff also identified this loss of staffing as a major risk in its 2009 biennial Financial Integrity and State Manager's Accountability Act, or FISMA, report in regards to both erosion of the General Fund positions and the depletion of staff in the audit program.

The Bureau's report makes several recommendations for correcting deficiencies noted and improving processes and procedures. However, such procedural and process improvement recommendations can only impact the deficiencies noted to the extent that adequate staff resources are available to implement and carry out the work. The simple fact is that a program cannot sustain staff reductions on a scale experienced by the Commission with the expectation that there will be no adverse impact on activities to carry out those program responsibilities.

As such, as a first priority in response to the audit, staff is prepared and forwarded requests for additional staffing for consideration. These requests reflect the most urgent needs to address the areas of auditing and royalty accounting, lease compliance and
revenue enhancement; to perform reviews, pursue delinquent and noncompliant releases and prosecute trespassers, and tidelands trust compliance for oversight of the 85 grants to local governments.

These requests represent the most urgent staffing needs necessary to immediately address those areas deficient in resources to sustain effective program levels.

Staff also recognizes the need to effectively quantify its overall staffing needs and will continue to analyze workload and program outputs and results as suggested in the report in preparing future requests.

I'd now like to outline the efforts of staff regarding the recommendations made by the Bureau.

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ADMINISTRATIVE SERVICES CHIEF BROWN: The report identified six major areas of concern. These include delinquent leases and general lease compliance, holdovers, missed rent reviews, audit cycles for leases, statutory trust grant oversight, and the lease database.

Regarding lease compliance. For delinquent leases a comprehensive review of accounts receivable is being conducted. While the Commission's records show an amount well below that asserted by the Bureau in their report, there are several leases that have been in arrears
for a number of years. Each is being examined for other compliance issues, in addition to nonpayment, and will be addressed until resolved subject to the availability of staff.

For future delinquent or noncompliant leases, a procedure is under development to address coordination between divisions. A management group, including division chiefs and the Chief Counsel, will meet no less than quarterly to prioritize those leases, failing compliance, for additional action steps, up to and including litigation. This procedure is expected to be in place November 1st.

Staff is also pursuing other remedies, including participation in the State Intercept Program as well as collection agencies.

For general compliance issues, staff is investigating options such as penalties for failure to comply with insurance and bonding requirements, or possible punitive measures for unauthorized structures or activities on the leasehold.

Holdovers. As noted in the Bureau's report, procedures to reduce the number of leases in holdover were directed to the Commission staff in November of 2010. In March 2011, staff finalized the language for holdover notification letters for both significant and routine
leases as laid out in the holdover reduction procedure. Finalized language with formalized practice, including a two-year lease renewal notification in the leases and finalized holdover checklists which identifies the steps for time frames, have been issued to staff.

LMD management also continues to hold monthly meetings to discuss the status of holdovers and those leases assigned to contingent receivables.

As of today, 24 of the 32 leases that were in holdover have been resolved, with only eight remaining with a value of over $10,000 a year each -- or in total.

Of those remaining, one, GP Gypsum, was on today's agenda, one involves a toxics site that will remain in holdover until remediation is complete, one is in non-operational caretaker status, and three are scheduled for the Commission action in the first half of 2012.

The remaining two will be renewed upon completion of environmental documentation but have already had their rent updated and their payments are current.

Rent reviews. Commission staff has continued to develop and refine its rent review process. In late 2010, leases due for rent review began being pulled once -- or one year in advance as opposed to nine months.

In April 2011, the rent review checklist which
identified steps and time frames for staff to adhere to was updated, and these changes have been effective in helping staff complete rent reviews in a timely fashion.

Staff continues to also move forward with expanded use of the Consumer Price Index in applying automatic annual rent revisions. Staff will be recommending to the Commission the expanded use of CPI in the most high-value commercial use, industrial use, and right-of-way use leases, and is also exploring the use of CPI in lower-value leases to assist in streamlining the rent review process.

Staff has also updated and consolidated the San Francisco and Marin County benchmarks and is progressing on scheduled periodic updates of benchmarks throughout the State.

Audit cycles for leases. Over the past several years, due to significant reduction in auditor positions, staff has not been able to implement an audit schedule or plan. Instead, most of the staff's efforts have been focused on auditing leases with identified problems and royalty payments or in response to assignments or other changes requested by lessees.

As a result of the Bureau's report, Commission staff has developed a proposed audit schedule. The audit schedule places oil and gas, mineral and geothermal
dredging leases on a rotating audit schedule based on the following criteria:

ADMINISTRATIVE SERVICES CHIEF BROWN: Mandated through regulation; revenue generated from the lease, the amount of revenue; date and findings of the last audit; applicable statutes of limitation; identified issues in royalty payments; lease assignments; notification by lessee of pending changes; and then, lastly, commercial and surface leases.

As you can see on the slide here, as a result this go-forward plan. This slide contrasts what will be possible with existing staff versus those if additional staff is made available. Without new staffing it is likely that the program will continue to be reactive based on identified problems.

ADMINISTRATIVE SERVICES CHIEF BROWN: Oversight of statutory trust grants. The Bureau's report stated, and I quote, "The Commission should establish a monitoring program to ensure that the funds generated from granted lands are expended in accordance with the Public Trust."

Staff agrees with the report's recommendation. However, there is currently only one staff position dedicated to overseeing the management of these
lands, by approximately 85 local government trustees pursuant to over 300 statutes. Commission staff has had to take a reactive approach to carrying out its responsibilities by responding to allegations of improper use of lands and funds rather than proactively identifying and preventing misuse through periodic monitoring.

Even in this reactive environment, Commission staff has not been able to investigate all allegations. As described previously, staff has submitted a request to restore the program, which will include implementing a monitoring program and developing and maintaining a close relationship with trustees.

Lease database. Action has been taken to improve the accuracy and reliability of the data in the ALID system. Staff has been instructed to complete entry of all Commission actions into the system within 30 days of meetings, and with a follow-up to ensure that they're there by 60 days.

All income-producing leases have been verified for data elements relating to rent amounts, rent review dates, lease term, lease expiration dates, and so on. Non-income leases will be verified upon availability of staff to do so.

A programmer has been assigned to work with LMD management to develop management reports and ad hoc
reporting capability that will allow ready access to data in a form and format that will be useful in decision making.

In addition to this, investigations have begun into the availability of off-the-shelf lease/asset management software packages, either commercially available or from other governmental agencies, as suggested in the report, that could be providing more extensive and flexible reporting capabilities.

Particularly intriguing right now are cloud solutions. There's some software-as-a-service offerings out that would require minimal development time and tremendous flexibility and are currently being used in educational institutions and some local governments. Such software-as-a-service systems provide web access and may provide public transparency as well as operational effectiveness.

Legislative and regulation change.

ACTING COMMISSIONER REYES: Dave, I apologize --

ADMINISTRATIVE SERVICES CHIEF BROWN: Yes, sir.

ACTING COMMISSIONER REYES: -- apologize for the interruption.

You talked about software that other State agencies would use. What other State agencies would be in our position?
ADMINISTRATIVE SERVICES CHIEF BROWN: Department of General Services. That was one of the suggestions that the Bureau --

ACTING COMMISSIONER REYES: Right, I notice that. But I think they're kind of at the other end, you know. They're kind of -- they're --

ADMINISTRATIVE SERVICES CHIEF BROWN: I would agree with you. However --

ACTING COMMISSIONER REYES: They're kind of the tenants, not the landlords.

(Laughter.)

ACTING COMMISSIONER REYES: Yeah. Just kind of an observation. I mean I can see like Forestry or something -- I don't know. I'm just trying to think of --

ADMINISTRATIVE SERVICES CHIEF BROWN: I kind of chuckled at that.

ACTING COMMISSIONER REYES: Well, I laughed, but okay.

(Laughter.)

ACTING COMMISSIONER REYES: That's why I want to bring it up.

(Laughter.)

ADMINISTRATIVE SERVICES CHIEF BROWN: Thank you.

EXECUTIVE OFFICER FOSSUM: We're also approaching the Bureau of Land Management, that does have more
similar activities than us as well.

ADMINISTRATIVE SERVICES CHIEF BROWN: As well, but they have far few -- I think they only have like 300 leases. And we're upward around 4,000.

ACTING COMMISSIONER REYES: Thank you.

ADMINISTRATIVE SERVICES CHIEF BROWN: Legislation and regulation changes. Commission staff is also currently exploring and analyzing potential legislative and regulation changes as appropriate to give Commission and its staff ample authority to implement some of the activities proposed above.

One is to update the Commission's regulations, Title 2 of the California Code of Regulations regarding rents. We also are going to be looking into imposition of a lease management fee for surface leases.

We do need -- one of the suggestions by the auditor was participation in the State Intercept Program. However, in order to do so, we need to collect Social Security numbers. We currently have a legal opinion back from the 80s that says we don't have that kind of authority. And we are -- counsel is looking at that again, and we may need to get some legislation.

Yes, sir.

ACTING COMMISSIONER GORDON: What is the State Intercept Program?
ADMINISTRATIVE SERVICES CHIEF BROWN: That is over at Franchise Tax Board, that you provide a social security number and they will intercept any tax refunds, lottery winnings, and everything else. It's any refund coming back from the State. And they're trying to expand it as well. So any money going back to the public from the State, other State agencies are canvassed to see if that individual owes any money. The Child Support Services is one of the big users.

And use of private collection agencies.

You learned something today.

The use of --

ACTING COMMISSIONER REYES: Actually, we're also going to expand it to some of the financing authorities where the State money's involved. And part of the agreement would be that the entities that are depending on State resources, we would provide that as one of the options for payment.

ADMINISTRATIVE SERVICES CHIEF BROWN: Okay. And also we may need some legislation for the use of private collection agencies. In our discussions with -- we have spoken to Franchise Tax on that. And one of the things they cautioned us on is to make sure we have the authority to be able to turn that kind of private information over to the collection agency. They have the specific statute
to do so. And we're investigating what we would need to
do the same.

We're also looking into penalties for failure to
secure required insurance or to meet other lease
conditions. This is kind of a complicated one, and I
don't know where that will go. But also administrative
remedies for trespass actions.

In conclusion, even in the face of these
continual staff reductions, as described throughout the
Action Plan, Commission staff has continued to seek
opportunities to generate revenue for the State for the
private or commercial use of State property.

For example, this past legislative session was
very successful, given staff's resources. Three bills,
two of which were sponsored by the Commission, and the
other supported by the Commission. One was SB 152, which
will bring all of the recreational piers into
revenue-producing status, with which there are about a
thousand of those. AB 595 by Wolk on abandoned vessels,
which reduces the pain that we have to go through to
remove an abandoned vessel. And then AB 982, which was by
Skinner, is a renewable energy program out in the --
negotiating with BLM that Curtis mentioned earlier.

These bills together will assist the Commission
in generating additional revenue to the State, while also
assisting the Commission in cleaning up the State's waterway and streamlining the process for removing abandoned vessels.

As expressed in response to the Bureau's report, Commission staff does appreciate the recommendations detailed by the Bureau. And most of the recommendations are practical and achievable. And if the Commission is provided with sufficient resources to retain some staff, we feel we can get it done.

Thank you. That's the end of my presentation.

EXECUTIVE OFFICER FOSSUM: One thing I would like to add on that is that, as I mentioned earlier, our website does have these documents. And in particular the State Auditor requested that we provide documentation of the efforts the Commission had already put together to remedy the shortcomings that they had identified. And so in the response -- the 60-day response that we provided them on Monday, we provided 16 sets of documents to them, 11 of which are available for public review - they're on our website, posted prominently on the front page - and access to that.

Five of them, however, were confidential and remain not available for public review.

But we provided all that documentation. We think it's very important to show the process, that Dave
mentioned, that will expedite our ability to keep on top of these issues and not let them miss deadlines and so forth.

ACTING CHAIRPERSON GARLAND: Thank you.

Any questions or comments from the Commission?

ACTING COMMISSIONER GORDON: I have two issues that I don't think concern me but I'm interested in and I didn't see addressed.

One is the insurance requirements. And when I first started six months ago-ish, I looked at this and said there didn't seem to be any standardized rules for determining what insurance would be required and what would happen if it weren't provided. And I would put the exact same question with regard to bonding requirements, how we make those determinations. And I didn't see in this any established procedure for making those determinations.

EXECUTIVE OFFICER FOSSUM: And that's correct. It wasn't brought out specifically in any real fashion by the audit. But it is a problem. And we do look on a case-by-case basis at each individual facility that would occupy State property.

One of the things we did, we did talk to Department of General Services and had a meeting with their experts on insurance, and they provided us some
insight on that. One of the things we had been hearing
from many tenants is the requirement the Commission has
put into its leases that if there -- if the insurance
certificate is going to expire, that we get 30-days notice
at a minimum. I think it's 30, or 30 or 60. And the
industry has stopped being willing to do that. It's
paperwork for them or something. And so it's a dilemma
for our lessees to be able to do it. But it seems like
it's really kind of a passing-the-buck thing that the
insurance company has done by its unwillingness to say
that it's canceling the insurance in providing the covered
insured, such as the State, notice of that so that we can
follow up on it.

So it's a bit of a dilemma there. We are
struggling with how to put that back on our lessee. But
it's something that came out in our discussions with the
Department of General Services in that.

What we have looked at is the minimums in the
past. And we look at what's going on in the real world
out there as far as the kind of insurance coverage that's
being maintained, whether it's an individual with a
recreational pier or whether it's a marina in an operation
like that. And certainly with the oil companies operating
either marine terminals or operations, I'm very happy to
say a couple of the things that Dave touched on, this
assignment -- the assignments that you approved earlier
today dealing with Aera's assignment to Occidental
Petroleum with the leases down in southern California,
we've raised the bond amounts there, and the insurance
went from $250,000 I believe to -- excuse me -- 250 to $30
million.

So we looked very carefully at that. Obviously,
we know that those kind of operations have a significant
potential for liability, and so we want as much coverage
as possible.

On top of the insurance, we have indemnity and
hold-harmless provisions, so that if there is any types of
liability that's assigned in a lawsuit, that not only have
we got the insurance to go for first, but the backup is
the company's assets.

Bonding is probably even more problematic to some
degree, because even though we can get significant bonds
by some of the major industrial users and commercial
users, if we start looking at some of the smaller users of
State property, bonds become almost prohibitive for them
and it's a real dilemma for us.

The bonds historically have been fairly low, and
the Commission is using a bond -- for example, one of the
criticisms we had on the lease in the Carquinez area -- we
are collecting a bond for some of the past rent there --
but to be able to remove facilities that have been in place and the value and the costs of removal of facilities if somebody abandons them, it's very difficult for us to get a bond that's high enough to accommodate that. And so there are some real policy questions about, even an operation that's doing a good job, whether you can put them out of business by requiring too high of a bond.

So it's a balancing act that we look at. And I don't know that there's any easy solutions to it.

ACTING COMMISSIONER GORDON: I guess what I'm interested in, at this point, are -- and maybe it can only be done with a regulatory package, because -- my fear is when you make that judgment call, that if you do get to a point where you decide you need to withdraw -- to not renew for failure to procure insurance, for insurance lapsing for non-bonding, that one of the allegations in the lawsuit is going to be, you know, that there are no regulations, there's no set procedure that this is arbitrary and capricious and you're singling out this particular lessee.

I'm also interested, frankly, from a going-forward basis, I think right now the Commission, from what I can see -- and I'm thinking back to the last meeting where we had a lot of testimony over a lease with a fairly small operator - where I see you're somewhat in a
Catch-22, where you have a situation where you have a non-performance; however, should you withdraw the lease, the negative impacts of abandoning the site and the cleanup costs from the previous action really put you in a situation where you can't make the right decision -- well, you make the right decision by kind of letting them go on even though you know really as you've looked at it that they don't have the financial capacity to operate.

And from a going-forward basis, it strikes me -- we can't remedy these past situations at some level, but we can develop standards so that for future leases a) we can avoid future lawsuits where you -- and make it easier for you to make that decision, and b) that you really can have a closer scrutiny of who you are -- who you are granting leases to based on long-term financial capacity to operate so we don't get ourselves in these Catch-22 situations.

ACTING COMMISSIONER REYES: But it seems to me that we can do it ongoing -- on an annual basis even though those preexisting leases though. I mean, we did Item C 10 today with the marina, and part of it was that. So we can --

EXECUTIVE OFFICER FOSSUM: Yes. And, in fact, one of the things we talked about the five-year rent review and how important that is. I think the majority of
our leases, at least in recent years, that have that
five-year rent review provision also allows to look at
insurance and bonding to make sure those are up to date.
So it's not just a rent review. It's looking at those
additional protections for the State.

But let me say, as far as bringing up the fact
trying to standardize regulations is extremely difficult
because every piece of property is somewhat unique. You
may have situations where neighbors have very similar
situations, and in those instances one would expect that
they would be treated equally. But one marina that has
ten slips and another one that has a thousand slips, you
have to look at the economics of that and the costs and
everything else associated with it, the potential
liability and everything else. So it's your staff's
responsibility to bring to the Commission those kind of
things that we believe are in the best interests of the
State.

And certainly it's a matter of negotiating with
the property owner, or the applicant, the lessee as well,
as to his particular situation. And just as with the oil
companies and when major oil companies started leaving
California and small companies were coming in, we were
extremely concerned about those companies being -- not
only being able to perform because of lack of experience,
but their assets that were available if there was, you
know, some kind of an event that would raise liability for
the State.

So we look very carefully at those situations
when we have the opportunity to do so. But it's difficult
to actually adopt a regulation that tries to categorize
these thousands of different leases we have when some are
very small and others are larger. And so we try and look
at each one individually and apply like standards to them.
But those standards are one that are constantly changing
the marketplace and everywhere else. And if you adopt a
regulation, it could be obsolete in what's going on in the
world within months, or the location could be changed.
And so we're not regulating these people. What
we're doing is negotiating with them the use of State
property in a way that we believe protects the State's
interest. And that's we believe the staff and
Commission's role.

ACTING COMMISSIONER GORDON: I'm going to push
back just a little bit.
In a previous life I was with Department of
Toxics. And they have to lease hazardous waste transfer
facilities. And they fit almost the same category. You
have one in south central Los Angeles going to be very
different than one in the Central Valley versus going to
be very different than one sitting on San Francisco Bay. And yet they have developed standards and procedures that if one were to attempt to create a new facility anywhere in California, there would be a process and a bonding procedure and an insurance regulatory environment that the staff can look to to determine what's a proper amount. It has saved the State, fair to say, hundreds of millions of dollars over the years as some of these facilities have gone out of business and the bonding capacity in particular allowed the State to close them down when it was necessary and to recover -- and to clean up the sites.

I don't see that as all that different than one of your marine terminals and things where you've got -- you've got fuel tanks and the like, and it makes it -- you're going to have -- if someone can't pay the rent, if they don't have insurance, and you can't close them down because we don't have the ability to clean them up, you're somewhat in a bind and your legal staff is a toothless tiger. They know you can't close them down and they're going to keep operating.

EXECUTIVE OFFICER FOSSUM: That's a good point because you brought up marine terminals. And I would add to that our offshore oil facilities and things like that. Unfortunately, the Legislature has given us the ability to regulate those functions. It's not strictly a land
management aspect in leasing to them. But in those instances the Commission has adopted regulations that do protect in those areas and set standards. And we are always looking at upgrading those standards for protection of the environment, both offshore on our oil facilities as well as the marine terminals.

So while we were locked in -- some of these leases we have, offshore oil leases, are from the 1940s, so you can imagine there's very little protections specifically in those lease agreements.

However, when there's been assignments, we've taken the opportunity, like we did today, in the assignment between Aera and Oxy to actually upgrade our contracts with them and improve our ability to protect bonding insurance and other things. But we have a regulatory scheme that does deal with oil spill prevention. And so in that function, the Commission does set regulations. We have extensive regulations that do set standards for each of them because they are consistent type of operations.

But we have struggled with this for generations as to how do you try and treat everybody fairly when all their circumstances are so divergent. When it comes to, you know -- and when you have small leases like agricultural leases, we have so many different -- a
variety of leases, it's difficult to set a standard that works forever and is consistent with all those, because every piece of property that you're leasing is different than a facility that you're regulating.

But we will certainly -- we strive to keep consistency in that regard and to bring what we believe is -- but we encourage the Commissioners to ask us these questions, and we'll look at it further as to whether or not those kind of things are appropriate.

For example, the criticism we took on the pipelines for saying that our regulations were obsolete as to the amount of rent we were charging for rights of way on pipelines. Well, the answer that the staff had was that those are obsolete and we haven't used them for decades. But we have alternatives, and we always look at the highest and best revenue generating for the State. And so an appraisal would be done in those instances, which would generate significantly more revenue.

So those regulations do exist. But just as every appraisal for every piece of property is going to give you a different number, those situations as to the kind of facility you're leasing is going to be different. So the insurance amounts, the bonding amounts, if they're the same facility in the same location -- typical location, then they would be consistent.
But from one end of the state to the other and the desert to the ocean, we have a lot of variety of things and it's difficult to categorize all of them into a single type of category.

One of the things that we tell the Commission and tell the public is the Commission has extreme discretion in the management of its lands; that the decision makers for the State of California, the Commissioners, ultimately have broad discretion in the management of its lands and the leasing of those lands. So you're not tied -- if you believe, and based upon the facts before you, that we're not asking for enough insurance or anything else, that can be changed. It's not cut in a particular regulation. You may say, "We should have three times that much", and it's your prerogative in that regard. Your staff is who tries to bring that information to you in a detailed manner so that there will be -- but you can always question it, as do the property -- the people who are applying for these leases of State property.

ACTING COMMISSIONER REYES: I think what I heard was looking for uniformity and consistency, not that we don't lack authority, but is provide for it fair and equitable, that, you know -- and I understand your point. Clearly, I -- even a ten-vessel marina in Tahoe is going to be different than the one here in Sacramento. It's
going to be different than the one in Newport. I get that.

But I think what we're getting -- what I'm understanding from your point at least, and I concur with that if I understood it correctly, is that it would be fair and uniform to the degree possible. If you have -- and I'm just going to make this up. If you have, you know, X company -- oil company paying 30 million insurance and you have a small mom-and-pop marina paying $3 million insurance, something's wrong, you know. But that's kind of what --

EXECUTIVE OFFICER FOSSUM: Exactly.

ACTING COMMISSIONER REYES: -- I'm hearing you say.

But, no, you continue to look at it, continue to look for fairness. And, you know, there is broad authority, but it is not to look to exceed or to just look and try to get revenues; trying to be fair and uniform as much as we can.

EXECUTIVE OFFICER FOSSUM: Yes. And I would say on our rent, for example, for the most part, when we don't do an individual appraisal, we have benchmarks for various regions, so everybody's treated similarly in those regions.

When Senator Pavley carried SB 152, one of the
things that the property owners who would be affected by that bill, through their representative, brought for us was that they wanted to make sure that that was in the bill, that we would look specifically at the values in the areas; so that when you're dealing with Lake Tahoe, it's different than Huntington Harbor or the Delta.

And so those benchmarks we have are standardized. Now, they're not put into regulations because we try and review them periodically and bring them up-to-date. But they do exist and that's what we use across the board for those type of facilities.

ACTING COMMISSIONER GORDON: Curtis, one of the things I am looking for -- and I'm fully sympathetic with your lack of staffing and trying to help. You know, as I've told you before, I'm looking at kind of a two-prong: Number 1, help any way we can to get you the staff you need to do your job; but, number 2, preparing the eventuality that, you know, what are we going to do if we don't -- you know, if you don't get any more staff.

And it strikes me on things like the insurance and the bonding -- you know, show how old I am going back to the days in a law firm where you had a tickler system, you know, where -- you really didn't have to think that much. I mean, we didn't even have computers. It was, you know, when a case was first filed, you put on the calendar
when the -- you know, when the 60-day response was going
to be, when the interrogatories, when the deposition. And
the law firm had an entire master calendar for all those
things.

Now, computers and software obviously make that
significantly simpler. But to say that, you know, look,
the insurance company doesn't want to tell us when they're
sending out 30-days notice; the lessees, they don't do it,
so we're in a bind; I don't think that's really
acceptable. I mean I think going forward that to assign a
staff person to get these leases into a data -- get the
insurance and the bonding into a database, so that you
don't have to rely on the insurance companies or the
lessees to tell you, that sometimes just pops up -- you
know, it pops up on a screen that says, you know, lease
X -- insurance on lease X is running in 30 days on --

EXECUTIVE OFFICER FOSSUM: Excuse me,
Commissioner. But it's not that the insurance is
expiring. It's that they may have terminated it without
telling us.

ACTING CHAIRPERSON GARLAND: It's not the issue
of the insurance here, Curtis. I think what -- and I'm
going to jump in here because this was something that I
was concerned about and actually happy to hear in the
report, is that -- and to hear the comparison of 400
issues versus 4,000 issues in a database, let me just ease
your mind. 4,000 entries in a database is really not that
big. In fact, it's minuscule compared to what databases
can handle these days.

And the fact that the tickler system which
started with a master calendar that some poor person had
to keep by hand is now as easy as adding a task with a due
date in things such as Microsoft Office or any other of
these Cloud systems. I'm happy to hear you say that.

Our office has been one of the first to move to
the Cloud in our storage needs in the Lieutenant
Governor's office. The idea that, you know, it's
difficult to track things in a world where databases of
millions, if not billions, of data points are now stored
is -- frankly is a weak argument and will continue to be a
burr in my saddle should we not hear of some major
improvements being made at the Commission for those
specific things. It was a major part of the Auditor's
report, it is a major concern. This is 2011. There is no
reason why we shouldn't have a legitimate database system
that tickles you on a lease review or insurance or bonding
or anything that can be automated that will alleviate some
of the concerns you have about your staff.

And while I appreciate the decline in the staff,
and it's terrible and we should all be working to increase
that, this is not a symptom specific to the Lands Commission. Everyone is doing more with less.

EXECUTIVE OFFICER FOSSUM: Absolutely.

ACTING CHAIRPERSON GARLAND: So to continue to say it's because we don't have staff, when we've seen a consistent decline over the years, and to see that we haven't taken the opportunities to find those efficiencies that a database system would give you is going to stop sounding like a reason and start sounding like an excuse. And excuses moving forward are going to be unacceptable.

EXECUTIVE OFFICER FOSSUM: I totally agree. I think that -- and our responses to the BSA certainly documented the approaches that we have taken. And, in fact, earlier this year, most of those database issues were all resolved. So it's not the database that we find is the problem, unless you're talking about how to track a bond that expires if it's not supposed to expire, but they stop making their payments on it, how do we -- how are we notified of that or how do we know it if they've canceled their insurance policy and how does the Commission keep track of those things? It's in our database that it's there, but if the company cancels it and doesn't tell us, then we don't know.

ACTING COMMISSIONER GORDON: Do you have a clause in the lease that requires the lessee to provide you that
EXECUTIVE OFFICER FOSSUM: Yes. And now they're telling us that they can't comply with that because their insurance industry is no longer willing to do that. And so we're trying to figure out a new way to be able to comply with that view. Penalize the lessee if -- you put the obligation on him rather than his contractor --

ACTING COMMISSIONER GORDON: Let me stop you for a second.

The contract is between the State Lands Commission and the lessee?

EXECUTIVE OFFICER FOSSUM: Correct.

ACTING COMMISSIONER GORDON: Is the lessee's response, at this point in time, that these -- that the insurance or the bonding is being canceled without notice?

EXECUTIVE OFFICER FOSSUM: There's a provision that says that you will provide us a certificate of your insurance that also indicates that there's a 30-day cancellation and notification clause to the Commission staff that this insurance coverage is being canceled.

They're telling us now that the insurance company is no longer willing to send a notice that they're canceling the insurance. And so we can put it on the lessee and say, "It's your obligation to let us know this is being canceled." But if they don't comply... Whereas,
a company typically would comply with those kind of
obligations because it's routine and they have it in their
database that they're canceling and they have the
addresses and everything. A lessee who may find out he's
canceling may just, "Oh, I forgot to let you know."

So it's a complication that because of insurance
company's unwillingness to keep in their database the kind
of information that we've asked them to do to send these
notices out -- and again General Services told this -- this
is endemic now in the industry -- that most companies are
going in that direction that they're unwilling to send
those notices, that we're going to have to scramble to
figure out, do we not only require the lessee, but what if
he fails? I mean, what's the penalty for somebody who
fails to comply with these things?

So as Dave mentioned, that's another area we're
looking at, is how to incentivize our tenants to comply
with their lease provisions and, you know, make them do
it? I mean, do you just cancel their insurance because --
or cancel their lease because they didn't cover insurance
or do you build some other incentive in there to -- do you
raise their rent? I don't know. It's --

ACTING COMMISSIONER GORDON: Let me ask, so I'm
assuming that these insurance products are regulated by
the Department of Insurance?
EXECUTIVE OFFICER FOSSUM: I would expect they are.

ACTING COMMISSIONER GORDON: Has anyone gone to the Department and determined that these carriers shall or shall not be licensed to sell their products in California if they're not willing to provide notice to the State that they are canceling policies?

EXECUTIVE OFFICER FOSSUM: We have not done that to date. But we can certainly talk to General Services and take that recommendation in hand and make our contacts with the insurance industry. It seems like it would be a simple thing for them to do, to let people know when they're canceling.

ACTING COMMISSIONER GORDON: Curtis, I would make the request that you go directly to the Department yourself. I mean in order to sell insurance in California, you need to be licensed by the Department of Insurance. If these insurance companies are not willing to comply with basic notice requirements to the State, I think the Insurance Commissioner would want to know that. And maybe these companies would have their license pulled, and we would have carriers selling this type of insurance who are willing to comply with these basic notice requirements to make your job possible.

EXECUTIVE OFFICER FOSSUM: We'll take that
direction and do it directly.

ACTING CHAIRPERSON GARLAND: I associate myself with Alan's comments there.

EXECUTIVE OFFICER FOSSUM: Thank you for that suggestion.

ACTING CHAIRPERSON GARLAND: Any other questions or comments on Item 54?

Okay. Thank you to the staff. And I would encourage, Curtis, in the future to keep us in your executive report before me -- you know, at each meeting keep us up to date on where we are in the Action Plan in the process and the progress that you've made.

EXECUTIVE OFFICER FOSSUM: Absolutely. And we'll try and get back to the strategic plan that we were starting earlier in the year and see if we can't get that on track as well.

On Item 55 we have at least a couple of representatives from our major ports here in California. We're very happy to recommend to the Commission that they adopt the resolution acknowledging the major impacts that the ports have provided to the economy of California and to the quality of life, and then particularly recent years their acknowledgement of the need to be good neighbors to their local citizens and deal with air and water quality and other impacts that the trade has on California.
So we have today -- well, we'll be presenting the -- Michelle Andersen I believe is going to be presenting the Item 55. But we also have Jon Ballesteros, who's the Manager of Governmental Affairs from the Port of Oakland; Alex Esparza, who's the legislative advocate on behalf of the Port of Los Angeles and Mayor Villaraigosa.

ACTING COMMISSIONER REYES: Do we have to take action to approve this or --

EXECUTIVE OFFICER FOSSUM: Yes.

ACTING COMMISSIONER REYES: So moved.

(Laughter.)

ACTING CHAIRPERSON GARLAND: Staff presentation.

GRANTED LANDS REPRESENTATIVE ANDERSEN: Again, good morning, members of the Commission. My name is Michelle Anderson. I'm the Granted Lands Representative for the Land Management Division.

Today staff is requesting that the Commission consider the adoption of three resolutions acknowledging the 100th anniversary of statutory trust grants of State sovereign lands resulting in the development of the Port of Los Angeles, the Port of Long Beach, and the Port of Oakland and their contributions to the economic vitality of the State and the nation.

In 1911, during the Progressive Era of the early 20th Century, the State's sovereign tide and submerged
lands were legislatively granted in trust to the cities of Long Beach, Los Angeles, and Oakland for the development of commercial ports. Through adoptions of city charters, portions of these sovereign lands are located within the ports of Long Beach, Los Angeles, and Oakland and are managed by their respective board of harbor commissioners for the benefit of all the people of California.

Today, the ports of Long Beach and Los Angeles are among the top ten in the nation by dollar value of imports and exports, while the Port of Oakland cargo volume makes it the fifth busiest container port in the nation.

According to the California Marine Affairs and Navigation Conference, economic activity that depends on California ports created approximately 1.1 million jobs in California, contributed more than 40 billion to the gross state product, and had an impact of -- or excuse me -- it had an impact on annual personal income of $432 billion.

Nationwide, more than two million jobs are linked to California public ports, with California generating over 40 percent of the federal harbor maintenance tax to the United States.

In addition, international trade is a major force in California's economy, currently accounting for nearly 25 percent.
The Port of Long Beach and the Port of Los Angeles and Oakland are also ranked as some of the world's largest trade gateways.

On an environmental level these ports have made significant progress in the stewardship of their Public Trust grants as evidenced through their clean air, clean water, and habitat restoration programs.

These ports are significant Public Trust assets and are vital components of the national, state, and local economies. Therefore, staff recommends the adoption of these three resolutions as set forth in Item 55 acknowledging the 100th anniversary of statutory trust grants to the cities of Long Beach, Los Angeles, and Oakland, and congratulating the ports of Long Beach, Los Angeles, and Oakland on their contributions to the economic vitality of the region, state and nation, and their recent, but significant, progress in efforts to lessen port-related impacts on the environment.

Thank you.

ACTING CHAIRPERSON GARLAND: Thank you for your presentation.

Comments from the Commissioners?

Actually, I guess I'll start on this one.

I just thank the staff again for the presentation. And at least from my boss's perspective,
the Lieutenant Governor, we've seen in our first ten months in office, putting out an economic agenda and blueprint for the State, how important the ports are on so many levels, many of which discussed here this morning. And at least from our perspective, we want to congratulate the ports and happy to support this motion for these 100th anniversary acknowledgments.

ACTING COMMISSIONER REYES: I'll echo those comments.

ACTING COMMISSIONER GORDON: I'll associate with the comments also.

ACTING CHAIRPERSON GARLAND: Excellent. We have a motion to start with from Pedro. Do we have a second?

ACTING COMMISSIONER GORDON: Second.

ACTING CHAIRPERSON GARLAND: Motion and a second. Do we have any public comments? In this case, we'll start with Alex Esparza. Alex, thank you for sitting through the meeting to get to this point.

MR. ESPARZA: Thank you --

ACTING CHAIRPERSON GARLAND: And he was awake the entire time. I just want to point that out.

MR. ESPARZA: Thank you, Mr. Chair and members.

Alex Esparza on behalf of Los Angeles Mayor Villaraigosa
and the Port of Los Angeles, here in support of Item 55.

I would like to share a few statistics that staff talked about just to kind of go over and demonstrate how the Port has grown and flourished. We're one of the nation's busiest seaports, which occupies 7,500 acres of land and 43 miles of waterfront. Together with the Port of Long Beach, we have more than 43 percent of the nation's container commerce.

In addition to container cargo, the Port of Los Angeles also handles close to one million cruise passengers, half a million autos, and one-third of California's oil in 2010.

The Port of Los Angeles continues to be the State's largest economic asset, contributing more than $52 billion in state and local tax revenues. The Port also does really well as far as providing jobs for the state of California providing over 1.1 million jobs throughout California's -- related to California's international trade and adding over 58.7 billion in value as far as economic trade value to California's economy.

Much of the success that we've experienced is in large part due to the partnership that the Port and the State Lands Commission has had over the last 100 years. Throughout the years, there's been some serious issues
that have been tackled, and always there's been a sound resolution to a lot of those issues.

Moving forward, we want to continue to build upon the partnership and addressing the challenges that may arise over the next 100 years.

With that said, congratulations on this significant milestone.

Thank you.

EXECUTIVE OFFICER FOSSUM: Let me present this to you at this time. Get back for signatures.

MR. ESPARZA: Yes, I appreciate it.

ACTING CHAIRPERSON GARLAND: And our next speaker is -- thank you, Alex. Our next speaker is Jon Ballesteros from the Port of Oakland.

Thank you for being here.

MR. BALLESTEROS: Good morning, commissioners. Thank you. My name is Jon Ballesteros and I am part of the Governmental Affairs Team with the Port of Oakland. And on behalf of our Board of Port of Commissioners and our Executive Director, Omar Benjamin, I am here today to thank you for your partnership. It is through our work together that we are able to really serve that vital role of being the gateway for products in and out of California and in and out of the United States.

When you look at imports, the products that come
through the Port of Oakland touch every state in the union. When you look at exports, it's through our work together with the staff at the Commission and with the commissioners that we are able to serve that vital role of expanding exports. If it's a product that's -- a manufacturing product in southern California or agricultural products produced in the Central Valley or wine and high tech products made here in northern California, it's through our work that those products are able to get to their customers throughout the world. And we are able to generate and support those jobs that those exports create.

So with that, we look forward to continuing our good work with you and continuing our partnership to really produce those jobs for our citizens here in California and throughout the world -- or country.

ACTING CHAIRPERSON GARLAND: Thank you, Jon.
All right. Formalities out of the way.
We've got a motion and a second.
Those in favor say aye?
(Ayes.)
ACTING CHAIRPERSON GARLAND: All opposed?
The motion carries.
Mr. Fossum.
EXECUTIVE OFFICER FOSSUM: Yes.
ACTING CHAIRPERSON GARLAND: What is the next order of business?

EXECUTIVE OFFICER FOSSUM: The next is the closed session.

ACTING CHAIRPERSON GARLAND: Your microphone.

EXECUTIVE OFFICER FOSSUM: That completes our open session for today's agenda. And we should be going into closed session at this time.

ACTING CHAIRPERSON GARLAND: Very good.

Are there any members of the public that wish to address the Commission during the public comment period?

No.

All right. Then we'll now adjourn and go to closed session.

(Thereupon the meeting recessed into closed session at 11:42 a.m.)

(Thereupon the meeting reconvened in open session at 12:05 p.m.)

ACTING CHAIRPERSON GARLAND: Meeting adjourned.

(Thereupon the California State Lands Commission meeting adjourned at 12:05 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 2nd day of November, 2011.

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