MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

HOLIDAY INN CAPITOL PLAZA
CALIFORNIA ROOM
300 J STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, DECEMBER 5, 2012
1:04 P.M.

JAMES F. PETERS, CSR, RPR
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APPEARANCES

COMMISSION MEMBERS

Mr. John Chiang, State Controller, Chairperson, represented by Mr. Alan Gordon

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

Ms. Ana J. Matosantos, Director of Finance, represented by Ms. Jennifer Rockwell

STAFF

Mr. Curtis Fossum, Executive Officer
Ms. Jennifer Lucchesi, Chief Counsel
Mr. Mike Bell, Land Management Division
Mr. Brian Bugsch, Chief, Land Management Division
Mr. Don Hermanson, Chief, Marine Facilities Division
Ms. Beverly Terry, Public Land Management Specialist

ATTORNEY GENERAL

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Ms. Shawn Cartwright
Ms. Donna Chambers, Humboldt County
Mr. Ted Hannig, Pete's Harbor
Mr. James Lee
Ms. Alison Madden, Peter's Harbor residents
Mr. Bob Marston
APPEARANCES CONTINUED

ALSO PRESENT

Mr. Joseph Rosjas
Mr. Dave Shelton
Ms. Leslie Webster
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PROCEEDINGS

ACTING CHAIRPERSON GORDON: Good morning, everybody. Take a seat, please. I'll call this meeting of the State Lands Commission of California to order.

All the representatives of the Commission are present. I'm Alan Gordon, sitting in for State Controller John Chiang. To my right is Chris Garland, sitting in for the Lieutenant Governor Gavin Newsom. And to my left, Jennifer Rockwell, representing the Director of Finance.

For the benefit of those in the audience, the State Lands Commission manages State property interests in over 5 million acres of land, including mineral interests. Specifically, the Commission has jurisdiction in filled and unfilled tide and submerged lands, navigable waterways, and State school lands.

The Commission also has responsibility for the prevention of oil spills at marine oil terminals and offshore oil platforms and for prevention of the introduction of marine invasive species into California's marine waters.

Today, we will hear requests and presentations concerning the leasing, management, and regulation of these public sovereign and school land property interests and the activities occurring or proposed thereon.

First item of business will be the adoption of
the minutes from the Commission's special November 19th 2012 meeting. May I have a motion to approve the minutes

   ACTING COMMISSIONER ROCKWELL: So moved.

   CHIEF COUNSEL LUCCHESI: Excuse me, Commissioners.

   ACTING CHAIRPERSON GORDON: Ah, we have another of those.

   CHIEF COUNSEL LUCCHESI: I was just going to remind you. Pursuant to the Government Code, because both Constitutional officers are represented by alternates, only one of you may vote.

   ACTING COMMISSIONER GARLAND: Second.

   ACTING CHAIRPERSON GORDON: All those in favor?

   (Ayes.)

   ACTING CHAIRPERSON GORDON: The motion has passed.

   Next order of business is the Executive Officer's report. Mr. Fossum here for his last public duty as the Executive Officer of the State Lands Commission. I see lots of staff people here to happily -- I mean to --

   (Laughter.)

   ACTING CHAIRPERSON GORDON: -- say goodbye to Curtis. And, Mr. Fossum, your Executive Officer's report, please.

   EXECUTIVE OFFICER FOSSUM: Thank you, Mr. Chair.
Good afternoon, Commissioners and a special welcome to the Department of Finance's General Counsel, Jennifer Rockwell, representing Finance today.

First off, I'm very pleased to announce that I've recently been notified by the California Maritime Leadership Symposium Organizing Committee that they've selected the Commission to receive their 2013 Honoree of Merit Award. The symposium takes place in February of each year in Sacramento. This coming February 20th and 21st will be their 13th annual symposium.

The organization consists of a broad based coalition of maritime, industry, and associations, including the California Association of Port Authorities, California Marine Affairs and Navigation Conference, California Marine Intermodal Transportation System and Advisory Council, the California Maritime Academy, Harbor Association of Industry and Commerce, and the L.A. and Long Beach Propeller Club. It also includes representatives of California's numerous ports and maritime industrial companies.

This symposium has been the premier event focused on briefing Sacramento policy makers on key issues relating to the maritime transportation system and its importance to the State and national economies. It's the only comprehensive forum for port executives,
commissioners, and other stakeholders across the State to address the growing challenges facing California's maritime trade system.

This last year, both Lieutenant Governor Newsom and State Controller Chiang addressed the symposium on important issues facing the State.

I'd like to read an excerpt from the letter informing us of this honor.

"The Symposium Committee has chosen to present the California State Lands Commission with this award in recognition of the dedication, commitment, and lasting contribution to the marine transportation system throughout the California State Lands Commission's 75 year history.

"The Commission has provided leadership within State government to achieve a strong set of standards for oil spill and invasive species prevention proving to be an ally in protecting and preserving California's waterways.

"Among the organization's greatest achievements, for which the Commission is being recognized, is the collaborative spirit that has been generated among regulatory agencies, private industry, and local communities around marine
safety and environmental stewardship issues. The
Commission has accomplished a great deal, and
this award adds testimony to those
accomplishments."

The award will be presented to the Commission in
the Capitol on February 20th.

I believe that the Commission and staff are, in
fact, poised in 2013 to take new initiatives and find new
opportunities to make even greater strides in assisting
California's ports and other waterfront jurisdiction in
enhancing the State's economic growth while protecting
California's wonderful quality of life.

We're working with the California Association of
Port Authorities to further develop ideas to implement
these goals.

Since the 75th anniversary of the Commission was
mentioned, I would like to remind everyone that this
coming June we will be celebrating the Commission's 75
years of dedication to protecting California's Public
Trust resources, all while generating $10 billion in
revenue to the general fund. And that's $25 billion, if
you're using 2012 dollars. So get your party hats ready.

I'm also pleased to report that your staff has
made some significant progress towards to developing GIS
information that will help streamline staff operations and
provide important information to other agencies and the public about State land holdings. You'll be getting a short presentation and informational demonstration later in this agenda.

The next staff meeting -- excuse me. At the next Commission meeting, the staff will be bringing a report to you on progress of our renewable energy efforts working together with other State and federal agencies.

As 2012 draws to the end, the Commission staff is also seeing some substantial changes. First and foremost, I'm especially pleased to report that the Commission at its November meeting appointed current Chief Counsel, Jennifer Lucchesi, as the new Executive Officer effective December 8th of this year.

Jennifer joined the Commission staff over 13 years ago, and within weeks I had a hunch that some day she'd be in charge.

(Laughter.)

EXECUTIVE OFFICER FOSSUM: She's a remarkable individual with an incredibly sharp mind, deep dedication to principles, political savvy, and what seems like unlimited energy. I've been fortunate to have her advice and hard work keep me from stumbling on many occasions.

She has, and I'm certain will continue to serve the Commission and the people of California with
distinction.

In addition to the vacancy for the Chief Counsel, bulletins announcing openings for the positions of Chief and Assistant Chief of the Marine Facilities Division are circulating. Don Hermanson, who came out of retirement last year to take over the Marine Facilities Division, has done an outstanding job during this last year in keeping the program moving forward.

The Marine Facilities continues to lead the world in oil spill prevention at marine oil terminals and seeking practical solutions to preventing infestation of California's marine waters from invasive species. And although Don has retired once before, we're not going into a formal thing, I would like to acknowledge him and ask him to stand.

(Applause.)

EXECUTIVE OFFICER FOSSUM: Before I end my report, I would also like to acknowledge several other members of the staff. Specifically, let me introduce to you the only 2 remaining Commission staff who've outlasted me in years working for the Commission. And I'll ask these people to come forward when I call their name.

John Lam. John joined the Commission in 1976 and is the most knowledgeable member of the staff on what the Commission owns, what the Commission and its predecessor
agencies have done since 1850, and where to find those records.

He was also instrumental in helping develop the GIS information you'll be presented with later.

John is the first place to go when you want information about State Lands. And I understand that even he may be talking to Caltrans next year -- or CalPERS, not CalTrans.

(Laughter.)

EXECUTIVE OFFICER FOSSUM: CalPERS. And I'm not going to say what I did at the last meeting.

(Laughter.)

EXECUTIVE OFFICER FOSSUM: The next longest serving staffer is Jeanne Gunther. Jeanne arrived before me, several months -- several months before me in 1977. Jean is our graphic artist, and I mean artist. She is, in many ways, the unseen person giving the Commission a face. Everyone has seen her work from brochures, posters, presentations, and numerous other pictures worth thousands of words. She has and will continue to be someone who will leave a legacy of accomplishments when she finally decides to collect from PERS.

As far as I'm aware, there are only 3 other staff remembers that can claim that they have worked at the Commission since the 1970s. Remember when Jerry Brown was
Governor?

(Laughter.)

EXECUTIVE OFFICER FOSSUM: Dave Brown - not related - the Chief of the Administrative Service Division, came to us from the Highway Patrol in 1979. In many ways, he's the wizard behind the curtain in our office.

And Lori Pett, she also joined the Commission in 1979 and has been responsible for ensuring that the Commission's actions are properly documented and put into the Commission's database.

Last, but not least, Jim Frey. And more will be said about him in a few minutes. Jim has been with the Commission for 34 years. And he along with the others I have mentioned are the individuals that I go to, and in fact all the staff goes to, with questions. They represent the best of the best by their dedication, hard work, and conscientious desire to serve the Commission, the Commission staff and the public.

And I know I've said this before, but the Commission staff is the best, bar none. And I would like, at this point, for us to give a round of applause to these people.

(Applause.)

(Standing applause.)
EXECUTIVE OFFICER FOSSUM: And Jim, if you could stay up here.

The State Lands Commission Division Chiefs put in many uncompensated hours making sure that the operations of the Commission are constantly improving and running smoothly. Their integrity has truly inspired me. And, you know, I can't stop without saying that that's what's allowed me to be able to survive these last 2 years is having such a wonderful senior staff and the people working for them.

And lastly, Kim, I want to Thank you. Kim, you are you here?

(Laughter.)

EXECUTIVE OFFICER FOSSUM: And you can tell by the way I react here. I would not have been able to function without you telling me where to go and what to do.

(Laughter.)

EXECUTIVE OFFICER FOSSUM: Kim has run the Executive Officer for both Paul Thayer and me for the last 13 years, and I couldn't have functioned without her.

Thank you very much, Kimberly.

(Applause.)

EXECUTIVE OFFICER FOSSUM: And, at this time, I believe, Mr. Frey, we have something for you. This is a
resolution from the State Lands Commission, and I will
read it to you, Jim.

"Whereas, James Frey for over 34 years has
dedicated his career to public service; and,
"Whereas, Jim earned a Bachelor's of Arts in
Philosophy from Saint Patrick's College, a Master
in Social Work from California State University,
Sacramento, and a Juris Doctorate from the
McGeorge School of Law; and,
"Whereas, Jim began his career at the State
Lands Commission as a graduate student assistant
with the Legal Division in 1978; and,
"Whereas, Jim continued to provide expert
legal advice to the Commission and its staff as a
staff counsel beginning in '82, and Senior Staff
Counsel in 1998; and,
"Whereas, Jim has been instrumental in
providing legal advice to the Commission and
staff on innumerable projects and issues
involving sovereign and school land management,
water boundaries, federal legislative
jurisdiction..." - and I have to interpose here.
He is the expert, I believe, in California if not
the United States on these issues - "...and oil
and gas and mineral leasing and contracts. Jim
has assisted the Commission and led its staff
through some of the biggest challenges involving
natural resource and public policy issues facing
the State, including the protection and
enhancement of public access rights to and along
Lake Tahoe, oil and gas, geothermal, and other
hard mineral resource production, negotiating
title settlements and boundary line agreements
throughout the State to facilitate water
development; and,

"Whereas, Jim's accomplishments include the
completion of numerous title settlements and
boundary line agreements throughout California,
including Eureka, Napa, Marin and Sonoma Counties
and the Colorado River; successfully negotiating
the renewal of 2 PG&E master leases, each of
which contained dozens of leases helping to clean
up the Delta, including the San Joaquin,
Sacramento and American Rivers through his
elegant, stern, and resolution-oriented
negotiation style in lease compliance and
trespass actions, and providing legal assistance
to facilitate the restoration of the Salt River;"
- also which you'll be hearing about later today.

"Whereas, Jim is widely recognized and sought
out as an expert in federal legislative
jurisdiction throughout the United States and
highly respected by all those who have had the
honor of working with him; and,

"Whereas, Jim, over the years, became an
irreplaceable source of knowledge for the State
on legal and procedural principles from the
fundamental to the obscure and arcane; and,

"Whereas, Jim is the consummate gentleman,
heavily relied on and genuinely liked by all
Commission staff, and is routinely referred to as
"Money" or the "Go-to Guy" by staff, when it
comes to the Commission's leasing and land
management activities; and,

"Whereas, we wish Jim's retirement to be
filled with hiking along the coast and mountains
of California, researching his family's
genealogy, spending time with his wife Pat and
donating his time to helping others; and,

"Whereas, the State Lands Commission and
Commission staff will miss Jim's dedication,
sound judgment, and integrity and service to the
State Lands Commission and people of California.

"Now, therefore, be it resolved by the
California State Lands Commission that James Frey
be commended for his distinguished record of professional service to the State of California, and for the legacy of accomplishments during his 34 years serving the California State Lands Commission. We extend best wishes for a rewarding and gratifying retirement. And the Commission wishes Jim, Pat and their children Matthew and Megan the very best in the years to come."

Thank you, Jim.

(Applause.)

CHIEF COUNSEL LUCCHESI: Now, we couldn't let Curtis go before giving his resolution reading that out loud. And I have to say that, Curtis, having 35 years of the Commission, we had to go back and tap into the brains of many people to put this together, which I think is actually a work of art.

So let me begin, Curtis.

"Whereas, Curtis Fossum from 1970 to 1971 served his country in the United States Army as a military police officer; and,

"Whereas, Curtis began his career at the California State Lands Commission as a graduate student assistant in the Legal Division in 1977, after starting out as a seasonal clerk with the
Department of Education a month before; and,

"Whereas, Curtis has provided expert legal advice to the Commission and its staff as staff counsel beginning in 1978, senior staff counsel in 1984, and in September 2006 as Assistant Chief Counsel; and,

"Whereas, Curtis in September of 2008 became the Chief Counsel for the Commission, where he was instrumental in providing legal advice to the Commission and staff on numerous projects and issues involving offshore oil and gas resource development, land and resource management, coastal water boundaries, public access to California's waterways, development within ports and waterfront communities and wetlands protection and restoration, as well as cleaning up his predecessor's office.

(Laughter.)

CHIEF COUNSEL LUCCHESI: "And, whereas,

Curtis gave no end of grief to every attorney in the Attorney General's Land Law Section through his insightful questioning and probing of their opinions and advice; and,

"Whereas, Curtis in October 2010, after cutting off his ponytail..." --
(Laughter.)

CHIEF COUNSEL LUCCHESI: -- "...was appointed as the California State Lands Commission's Executive Officer, and for the past 2 years has assisted the Commission and led its staff through some of the biggest challenges involving land and resource management, and oil spill and marine invasive species prevention facing the State, including preparing the State for climate change and sea level rise, facilitating alternative energy projects, protecting the State's maritime activities, facilitating the reuse and redevelopment of former military bases within the San Francisco Bay Area, and protecting our coastline from new offshore oil leasing; and,

"Whereas, Curtis's accomplishments include assisting the major ports in California and their redevelopment endeavors, successfully leading staff and the Commission through 3 audits over the past 2 years, protecting the public's access rights to the State's waterways, including and especially at Lake Tahoe, facilitating the enactment of the Commission's Trespass Bill and Fair Rent for Recreational Piers Bill, and the acquisition of an encyclopedic knowledge of the
Commission's most obscure land title records;
and,

"Whereas, Curtis has dedicated his entire
career to the principles underlying the Public
Trust Doctrine and through hard work,
determination, and pure stubbornness has
contributed to the successful preservation and
restoration of almost every major wetland in the
State, including Bolsa Chica, Batiquitos Lagoon,
and the Western Salt Ponds in the San Diego
National Refuge; and fought at every opportunity
for public access to California's unmatched coast
and inland lakes and waterways; and,

"Whereas, Curtis, an expert in California
history and the Public Trust Doctrine, almost
never conducted a meeting without going to the
white board mentioning Statehood, referring to
court cases dating back to the 1850s, dusty and
academic perhaps, but providing the legal
precedent which defines the Public Trust
Doctrine, and which guides the Commission and
never ended a meeting without one or more tired
puns."

I think you all have witnessed that.

(Laughter.)
CHIEF COUNSEL LUCCHESI: "Whereas, Curtis has been affectionately known by the staff as the Public Trust Gnome, as a result of his dedication to preserving and protecting the rights of the public and California's heritage;

"Whereas, Curtis has shown the utmost respect and appreciation to his staff, created a wonderful work environment where employees were encouraged to express themselves through their work and bolo ties, and often promoted the fun and free parking as a unique perk at the Commission; and,

"Whereas, Curtis is one of the kindest and most unique gentleman anyone could meet with his rapier wit and passion for puns and telling really corny jokes, general with a Swedish or Norwegian them, so that even the most serious person couldn't help cracking a smile; and,

"Whereas, we wish Curtis's retirement to be filled with traveling the world with his wife Susan, riding his 2 horses Reno and Blaze, competing in trivia matches at the local pubs, researching his family's genealogy, working in his garden, and donating his time to his church, the American River Parkway, and his other
favorite charities; and,

"Whereas, the California State Lands Commission and Commission staff will miss Curtis's intelligence, dedication, integrity, personality, and sense of fairness.

"Now, therefore, be it resolved by the California State Lands Commission that Curtis be commended for his distinguished record of professional service to the State of California, and for the legacy of accomplishments he has led and inspired during his 35 years serving the California State Lands Commission. We extend sincere best wishes for a rewarding and gratifying retirement, and the Commission wishes Curtis, Susan, and their sons, Matt and Joe, the very best in the years to come."

Congratulations.

(Appause.)

(Standing applause.)

EXECUTIVE OFFICER FOSSUM: Thank you so much. I do have to make some clarifying statements, I think.

(Laughter.)

ACTING COMMISSIONER ROCKWELL: You're not going to say your puns are good, are you?
EXECUTIVE OFFICER FOSSUM: There are pictures.

While most of those things were clearly true, I have to say that I don't think I ever really cleaned up Jack's office. I think it's still in boxes somewhere in our office, so I can't take credit for that one.

You know, it has been a really rewarding career for me. It's been a great honor for me to serve the Commission and the people of California for these least 35 years. But that honor is really shared equally with the honor of having worked alongside so many talented and dedicated people.

The dedication to serve the public exemplified by the Commissioners, their staff, and the Commission staff is just an experience that it's hard to describe in a short few words. In fact, I've been laying awake in the morning or at night thinking about all the things I wanted to say, and I just -- I can't say them all, but I've written down just a couple, because I knew I would forget them anyway.

It's really been the most rewarding career that anybody could hope for. Right out of law school, coming to the Commission, being able to be a young attorney handling -- involving some really big cases. And Joe was an attorney at the Commission at the same time, went on to
the Attorney General's office. John Briscoe is here today. He's one of the most preeminent experts in Public Trust law in the United States. He was a Deputy Attorney General at the time.

And it's just been an honor to work with so many people. There's so many here today that have kept me afloat over the years. Way too many to call out specifically. But you all know who you are. We've worked well together.

But really no one has helped me more than my beautiful wife Susan. She's put up with me and my attempts at humor for over 39 years, much more than the Commission has. I'd like you to stand up please, Sue.

(Appause.)

EXECUTIVE OFFICER FOSSUM: It's going to be a tougher act to follow. She doesn't go for the puns as much as the staff does.

(Laughter.)

EXECUTIVE OFFICER FOSSUM: As I step away from this role, I am buoyed up -- yes, I said buoyed up --

(Laughter.)

EXECUTIVE OFFICER FOSSUM: -- by the knowledge that the current leadership and staff are as dedicated and capable in carrying on and protecting the public's interest in its Public Trust Lands as any that have gone
before.

I really could -- I could go on for hours, as you know --

(Laughter.)

EXECUTIVE OFFICER FOSSUM: -- but my emotions really won't let me. So just let me say thank you for the opportunity to serve -- the opportunity to serve you all.

Thank you.

(Applause.)

ACTING CHAIRPERSON GORDON: Ms. Lucchesi, we will be looking forward to the obscure legal references. It's going to be big shoes to follow.

(Laughter.)

ACTING CHAIRPERSON GORDON: All right. Next order of business will be the adoption of the consent calendar. Mr. Fossum, can you please identify items that have been removed from consent, please.

EXECUTIVE OFFICER FOSSUM: Yes, Mr. Chair. Items C43, C57, C73, C74, C77, C80, and C81 are removed from the agenda and may be considered at a later time. We also have a request by a member of the public -- or 2 members of the public to discuss Item C22, so we'll move that to the regular agenda.

ACTING CHAIRPERSON GORDON: Okay. Anyone in the audience who wishes to speak on an item still on the
consent calendar?

If not, the remaining group of consent items will be taken up as a group for a single vote. We'll now proceed with the vote.

All those in favor?

Oh, can I have a motion first, please.

ACTING COMMISSIONER GARLAND: So moved.

ACTING COMMISSIONER ROCKWELL: Second.

ACTING CHAIRPERSON GORDON: All those in favor?

(Ayes.)

ACTING CHAIRPERSON GORDON: Motion passes. The consent calendar is unanimously adopted.

Item 83 is an informational report on the Commission's Geographical Information Systems' efforts.

May we have the staff presentation, please.

EXECUTIVE OFFICER FOSSUM: Yes, Mr. Chair. Mike Bell who is a former Senior Boundary Officer with the Commission, he is a retired annuitant, and for the last 6 months or more, he's been working for us to help pull together the GIS system. And he will give you a short presentation on this.

(Thereupon an overhead presentation was Presented as follows.)

MR. BELL: Good afternoon. My name is Mike Bell, and I'm a retired annuitant with the Land Management
Division. As Mr. Fossum just said, prior to my retirement in April of this year, I served the Commission as a Senior Boundary Determination Officer. I'm a land surveyor, and over the past 14 years or so I've pursued formal education as well as practical application of Geographic Information Systems, or GIS.

We have a technical issue to address here for a moment.

(Thereupon the meeting paused to fix technical issues.)

MR. BELL: I'm glad he was there. I couldn't do that.

I've been asked to present an update of GIS at State Lands. And I'll -- I'd like to do that by covering these main topics.

First, quickly, what is GIS and how does it work? Then, past State Lands Commission GIS efforts. Our 2012 GIS efforts from this year, I'll summarize those.

And then possible next steps in GIS.

--o0o--

MR. BELL: What is GIS?

A standard definition of GIS is that it's a system of hardware, software, data, people and methods capable of performing analysis. And the key to GIS's real
power is in that ability to perform analysis. You can ask GIS questions and it will give you answers to very complex questions very quickly.

At State Lands we have GIS software, 2 versions. We have a GIS package capable of a basic analysis, and then we also have a viewer GIS application on a few staff's desks that we're using to explore ways that GIS might be provided to staff. It doesn't have analysis capabilities, but it may be useful.

Hardware. We have computers, scanners, plotters to support the GIS software.

As far as people, we have GIS technical staff like myself who can prepare GIS layers, perform analysis, make maps. We do not, at this time, have a professional level, if you will, GIS specialist that can coordinate and direct an agency enterprise GIS.

As far as methods, we have methods in place for creation of layers and such, but again not methods in place for an enterprise GIS.

And data. The data that we created this year we'll take a look at in a moment. But, you know, I'm only joking halfway when I say that there's 2 kinds of data. There's the data that somebody else creates, and you simply download and pop it into your GIS, and then there's the data that you need to create which is -- which can be,
especially for an agency like GIS -- or State Lands with a lot of paper-based documents that need to be converted into GIS. It can be a resource intensive effort. But data is a very important part of GIS as well.

Now, how GIS works. Basically, GIS works by combining the power of smart tables with smart maps in a layered environment. And smart tables and smart maps, those are my terms. Those aren't technical terms. But as far as smart tables, we recognize spreadsheets, databases as having the ability to store information about features or items - in our case, it's normally parcels of land - and storing information about those parcels, like, in this case, a parcel ID number, a section or tract that it's in, township, range, meridian, county.

And they're smart, because you can ask it a question like show me all the parcels that are in Mendocino County, and it will very quickly give you that information.

Smart maps. GIS employs maps that are not only capable of knowing where features are located on the ground, for example, by latitudes and longitudes, but in essence GIS map -- or GIS mapping knows where these features are going. For example, the line that we see here -- if my mouse is going to work, there you go. In a lot of digital mapping, this line will be represented by
endpoints with latitudes and longitudes, for example, and then the angle points will also be represented by lats and longs. So any digital mapping knows where this line is on the ground, but GIS assigns a beginning and an ending point to that line, and the intervening vertices are listed in order in that GIS. So the GIS knows not only where this line is, but where it's going.

So GIS knows the direction of travel of the line. It knows what's on the left of it and what's on the right of it.

If we have a network of lines in a map representing say street lines, then we can ask the GIS -- I'm at Point a, and I need to get to Point B, analyze this data and tell me the shortest route. And, of course, we recognize that technology as forming the basis for our navigation applications in our vehicles and on our iPhones.

There we go. Parcels are simply -- parcel boundaries are simply lines that connect on themselves. So a GIS knows what's inside the parcel, what's outside, what touches the line, overlaps and so forth. So every layers in a GIS uses this combination of tables and maps that can play off one another to perform queries or answer questions. And each of those layers can be overlaid on one another, if everything is set up properly, to perform
an analysis between them.

Here we see, for example, a road layer that's going to be represented by lines, and above it we see a parcel layer that may be counties. You can ask the GIS very quickly, you know, what portion of our road system is in this county, how many acres of right of way does that consist of, how many acres of pavement and all sorts of questions that make it very valuable for agencies like State Lands and many others.

GIS is a relatively new technology. It was first developed in the 1960s. During that time, of course, computers were large and expensive, so there was not much practical use for GIS. During the eighties and nineties computer power increased, cost dropped, and so we saw GIS being introduced into the commercial market. The early versions were still difficult to use, DOS based and so forth. They weren't Windows based yet. And there were a lot of GIS related issues that needed to be debated and settled like the appropriate use for GIS, data standards, accuracy standards and so forth.

But in the last few years, because of computer power and because of the dramatic increase in published GIS that's available for analysis, and the fact that desktop GIS is available for most computers, GIS has really come of age.
Past State Lands GIS efforts. GIS -- or State Lands -- I'm sorry -- had a GIS dedicated staff of just a couple of staff who pursued an enterprise GIS in the mid-nineties to early 2000s. They did some studies for strategic plans and such and they also generated some prototype GIS layers, a school lands layer, reserved mineral interest layer. There were some layers that were generated for staff use like the ZNE and SD, and also more recently our Environmental Division contracted with an outside consultant to create a point feature surface lease layer that we'll take a look at in a minute.

Staff also conducted a map pilot project, where staff took old historic maps, investigated methods and the realities of scanning those maps, putting them into a searchable database. And also our legal staff investigated issues surrounding certification of those digital copies for legal use.

Early this year and late last year, there was identified an immediate need for accurate State Lands GIS, particularly in the desert regions, where we have most of our school lands.

Military expansion by the U.S. Marines. The Marines asked about data that they could get from us in GIS form. At that same time, Desert Renewable Energy Conservation Plan was going on. State Lands is a part of
that. And then AB 982, the passage of that required also
knowledge of the location of our State lands in the desert
region, school lands in particular.

Staff took a look around to see what GIS data
might be available. I mentioned earlier that there was a
prototype layer of school lands that was prepared several
years ago. We looked at that and found that that would
not really be sufficient for modern needs. And we also
looked at other sources that are published and available.
Most of these are general land ownership layers, but State
lands are represented there.

So we pulled out the layers that we could
identify that showed school lands, and up here on the
screen you'll see an analysis in GIS of what they look
like. We have 4 data sets, each with different
symbolization. We have the shaded gray, which is our
school lands layer, our prototype, and then different
hatching representing the other layers. And as you can
see, there's a wide disparity in opinions as to what the
State owns in the desert. This area is northeast of the
Salton Sea and near the northwest side of Chocolate
Mountains Gunnery Range.

So there was no reliable single GIS data set that
we could use. So staff created that data set. And as I
mentioned earlier, staff has software, hardware, and
people who are able to create data sets. But our trouble, our obstacle for doing too much data -- or GIS work in the recent past has been staffing availability. That was partly alleviated early this year when I retired. And management hired me back as a retired annuitant to focus on GIS.

So with my time available and with some other staff in the agency that were allowed to assist me, we undertook the project. And the way we did that was to convert our paper documents to GIS compatible digital documents. Our Title staff researched status sheets, which are the main index for our school lands. Every time we -- for each school land parcel that we acquired from the federal government a status sheet was prepared. And anything that happened to that particular parcel was logged here on this sheet. Sometimes they're very simple, sometimes more complicated.

On this particular parcel, we see that part of our school land was patented out. In those cases, the Title Unit would provide supporting documentation, in this case the patent, so that Boundary would have the information it needed to create the parcel in GIS. These paper documents were scanned by the Title Unit and given to Boundary and Boundary used those. And they're now in a repository that the GIS can find them to show them to
staff on demand.

And this process added an additional benefit in that it provided a digital back-up to these paper documents.

So this is how the school lands layer that we completed this year looks in GIS. You'll see on the left-hand side of the screen is a table of contents showing the layers that are in this GIS. The top layer is our school lands shown in red. And I've also shown here a boundary of the CDCA. The CDCA boundary that serves as the AB 982 boundary as well, and then a county layer and a base map for perspective. On the right-hand side, we see a portion of the table for the new school lands layer.

Now, I mentioned that the power of GIS is not in just displaying information, but in answering questions. And there's 2 ways you can ask a question that we'll take a look at very quickly, because it doesn't take long to ask these questions. You can ask the map basically or you can ask the tables.

In this case, I wanted to know what school lands were located within the CDCA boundary. So I click on a button and this pop-up box appears showing me information that I can choose from to ask that question. And just less than a minute or so, I ask the question and the GIS returns the school lands that are located within that
boundary. There's 800 and some or so. It highlights those on the map and also highlights them in the table.

Now, we can export these parcels from the map to make a new map or an exhibit for staff. We can export the highlighted records from the table for a separate spreadsheet to provide the staff. We can do a number of things with this data.

The second way we can query the data is using the table. And I assumed a situation in this case where someone calls State Lands staff and says it may be another agency staff person or a business or a private individual, and they're interested in some land that they -- that is northeast of Barstow. And the local assessor's office indicates that it is owned by State Lands and they have a description. It's Township 31 -- I'm sorry, Section 31, Township 10 north, Range 1 East. And so they ask if we own that.

Again, we can pull down a simple dialogue box and it presents selections that we select from to ask that question. Immediately, the GIS finds 2 parcels that meet that criteria, highlights them in the table. It also highlights them on the map, but we can't see it at this scale. But we can click on another button and tell the GIS to zoom down to those 2 parcels.

And here they are with imagery in the background
to provide some perspective. We have 2 parcels on the either side of the highway, here and here. If we want to see the information in the table just pertains to those 2 parcels, we can simply click on them with our mouse and that's specific information pops up. And it's difficult to see here, but we have a parcel ID, the section, township, and range information to confirm we have the right parcels that the caller was asking about. We have a 97 acre parcel on the left and a 16.6 acre parcel on the right.

And, you know, that's all well and good that we've gotten this information quickly, but we typically want to share this information with other staff or management or the caller. And again, with a couple of clicks with our mouse, we can export this map onto an exhibit in PDF form or JPEG and send it to those folks.

Now, in addition to creating this GIS layer, staff converted this layer to a Google Earth compatible layer that will provide additional information. So if we open up Google Earth, cross our fingers, we see that I have that layer in the Google Earth mapping environment. We can expand that and we see each of our individual parcels represented here.

I'm going to type in the search box the -- one of the parcels that the caller asked about. It's highlighted
here. We double click. Google Earth zooms to our parcel, and we can see that the same information from our table that we saw in GIS is represented here. And here we have the westerly parcel again, which is 97 acres, easterly parcel, 16.6 acres. So this is very helpful for staff in identifying parcels and getting additional information.

If, as in this case, the parcels are located near a road, you can use the street view in Google Earth to zoom down and take a look at the parcel.

In this case, the westerly parcel we see some transmission lines. We want to take a look at that to see if they're in our -- on our parcel. The east side we don't see much, but we get a lot of information just from this capability. That's all based on GIS once you get that layer created.

Now, also -- and as a matter of fact, let's zoom down here and take a look, we see that indeed there is a tower line going across our westerly parcel. You can barely see the towers here. Another tower there. As a matter of fact, there's 2 sets of towers. If we zoom out a little bit, those towers do not cross the easterly parcel. So we've acquired a lot of information.

Now, I mentioned earlier that our environmental staff contracted with an outside consultant to create a point lease layer. We see 2 points from that layer. If
we click on them, we see information about these leases. It's an electrical transmission line. A lot of good information there. And we can click the link that will take us to the calendar item, which is located on our website. Anything that's located at a web address can be linked to this Google Earth program.

And we also see another point. We click on it, and we find it's a -- it looks like a fiber optics lease. And there is the calendar item for that.

And, of course, whatever information that you have that you want staff to see, you can put it in a place where the GIS can find it and you can view that information. So very powerful technology.

Now, in addition to the GIS layer that we created, and in addition to presenting that to staff in GIS that has analysis capability, like this program and Google Earth, we have provided a few staff with prototype viewers. These are free GIS software viewers. They don't have a lot of capability for analysis, but they can show you a lot of information. And the idea was to customize these viewers for staff's needs, so that GIS can be put in the hands of our staff as tools to help them do their job.

This is the Title staff custom interface that lists layers on the left that Title staff need for their work. We have one for School Land staff that is also used
or can be used by Environmental staff that work with our School Lands staff on the DRECP and AB 982 projects. And so GIS information relative to those projects is in this map for their use.

So a summary of our work this year. In June, we finished the desert region portion of our school lands layer, because that was needed immediately for the DRECP and AB 982 projects and the Marine Corps.

Just last week we finished the statewide school lands layer. We've deployed GIS to management and staff using not only our standard GIS software but also Google Earth and our explorer. And we've also distributed our school lands information. You see a listing of recipients. And if you take a look at the top of the left column, you'll see that just yesterday we placed this information on the State Lands home page.

So anyone can go to the information tab, and you'll find a GIS subfolder, click on that folder, and there's a copy of the GIS version of the school lands layer statewide. There's also a copy of the Google Earth layer. Those are both zipped files. You download them to your computer, unzip them, and you can use those layers on your machine.

At the bottom right, you'll see applied -- that we've applied for registration on Cal-Atlas. Cal-Atlas is
statewide clearing house for GIS data, where many folks know they can acquire data for their use. And we've registered to place our data on Cal-Atlas.

Possible next steps. There are a lot of other layers that we could create with staff and the equipment and the software we have now to increase our ability to work efficiently and to provide others with data that they could use.

This is a listing. You know, it's a management decision as to what layers should be created first. And then also, there is a question of enterprise GIS development that I believe we need to address.

Just in closing quickly, I'd like to say that, you know, many folks at State Lands contributed to this project. And I mentioned throughout the presentation Title staff and Boundary staff. And I'd like to recognize from our Title Unit John Lam who we've seen already, Leslie Danley and Shawn Nelson for their work on this project, and from the Boundary Unit Jim Koepke and Matt Fossum. And all these folks worked very hard. They worked together and they did a fantastic job.

There were also contributions from our ISS staff, Environmental staff, and Legal staff on the project. And, of course, none of these staff members could have contributed their time and talents without the support of
their supervisors and managers.

And our accomplishments of this year truly are then the result of cross-divisional cooperation, which only happens in GIS or anything else with the active support and direction of the Executive Officer.

I would like to thank Mr. Fossum, who for now at least is our Executive Officer, for his leadership and his confidence in staff's ability to complete this project.

Thank you.

EXECUTIVE OFFICER FOSSUM: Thank you very much, Mike. But let me say that a lot of the impetus from this came from the people in front of us today. The Commissioners are very interested in this program. And although the staff has been working on this basically for decades, Mike's expertise that he brought to this project and the detail.

One of the things he didn't show you on here was the difference in the old databases and the new one. And because of the precision and the Google Earth base map, people really can go and see precisely whether that tower is on our property or on not. It's incredible the amount of detail that this information now provides.

And I think it's important that Mike has pointed out that we've distributed this layer, specifically to a number of State and federal agencies, as well as
corporations that are doing business in California, and engineering firms, and that it is on our website right now.

And I don't know if any of you with your Apples in front of you are looking at it, but you certainly can. And it was exciting for me to see it for the first time on our website yesterday. So I think it's a great accomplishment, but having the support of the Commission behind it has certainly meant a lot. And we do hope to improve it a lot.

There's a lot of agencies out there putting all kinds of information into layers. The precision that we have in this particular layer we think is fantastic, but there's more to be done as Mike said. So thank you very much, Mike, for your efforts and we'll continue to try and improve that as time goes by.

ACTING CHAIRPERSON GORDON: Any public comments on Item number 83, GIS?

All right. Move on to Item number 84. This item is to consider approval of and request to submit proposed marine oil terminal engineering and maintenance standards revisions. Easy to say.

May we have the staff presentation, please.

(Thereupon an overhead presentation was Presented as follows.)
MARINE FACILITIES DIVISION CHIEF HERMANSON: Good afternoon, Mr. Chair, Commissioners. I'm Don Hermanson, the Chief of the Marine Facilities Division. I have a short -- or a brief foundational statement to hopefully help you in forming your decision making today.

The item now before you is the second revision of the Marine Oil Terminal Engineering and Maintenance Standard, or MOTEMS. MOTEMS is designed to ensure that California's marine oil terminals are fit for purpose. You may know that most of the State's terminals were designed and built when oil tankers calling at these terminals were much smaller and the seismic standards were less stringent.

Revision 2 represents Commission staff's desire to modify MOTEMS based on input from the regulated community, involved engineering firms, and staff experience with MOTEMS work over the past 4 years.

The proposed modification includes revision of tables within MOTEMS, updated references, clarified language, and additional sections to improve guidance to marine oil terminal operators and their engineers.

This revision complies with the Administrative Procedures Act for rule-making. It was noticed to the public and was subjected to 2 public comment periods, the second of which closed on November 20th of this year.
Commission staff received a total of 301 comments regarding this revision, 284 during the first 45-day comment period, and then 17 during the second 15-day comment period, most of which were repetitive of the initial 284 comments.

All of these comments were responded to either in the Final Statement of Reasons or by modifying the expressed terms, the text of the regulations, if you will, contained within this revision.

Adoption of this agenda item allows the Commission to then file this revision with the Building Standards Commission, a necessary step as MOTEMS is a building code and cannot be altered at the sole discretion of the State Lands Commission.

Staff recommend that you adopt this agenda item today.

Thank you.

ACTING CHAIRPERSON GORDON: Comments from the Commissioners?

No.

Any public comments on this item?

May I have a motion?

ACTING COMMISSIONER ROCKWELL: So moved.

ACTING COMMISSIONER GARLAND: Second.

ACTING CHAIRPERSON GORDON: All those in favor?
(Ayes.)

ACTING CHAIRPERSON GORDON: So adopted, and the motion is passed.

Item number 85 is to consider leasing practices in and adjacent to the Colorado River located within the Rio Buena Vista community.

Staff presentation, Mr. Bugsch, please.

LAND MANAGEMENT DIVISION CHIEF BUGSCH: Good afternoon, Commissioners.

(Thereupon an overhead presentation was Presented as follows.)

LAND MANAGEMENT DIVISION CHIEF BUGSCH: My name is Brian Bugsch, and I'm the Chief of the Land Management Division. Today, I'll be presenting Calendar Item 85 regarding leasing practices at the Rio Buena Vista community on the Colorado River in Needles, California.

Next slide, please.

In 1991, the Commission and the Kahala Needles Partners entered into a boundary line agreement known as AD 134. AD 134 confirmed the State's fee ownership of the sovereign lands within the Colorado River and granted an approximately 10-foot wide public access easement to the State of California acting through the Commission on and along the top of the bank of the Colorado River at the Rio Buena Vista community.
The U.S. Bureau of Reclamation initially placed riprap in the Colorado River adjacent to the RBV community. In an April 2002 letter, the Bureau stated that their future ability to apply additional riprap to the river bank line at this location was compromised due to the development of the upland residences, and that the reclamation would not be placing additional riprap.

They also said in this letter that the upland homeowners would be responsible for maintaining the protection of the bank line in the future, subject to the approval and permitting of the riprap or bank construction work by the U.S. Army Corps of Engineers.

Recently, staff has been made aware of a number of unauthorized improvements placed on the State's property as well as within the public access easement at the Rio Buena Vista community. These unauthorized improvements include, but are not limited to: Bank protection, landscaping, fire pits, fences, and stairs.

In January 2012, the staff sent letters to the homeowners association there, and the upland property owners adjacent to the State's property. These letters identified the location of the boundary line, the Commission's jurisdiction, and the requirements to obtain a lease from the Commission for any new or existing facilities waterward of the boundary line.
So we basically informed them. And since that time, staff has received applications for leases from approximately half of the 37 upland riverfront lot owners. These applications include requests for leases for the construction of new boat docks, an existing boat dock, riprap, stairs, and many other improvements and facilities.

Staff has brought to the Commission 4 applications, 2 for boat docks, one existing boat dock, and one proposed boat dock, and then 2 for the riprap bank line and some appurtenant structures.

The Commission approved staff to enter into all 4 leases, but at this time none of the leases have been executed.

Since our initial contact in January, staff has received numerous phone calls and written correspondence from the upland owners, HOA representatives, and other interested parties expressing concerns about the proposed boat docks, the impacts these boat docks would have on the beach areas, and access to the beaches, and other activities within and along the river.

At the August 14th meeting, as you may recall, the Commission directed staff to suspend leasing for boat docks in the Rio Buena Vista community while staff conducted an investigation and reported back to the
Commission on the Public Trust needs in the area.

Staff has conducted that investigation, and the calendar item before you, as well as this presentation, serve as our report back to you.

On October 11th, staff conducted a site visit and met on site for several hours with members of the Rio Buena Vista community, as well as staff from the Bureau of Reclamation and the Army Corps. Later that evening, staff hosted a public meeting in nearby Laughlin, Nevada to discuss the current conditions at the Rio Buena Vista community.

At that meeting, more than 50 people attended - I think it was probably closer to 100 - and provided comments.

Areas of concern raised at the public meeting included the homeowners association as a master lessee, public access, unauthorized improvements and boat docks. So I'll cover those topics now and report back to you.

The HOA as a master lessee. Staff had discussions with the RBV residents and the HOA on the necessity for a lease from the Commission. And there were initial discussions early on about the possibility of the HOA coming under lease for the entire riprap bankline. And then in that case, the HOA would then act in the capacity of a master lessee and also manage the public
access easement.

Great idea. Maybe not so great in reality, it turns out. At the public meeting, there were numerous comments opposing the HOA as a possible master lessee. There was unanimity among the riverfront owners who commented that they would prefer to be a direct lessee of the State. No one spoke in support of the HOA as a master lessee.

Public access. At the public meeting and on site, no one expressed concern about access to and along the public access easement. The riverfront residents did not express any issue with having the public pass along the easement. And the inland residents did not say they were prevented from using it.

Staff has only received one email over the past year stating that riverfront owners have restricted access to the river by placing gates between the residences. While on the site -- while on site at our site visit, staff was able to walk the entire length of the public access easement on foot within the community. A few homes have fences or gates at one end of the development, but all fences and gates were open at the time of the site visit. And staff anticipates any leases will require that gates remain unlocked and appropriately signed to notify the public of its right to pass along the easement.
There are some large objects within the public access easement, but they do not block access along the easement.

Additionally, some owners indicated that the objects were placed strategically to create a protective barricade between the easement and the riprap, as it is rather steep at sections.

The riprap bank line. There are a variety of improvements on the riprap bank line and the wing dams that are not associated with the protection of the bank or for public access. Much of the existing riprap has been so heavily modified from the upland residents, that it no longer resembles what Reclamation initially installed.

Reclamation staff was on site with us and stated that although they do not like the fixed improvements on the bank line, that removal of the existing fixed improvements may do more damage to the integrity of the riprap bank line than leaving it in tact. And consequently, the staff recommends maintaining the riprap bank line in its current state.

Commission staff recommends treating the riprap bank line consistent with the Commission's leasing practices for inland waterways throughout the State. No consideration is recommended to be charged for unimproved bankline protection or for stairs that provide public
access to the water, as such improvements provide a public benefit.

Those improvements not directly related to the bankline protection or public access will be subject to consideration.

The boat docks. In addition to the public meeting, staff conducted an unofficial email survey of the residents within the Rio Buena Vista community. Of the 120 developed lots in the community, staff has received a total of 58 responses to our survey. The results mirrored and were consistent with what was expressed at the public meeting.

Eleven households supported docks anywhere, 29 households supported docks that do not impact the 2 beaches, and 19 households oppose docks anywhere.

I can recount those numbers later, if you need.

Public Trust needs and uses. So here's our analysis. The Public Trust needs and uses in the Rio Buena Vista community are unique due to the density and nature of the RBV development along the Colorado River, the physical configuration of the Colorado River at this location and the existence of the public access easement.

There are 2 recognized sandy beaches within the community that are used extensively throughout the year by both riverfront and inland residents of the community, and
other members of the public. This is the smaller beach one you can see here.

Ten out of the 40 lots within the community that front these 2 sandy beach areas, there are 10 out of the 40 lots that front these, while many of the current beachfront owners have indicated that they do not want to seek a lease from the Commission for a boat dock. This is just a snapshot of the current situation.

If the Commission were to authorize boat docks for the beachfront owners, the public needs and the uses of the recognized beach areas would be significantly impacted as you can probably see.

Overall, the riprap bank line at RBV is steep and the only access to the river is via the stairs installed by the upland owners. The bank line exists to provide stabilization of the bank. And boat docks that do not encroach upon the recognized beaches would not significantly impact the Public Trust needs and uses in the area in our opinion.

Having said all of that, in conclusion the staff recommends the Commission authorize staff to resume its processing of applications for boat docks at the Rio Buena Vista community in Needles. And second, we request that the Commission authorize staff to analyze applications, including those for boat docks in the Rio Buena Vista
community on a case-by-case basis, and make recommendations to the Commission consistent with this staff report, the Commission's practices on leasing on inland waterways, and the Public Trust needs in the area.

Thank you for your time, and I'm available to answer questions if you need me.

ACTING CHAIRPERSON GORDON: I have a couple questions, Brian. First of all, just so I'll understand the Army Corps, the Bureau Rec dispute, is this the classic Bureau does water delivery, Army Corps does flood control, and they're both pointing the fingers at each either for responsibility, liability, et cetera?

LAND MANAGEMENT DIVISION CHIEF BUGSCH: No. I think all 3 of us are kind of working cooperatively in this, but I think it was an area that had kind of been neglected by different parties at different times.

But they weren't going to -- they just want some cooperation between the 2. That was kind of the comment there. But I think the Army Corps is primarily involved with the boat docks, and any authorization related to those. And the reclamation is more the bank line there. That's kind of their jurisdiction, and so at different times, it overlaps.

ACTING CHAIRPERSON GORDON: All right. Well, that does lead to the main question. Looking at this
development, it strikes me that it is well within a deep floodplain. I mean, we're right on the banks of the river. Granted, the Colorado has been extremely low for the last 10 years or so. My concern with us being involved here is that, based on the Paterno decision, the State could have significant liability when these properties flood. And I use the word "when" purposely as opposed to "if".

Have we looked at the liability issues as we negotiate these leases?

EXECUTIVE OFFICER FOSSUM: If I can, Mr. Chair. You brought up a couple issues, one with the Corps and the Bureau. This was a Bureau project primarily -- many of the places on the Colorado River are water delivery facilities, they're dams are for water storage and delivery to the Imperial Valley and other locations.

And the Corps' jurisdiction, as Brian mentioned, is one basically where they're dealing with their navigation jurisdiction. So both are involved, but it was the Bureau that placed the riprap along the bank line to make sure there wasn't erosion and keep the channels as water delivery system.

As far as the flooding, I don't think that, in this particular location, there's much of a threat for flooding. There always is anywhere near a waterway, but
there was considerable amount of material apparently
brought in to build this subdivision. And the bank line
that was -- that the rocks were placed on were to prevent
that fill, I think, from eroding.

So it's fairly high elevation along there, but
our leases do require that the applicants indemnify, hold
harmless, and insure the State from any claims. So that's
the one protection we have here.

The real dispute, I think in some ways, is that
the federal government constructed this thing without
coming to the State. And so to the extent that we had an
involvement in it, it was as a passive property owner who
has had the federal government actually place this
structure on the State's property.

So I think we are in a better position when we do
enter into contracts with these property owners. It's
certainly something that we can continue to look into as
far as that relationship with the Bureau and their
responsibilities for things they build. But I think from
the standpoint of our analysis over the last few months,
this is probably the best position we can be in at this
time.

ACTING CHAIRPERSON GORDON: Mr. Rusconi, do you
share the opinion that we've legally covered ourselves on
liability with the hold harmless on the leases.
DEPUTY ATTORNEY GENERAL RUSCONI: This has not been referred to the office for any analysis, but I think that from what I've heard today we are in a pretty good position.

ACTING CHAIRPERSON GORDON: Okay. That answers my questions.

ACTING COMMISSIONER GARLAND: I'd move the item.

ACTING CHAIRPERSON GORDON: Do we have any public comment?

Already. We've got a motion.

ACTING COMMISSIONER ROCKWELL: Second.

ACTING CHAIRPERSON GORDON: All those in favor?

(Ayes.)

ACTING CHAIRPERSON GORDON: Motion passes.

Moving on to Item number 86 to consider an application for an amendment to a lease of sovereign land located in the Salt River.

Staff presentation, please.

EXECUTIVE OFFICER FOSSUM: Beverly Terry from our Land Management Division will give a short introduction, I believe, here.

PUBLIC LAND MANAGEMENT SPECIALIST TERRY: Good afternoon, Mr. Chairman and members of the Commission. My name is Beverly Terry and I'm a Public Land Management Specialist with the Commission's Land Management Division.
I'm here to provide a brief background on Calendar Item 86, and introduce Donna Chambers with the Humboldt County Resource Conservation District who will be providing us with a brief -- with a presentation regarding this item.

On October 27th of 2011, the Commission authorized a general lease public agency use with the Humboldt County Resource Conservation District for Phase 1 of the Salt River Ecosystem Restoration Project. This project is being conducted in 2 phases. And the lessee has now applied to amend its lease to include Phase 2 of the project. This project addresses annual flooding and water quality problems which have been an issue with the Salt River channel for many years.

The project will restore some of the historic tidal prism and provide extensive habitat, improvements, and ecological benefits.

Now, I'd like to introduce Donna Chambers who will provide us some insight on the existing conditions within the Salt River channel, and a general overview of the benefits the completed project will provide.

Donna.

MS. CHAMBERS: Thank you Beverly. Good afternoon, Commissioners. Thank you for allowing me this time to talk with you today. I appreciate it.
The lease action being considered is part of the Salt River Ecosystem Restoration Project. And this is a very unique and complex project that involves over 40 landowners, 12 local, State, and federal governments and agencies, multiple regulators, several funders, and, of course, many consultants.

Needless to say, it hasn't been quick or easy. And I'd like to start by thanking your staff for all their help and for working so closely with us throughout this process.

The project has taken almost 30 years to get to construction, and I'm going to do my best to sum it up for you in 10 minutes or less.

So let's start by traveling about 6 hours north up the coast to Humboldt County.

Do I start it or do you?

(Thereupon an overhead presentation was presented as follows.)

MS. CHAMBERS: Okay. There we go.

So you see at the top of the map is Ferndale. And this gives you a good picture of what the area looks like.

The Salt River watershed is considered a subwatershed of the Lower Eel River Delta. The Delta contains the Eel River estuary. This is the third largest...
estuary in California and one of the most ecologically important tidal marsh habitats in the State.

The watershed is bounded on the west by the Pacific Ocean, to the north and east by the Eel River, and by the Wildcat Hills to the south.

Just a point of clarification. Although, the historic Salt River is shown in blue like it's full of water, it's actually full of sediment for much of its length.

In 1852, 2 brothers, Seth and Stephen Shaw, canoed across the Eel River and paddled up the Salt River. According to historic reports, they found a complex network of sloughs and wetlands, stands of 6-foot tall ferns, rivers with abundant fish, dense thickets of alders and scattered forests of spruce and redwood. The brothers located 2 claims, cleared several acres of land and built a cabin.

More settlers soon followed, and the new settlement adopted the name Ferndale. Over the next several years, large tracts of land were cleared. Timber in the valley and the Wildcat Hills was logged, levees were built, and tidal sloughs why channelized.

We estimate that approximately 2,900 acres of fresh and tidal marsh lands were reclaimed into highly productive agricultural land prior to 1900.
Around 1876, Port Kenyon was established and was about 2 miles downstream from Ferndale on the banks of the Salt River, which is that river in front of you there.

Regular shipping trade began and the Steamer Mary Hume made weekly trips between Port Kenyon and San Francisco. At that time, the Salt River was estimated to be 200 feet wide and 15 feet deep at Port Kenyon, and easily accommodated small steamers such as this one.

In 1888, Ferdinand Westdahl of the Coast and Geodetic Survey conducted a survey and reported his observations as he traveled down the Salt River from Ferndale to the area near the mouth of the Eel River. In his report, he noted the rapid pace of changes that had occurred since his last visit in 1872.

He said I have been astonished during my present visit at the changes in the appearance of the Country. In 1872, the town of Ferndale consisted of but a small number of houses, and Port Kenyon was an unbroken forest. Now, the 2 places almost merge into one another.

By 1898, people noticed signs that the fragile threads of the ecosystem were beginning to unravel due to the extent of settlement activities. As Westdahl recounted, the forest had been almost fully cleared and much of the tidal wetlands had been diked and drained for farming.
The system of levees and dikes led to a substantial decrease in the amount of water that was exchanged on each tidal cycle. This is known as a tidal prism.

When tidal prism is reduced, it decreases the velocity of tidal water, and this starts a cycle of sediment deposition, which further reduces the tidal action, eventually leading to the closure of the tidal inlet.

By 1899, the effects of the loss of tidal prism were becoming very clear, and the Salt River channel began to fill with sediment and vegetation. Now, up through the 1960s, landowners worked to maintain the channel by regularly cutting out the vegetation and digging out the sediment.

However, in 1970, Department of Fish and Game regulations were changed and they stopped the landowners from continuing those activities. The channel fully silted in, and this shows you what Port Kenyon looks like today.

Approximately, 95 percent of the land in this watershed is working land in private ownership. And that's where our agency, the Resource Conservation District, comes in. Our agency works with willing private landowners, such as dairies, ranches and timber operators
who want to protect and conserve natural resources on
their lands.

The people of Ferndale established our RCD in
1987 to bring attention to the dysfunction of the Salt
River watershed, and to get help in developing a solution.

Since then, the RCD and the landowners have
joined forces with State and federal partners to bring
technical assistance, professional and scientific help,
and funding to implement the Salt River project.

Ferndale calls itself a cow town, and the milk
production from the valley is an important economic engine
for Humboldt County. The people of Ferndale are proud of
their agricultural heritage and want to protect the land
and their way of life. So one of the very unique
challenges for the Salt River Ecosystem Restoration
Project is to balance the restoration of a variety of
natural habitats, while also maintaining and protecting
this agricultural way of life and the economic integrity
of this community.

We know what led to the river's loss of
hydrologic function. As you can imagine, this dysfunction
has created a number of problems. When you're driving
into Ferndale this is the first sign that you see at the
Salt River. There's a sign and no river.

(Laughter.)
MS. CHAMBERS: Because so much of the channel is completely filled with sediment and vegetation, it doesn't function as fish habitat or as a drainage system for Ferndale and the surrounding community. You can see just in the short period of time, 70 years, how much that part of the channel filled in.

Flooding is an annual occurrence. The flooding impacts roads, homes, and the town's wastewater treatment facility. Many of these pastures remain under water for 6 to 8 months out of the year, and this is a huge economic impact. Six to 8 months out of the year, you heard that correctly.

So we have dairy producers who rely on having their cows out on these organic pastures to be able to produce their milk. And it's just not possible.

So what is the solution?

This is some more shots of the flooding. And this is annual. This isn't just a 5- or 10-year occurrence. This happens every single year right now, because there is no channel for the river.

The Salt River Ecosystem Restoration Project is a watershed scale solution to restore as much of the historic processes as possible within our modern day realities.

First, the project will restore over 300 acres of
tidal marsh to enhance the effect of the tidal prism, and
that's shown at the top in blue. That was a working
organic dairy ranch, known as Riverside Ranch. The
property owners wanted to help the project, and they
actually approached Department of Fish and Game to sell
that property to help the project happen.

Next, sediment vegetation will be removed to
restore some 7 miles of historic channel corridor. And,
of course, keeping the sediment out of the channel is key
to the success of the project. And you can see down there
at the bottom, the Wildcat Hills.

We've been working -- the RCD has been working
with private landowners in those upper watersheds for the
last several years to reduce sediment input. So we've
been using bioengineering techniques, because they're
very -- like 100 slopes up there.

We've also been doing streambank stabilization
projects, offsite watering, fencing to keep the cows out
of the streams. We've been upgrading roads and culverts
and using a variety of different funding sources with
landowner cost share to be able to accomplish those
things. And this work will continue on into the future.

Finally, to be able to manage and maintain the
restored channel, the project partners have developed a
plan that spells out thresholds and triggers for
maintenance that the regulatory agencies have approved as part of our project permits.

And I think another very important part of this project is that the landowners have stepped up to the plate and they've formed a nonprofit watershed council, and the watershed council has charged themselves with overseeing the maintenance and monitoring of this project into the future.

Our goal is to restore this to this.

Thank you very much for your time.

ACTING CHAIRPERSON GORDON: Any comments from the Commissioners?

ACTING COMMISSIONER ROCKWELL: Very impressive work.

ACTING CHAIRPERSON GORDON: Any public comments? Do I have a motion?

ACTING COMMISSIONER ROCKWELL: So moved.

ACTING COMMISSIONER GARLAND: Second.

ACTING CHAIRPERSON GORDON: All those in favor? (Ayes.)

ACTING CHAIRPERSON GORDON: Motion is adopted.

We'll now move to hear the items removed from the consent agenda. The first item we'll hear is Item number --

EXECUTIVE OFFICER FOSSUM: One and only, 22.
ACTING CHAIRPERSON GORDON: Twenty-two. Mr. Bugsch.

And we also have a couple of public comments on that. If you folks can please get ready, Mr. Shelton and Marston.

LAND MANAGEMENT DIVISION CHIEF BUGSCH: Good afternoon, Commissioners. I think you've heard this. This is maybe the third time on this one, so I'll try and be brief on it.

This item asks the Commission to authorize a lease between the Commission and the Vanderbeeks, Robert Marston, John Gage, and Joan Schacht for a pier with a boat, boat lift, and sundeck. The item also requests that Mr. Marston and the Gage/Schachts be required to remove 2 existing unauthorized mooring buoys no later than December 15th.

In the event that Mr. Marston and the Gage/Schachts cannot obtain littoral status or have obtained a written determination from TRPA that Mr. Marston and the Gage/Schachts do not qualify for a TRPA buoy permit by today.

I'd like to inform you that the rent for the sundeck has been settled and all parties agree. Therefore, the only issue remaining is the unauthorized mooring buoys.
Just as a refresher, on the October 19th meeting, Mr. Marston addressed the Commission advising that he was -- he and the Gage/Schacht parties were in a Catch 22 situation.

On the advice of the Commissioners, you guys directed staff to provide Mr. Marston and the Gage/Schachts with a letter to present to TRPA basically saying that if they were open for business, we were open for business. This letter was sent to Mr. Marston and the Gage/Schachts on October 25th, so within a week of the end of the Commission.

On November 26th, after Thanksgiving here, the Commission staff forwarded that letter to TRPA not knowing if it had been sent on by Mr. Marston. TRPA staff advised us that they had not received the letter. But they reviewed the letter on that date and responded with a letter, in which TRPA confirmed that the agency cannot authorize, recognize, permit or take any other action on buoys which had not been previously permitted by TRPA.

I think you all have copies of that letter. It essentially confirms everything that we've been saying and is in lock-step with what we've been saying for the past 7, 8 months regarding this. So hopefully, I think both agencies are in line on this.

It should also be noted again that for the
Marstons and Gage/Schachts to keep their mooring buoys, the Vanderbeeks would have to give up at least one of theirs, and they would also have to form a homeowners association. They've had 7 months to do that. That hasn't happened.

The lease has been -- also, the lease has been issued to the Vanderbeeks for the 2 mooring buoys at this littoral lot. And they've made it pretty clear through their actions that -- and through conversations with Mary, that they're not willing to give up any.

So we ask that the Commission move forward with and approve the staff's recommendations.

Thank you.

ACTING CHAIRPERSON GORDON: All right. Mr. Marston. Wellcome back again.

MR. MARSTON: Hi. Thank you very much. Speaking here too much. My name is Bob Marston. This is Dave Shelton. He's a professional engineer that works in the Tahoe area and permits -- works with homeowners and permitting buoys and docks and buildings and all kinds of good stuff.

This gentleman's representation about the letter being sent out to myself and not being forwarded on to TR -- or excuse me to -- yeah, to TRPA, the reason for that is I met with Dave who actually began our permit process
on the buoys a couple of years ago. And he suggested that
we try and come up with some words to trance -- to talk to
TRPA about, that would allow us to understand our
understanding of the current regulations, the fact that
TRPA cannot permit anything due to the lawsuit they have,
and what they feel they will be doing going forward, which
really no one has any idea. Although, it appears as
though with the change in management on the -- what's the
name of the -- yeah, the League to Save Lake Tahoe, it
would appear though that they may be going back more
towards some of the ordinances that they had in 2008.
And I've got Dave here to talk about that and
then I'll finish up here.

MR. SHELTON: Thank you. My name is Dave
Shelton. I'm a civil engineer at Lake Tahoe. I've been
working with issues regarding the lake for the last 35
years.

The request that was made for the applicants to
get permits from TRPA for these buoys was basically
impossible to comply with. And the reason that it's
impossible to comply with is that TRPA governing board has
directed their staff not to take any action on any buoys
at this time.

We're in a period where TRPA, at one point in
2009 when they wrote the letter to the Marstons and Gages,
had a mechanism by which they could consider approval of these buoys, and they could permit these buoys. And one of the conditions that remained to obtained was to have a California State Lands lease.

Subsequent to that time, there's been a lawsuit. The lawsuit has required the vacating of that ordinance, the 2008 ordinance, and TRPA has reverted back to the pre-2008 ordinance. That pre-2008 ordinance doesn't allow them to consider any buoys.

So there were hundreds of buoys that were permitted by TRPA in 2009. And any of those people that came to TRPA today could not get any action from TRPA, because they're not allowed, on direction of their board, to consider anything.

So the request that was sent to TRPA to come up with a permit by December of 2012 was literally impossible to comply with. We believe that with the change in the executive director at the League to Save Lake Tahoe, they initiated the lawsuit that challenged the 2008 shore zone ordinance at TRPA.

The current director, Darcie Goodman Collins, has basically adopted a presentation -- or gave a presentation that I attended, and they intend to be much less oppositional. So there's renewed optimism that there's an opportunity for TRPA to get back and adopt a new shore
ordinance. And if they adopt a new shore zone ordinance, we're hopeful that they have provisions similar to what they had in 2008, which would allow consideration of the Marstons' and Gages' buoys.

So right now, we're just in a window of no opportunity. And until TRPA is allowed to consider and adopt a new ordinance, there's no way that we could comply. So respectfully, we ask that Special Provision number 9 that requires removal of the buoys be removed from the lease to allow us to get time to go back to TRPA, let them adopt an ordinance, and then perhaps we can proceed.

ACTING COMMISSIONER GARLAND: Remind me again how long these buoys have been there?

MR. SHELTON: These buoys have been there -- I've been told a number of things. I have a photograph from --

MR. MARSTON: Let me speak to that. If you don't mind, we met with Mary Hays and Jim Frey awhile ago. And Mary said that she has a photograph showing the buoys there since 1952.

ACTING COMMISSIONER GARLAND: Excellent. So there was ample opportunity when buoys were being permitted to have gotten a permit at that time, this is not something new?

MR. MARSTON: This is something new to me, but
it's not new to the way things are going.

ACTING COMMISSIONER GARLAND: Thank you.

ACTING CHAIRPERSON GORDON: Let me understand something. And maybe -- I'm not a boater, but a buoy is essentially modular, right? You've got something that's floating on the surface and it's attached to an anchor of some kind on the lake bottom?

MR. MARSTON: Yeah. It's got a chain that goes down to weight, a concrete weight.

ACTING CHAIRPERSON GORDON: So if we were to require removal of the buoy today and you were -- an TRPA changes their policies in the future, we're not, in any way, permanently affecting your rights, correct? You would be able to, at a future date, if you were able to get the permit from TRPA to reattach the buoy, if that's what the policies are going to be.

Is there permanent damage that we're going to cause here by adhering to the existing regulations?

We've been through this. We think we've worked out some serious compromises here. I mean, we started with a place where staff was fairly strongly opposed to allowing the docks to remain. We worked our way through that. We came out with a -- then we had problems on the amount of the lease for the dock. We've worked through those to everybody's satisfaction.
Now, we're left with a situation where we have modular buoys that could be removed, and if you win in the future, they could be reattached. So I'm trying to figure out what the damages are we are -- the permanent damages might be. And you've still got the option of negotiating with the Vanderbeeks over the use of the buoys.

So I'm trying to understand what harm we are going to cause at this point in time by going forward with what TRPA is currently interpreting their requirements to be.

MR. MARSTON: My understanding, and Dave can speak to this probably more elaborately, is TRPA requires -- and part of our application is the fact that the buoys have been there pre-1952. And so we're looking to have them grandfathered in. And if they've got to be grandfathered in, then they have to be in continuous use from the date you claim that they existed. And if we pull them out, that's the end of it. They can easily sit there and say, well, they're no longer in continuous use, therefore you can't grandfather them in. And it just seems like we're caught in a ton of little gotchas here and there.

And what we're asking is that can we leave them in until TRPA comes up with their regulations? And if their regulations don't allow it, then that's it. It's
done. It's over with. But right now, if we have to pull them out, we're done. We're pretty much toast, and the chances of their opening up buoy permits for upland owners that is, according to everybody who's worked with TRPA and the way that the agencies are handling these issues, we're just going to be out of luck. And these things have been here forever, and we're just asking the opportunity to get a fair shake with TRPA.

ACTING COMMISSIONER GARLAND: Do you dispute that you had the opportunity when the window was open to get a fair shake with them?

MR. MARSTON: Well, is that --

ACTING COMMISSIONER GARLAND: I'll take that as a no?

MR. MARSTON: No. No. The problem lies in the fact that Mr. Vanderbeek decided that he didn't want -- he didn't want to deal with the regulatory agencies, and he kind of controlled the permit process. And he didn't want us to mess around and ask for permits on the dock, on the buoys or whatever, and therefore our hands were kind of tied.

ACTING COMMISSIONER GARLAND: I appreciate that you're stuck in the middle of neighborly, or not so neighborly, dispute, but that's not for us to decide on, so I'd like to move this item.
MR. MARSTON: And I agree.

MR. SHELTON: Excuse me. If I could address you again.

Two answers. First of all, you asked what permanent damage would be done. And I think Mr. Marston addressed that. TRPA's 2008 ordinance had a provision that existing buoys that could be documented to have been existed prior to 1972, would be considered for a permit.

And one of the conditions -- the second condition to that was not only did they have to exist before 1972, but they had to subsequently obtain a California State Lands lease, so that's what we're in the process of. So that answers your question about, you know, is it permanent damage?

Yes, because, if we take them out, they're no longer existing, and then TRPA can say well, those are not existing. You don't qualify.

To answer your question about did we pursue the window of opportunity?

We did. In 2009, we applied for these permits from TRPA. We received a letter back from TRPA saying that they would consider granting us permits if we had a California State Lands lease. And I think you've been presented with that letter.

So we did pursue the window of opportunity in a
timely manner when it was available in 2009. Subsequent to that, while the Marstons have been pursuing the lease, the lawsuit happened, the provisions were vacated, and currently TRPA has reverted back to old provisions that didn't allow that window of opportunity.

We're hopeful when they adopt a new ordinance it would probably be similar to the ordinance they adopted in 2008. They spent years gaining consensus before they adopted that ordinance. We're hopeful that when they go through a new adoption process, they'll rely on some of that knowledge, and that the new ordinance they adopt may be very similar to what was adopted in 2008, which gave us that window of opportunity.

ACTING COMMISSIONER ROCKWELL: Is there a requirement that they adopt a new ordinance or is there something on -- like agendized or coming up for a vote?

EXECUTIVE OFFICER FOSSUM: It could be years.

ACTING COMMISSIONER ROCKWELL: So the current ordinance does not permit this?

EXECUTIVE OFFICER FOSSUM: (Shakes head.)

MR. MARSTON: I'm sorry. I couldn't hear you?

ACTING COMMISSIONER ROCKWELL: I was just wondering whether the current -- so the current ordinance does not permit what's being requested, and there's no current agenda item or notice out to the public that
they're planning on changing this ordinance?

MR. MARSTON: The current TRPA ordinance?

ACTING COMMISSIONER ROCKWELL: Yes.

MR. MARSTON: Well, I guess one of my points is the current TRPA ordinance is history, because they're rewriting all the ordinances and it's specifically the short zone ordinance. So to take the letter that TRPA wrote and understand that as being fair, so to speak, when, in fact, these ordinances are being rewritten as we speak, is a bit unfair, because we need to find out what they'll allow when they redo the ordinances.

And that's what we're asking, just allow us to wait until TRPA comes up with a ordinance, and if we can't work with them, then it's over. And if we can, then we've got something to work with.

ACTING CHAIRPERSON GORDON: It strikes me you're arguing a somewhat contradictory position. On one hand you're saying under existing TRPA rules, you're not permitted the buoy. They're going to rewrite -- unless it's continuous, unless you've had continuous -- it was continuous.

I'm thinking out loud here.

But then you're arguing that they're going to change the rules, arguably. Now, it would seem that if they are going to change their regulations, they have the
ability at that point to say it doesn't have to be
continuous or continuous unless State Lands Commission has
denied in the meantime.

So you'll still have your argument before -- in
the rule-making process at TRPA to argue that there should
be an exception for buoys that were removed pursuant to
State Lands rulings. And I think that is where I'm
leaning. I'm getting nods from the other 2 commissioners.

So I think your argument is going to be with
TRPA, that, you know, you're not going to have a problem
showing that this thing was in continuous operation right
up to now, and you need to get them to change their regs
to acknowledge -- if they are willing to allow long-term
that they have an exception in their new regs that your
situation, where you were in this window, is acceptable,
because I am thinking we have got -- we've been hearing
this for a long time. I think we understand this issue,
and there are -- there does need to be a limitation, but
we're going to leave it up to TRPA to decide how many
buoys they wish to assign to individual properties and on
the lake.

We do have a -- Chris, you made a motion. Ms.
Rockwell, did you second the motion?

ACTING COMMISSIONER ROCKWELL: Is the --

ACTING CHAIRPERSON GORDON: Which would be to
adopt the staff recommendation which is to deny the
extension of the buoys.

    ACTING COMMISSIONER ROCKWELL: I second that,
yes.

    ACTING CHAIRPERSON GORDON: Okay. Are there any
other public comments on this issue?

    All right. I have a motion and a second.

    All those in favor of the staff recommendation to
deny the buoys?

        (Ayes.)

    ACTING CHAIRPERSON GORDON: It so passes 2 to 0.

    Gentlemen, thank you.

    EXECUTIVE OFFICER FOSSUM: Just one point of
clarification. The statement you made that the staff was
opposing the docks, it was the sundeck not the docks.

    ACTING CHAIRPERSON GORDON: I misspoke. The good
news is we had solved that issue a month ago.

    EXECUTIVE OFFICER FOSSUM: Yes, that's correct.

    ACTING CHAIRPERSON GORDON: All right. Let's
see, where are we now? Do we have any other items that
were removed from the consent calendar to be heard?

    EXECUTIVE OFFICER FOSSUM: No, that completes the
regular agenda. We now have public comments.

    ACTING CHAIRPERSON GORDON: Yes. All right. We
have a handful of folks wishing to make public comment.
Are these all on Pete's Harbor?

Is there anybody wishing to make public comment on some subject other than Pete's Harbor?

All right. Then could all of you -- all of you folks wishing to speak on Pete's Harbor please come up together and I will allow you to determine the order of who is going to testify.

I've got Ted -- I can't read -- Harry it looks like. Alison Madden, Shawn, a professional soccer player with one name apparently.

(Laughter.)

ACTING CHAIRPERSON GORDON: Joseph Rosjas, James Lee, and Leslie Webster. If you could all approach the microphone, please. And actually, I think what I'm going to do is I will -- one prerogatory of the Chair, I'm going to have Ms. Madden speak first, because we have heard from her before. And I know she's a very articulate spokesperson for at least one side of this issue.

Ms. Madden, could you come forward, please.

CHIEF COUNSEL LUCCHESI: Mr. Chair, if I may just clarify a couple of things. I do know that Mr. Hannig, who signed up to speak, he represents Ms. Uccelli. So I think the other folks that have signed up to speak may be residents or representing the residents of Pete's Harbor, Mr. Hannig does represent Ms. Uccelli. I just wanted to
point that out to you.

ACTING CHAIRPERSON GORDON: Okay. Why don't we start -- in fact, I've got a better idea. Why don't we start with the representative of the property owner, because I think they will lay out their case, and then I'm going to suspect that the rest of you do not completely agree with the position that they are adopting. So why don't we do that.

Sir.

MR. HANNIG: Good day. My name is Ted Hannig. I am with the Hannig Law Firm in Redwood City, California. And I have the privilege of representing the Uccelli family and Pete's Harbor.

It is a little bit difficult for me to address exactly what all the intentions are of the parties today. So while I have the privilege of going first, I'm not quite sure and I'm available to you should there be issues that you might want to address.

ACTING CHAIRPERSON GORDON: You'll have an opportunity for cross-examination with your time.

MR. HANNIG: Yes, whatever you'd like.

I did want to point out the history, because I think there is a misconception of how Pete's Harbor came to have a land lease. And as you probably know, back in the 1980s there was litigation that resolved issues
between the State and Pete's Harbor. And it resulted in both legislation, a court judgment, and a land lease, an act signed by the Governor, as you know.

So there's a lot of rich history, but the history actually precedes that dispute. And it goes back to September 24th, 1956.

ACTING CHAIRPERSON GORDON: Hang on one second. We're having some kind of technological issue here.

MR. HANNIG: Let me turn it off.

Back in 1956, Mr. Uccelli applied for a permit to build where is the outer harbor, which is the subject and the only subject over which the State Lands Commission has any jurisdiction.

The State Lands Commission filed an objection in 1956 to his plan to develop the outer harbor, and a boat ramp. And then they studied the land patents that were issued to Mr. Uccelli. And I have many copies here for the Commission. The letter from the State Lands Commission in September of 1956 withdrawing the opposition to the permit, saying that actually they've determined that it will be on privately owned land, and this office therefore withdraws the objection previously interposed, signed by Rufus Putnam, Executive Officer of the State Lands Commission.
So in September 1956 -- and if there is a person who I can leave these copies with, I'd be happy to do that or if any of the Commissioners would like to see them -- the State Lands Commission informed the Uccellis that, in fact, the outer harbor was on private property. And in reliance upon that, they built it out.

And it wasn't until about 25 years later when there was, in Mr. Uccelli's perspective, some political acrimony involved in the State Lands Commission, and he ended up in a dispute, which resulted in that court case, State legislation, a judgment, and then ultimately 2 land leases, 6856 and 6857, that involved the 3 parcels of land.

Since that time, Peter's Harbor has operated as a marina. And we know from the letter from the San Francisco Bay Conservation and Development Commission in 1984 that all of Mr. Uccelli's obligation was to maintain a marine harbor or berthing facility at Pete's Harbor in order to have that occupancy.

So I'll leave that with you as well when I leave. But this is the position that came from the State of California, and it has continued to do so.

Currently, there is repair work at the marina. It coincides very well with the time that the property is for sale, but we had a big storm last weekend and pilings
actually came down at the marina. And so the Harbor
Master's decision to undertake the repair effort at Pete's
Harbor is quite correct and very safety driven.

I wanted to make the Commission aware, as
apparently it was not, that only a portion of the tenants
there are liveaboard tenants. It was stated in the record
at the last hearing that all of the boat slips were
houseboats or residents. And it also suggested that the
marina was going to be taken apart, and that it could
not -- we could not guarantee the slips would be rebuilt
there again.

There's no plan to demolish any slips. And
there's only a small portion of the tenants who are
liveaboard. About two-thirds of them have already vacated
as of today's date. And in the tenants that were there,
the liveaboard tenants, 90 percent of them, since 2002,
signed a provision, which I'll also leave with you, that
states, "Since the marina is up for sale and no more
liveaboards are being admitted, the liveaboard status was
granted to you as a favor, I...", then they insert their
name, "...agree to leave the slip when this will be
required by the marina with notice from the owner."

So the liveaboard slips, since 2002, have all had
that, and that's why 90 percent of them have it. So they
were all -- as far as the liveaboards go, they were all on
notice of the intention to sell and to ask them to leave.

There is nothing in the leases that requires residents there. In fact, it suggests the otherwise. And, as you know, the Public Trust Doctrine does not include residents as a Public Trust use. It's navigation, fishery, commerce, recreation.

So there's been some suggestion apparently that somehow that marina area, because of the Public Trust doctrine, needs to have floating residences there. And that's completely inconsistent with the Public Trust doctrine, the history, the leases that were signed, and so forth.

The Ucellis though have another colorful history with the State Lands Commission, which is also, I'm sure, going to be developed and discussed. So I would like to address it head on. We came up here for meeting with the State Lands Commission to discuss it on September 18th.

After the leases were signed back in 1984-85, Mr. Ucelli made attempts to contact State Lands to ask where to make payment. He was unsuccessful to get a response. He then asked a woman who worked for him, who was later to become his wife and is here present today, Paula Ucelli, to make efforts to contact State Lands, and she did that.

She did not get a response as to where to send the check. So then they ran into a State legislator who
I've interviewed about this subject, and he attempted to get his staff to find out where to make payment, no answer. He suggested that a Republican assemblyman who'd also co-authored the bill. The Uccellis contacted him. I've also interviewed him. The same answer. His staff was unable to get an answer where the checks were to be made paid -- were to be delivered.

So since that time, Mr. Uccelli opened an account and he deposited the rent checks, waiting for the State to come and get them. The State never made any contact with him since 1985 or whenever that was back then, and the fund has been there being added to.

When Ms. Uccelli arrived here for the meeting, she said, "Oh, I have my checkbook with me. How much do I owe you? We can settle up that account." And the answer was, "Well, we don't know. We'll get back to you.

After a period of not hearing that answer, I sent up $20,000 plus in cashier's checks to the State Lands Commission saying here's the last 4 years of rent, because my understanding from our legal analysis is that's the maximum the State is allowed to charge. It may even be less. Those checks have gone unnegotiated, undeposited, are in a fire safe somewhere at State Lands, even though there was no condition on the tendering of that rent. We didn't say it had to be payment in full or it's a waiver
or release or anything like that.

And, in fact, I attempted to contact the Chair of the State Lands Commission for -- Gavin Newsom for discussion, and was told the liaison would get back to me. And that's been about 2 or 3 weeks. So I've suffered the same --

ACTING COMMISSIONER GARLAND: Who did you contact in my office?

MR. HANNIG: I contacted Gavin Newsom's office.

ACTING COMMISSIONER GARLAND: Whom in my office did you speak to?

MR. HANNIG: I don't have her name with me. I remember speaking -- a very nice woman, and she called me back from Sacramento.

ACTING COMMISSIONER GARLAND: If you're going to talk about my staff, you might want to bring names with you when you talk about my staff. I believe your time is up, by the way, as well.

MR. HANNIG: Well, I can tell you the woman was extraordinarily professional, nice to me, that I spoke with. I would hire her in a minute to work for me. She was very pleasant with me, but I never heard back from the staff that she was passing the message on to. That was the point that I was making.

ACTING COMMISSIONER GARLAND: And do you know the
woman you spoke to and who she was passing it on to, because she would have told you.

MR. HANNIG: I have in my office notes, because I did speak with her.

ACTING COMMISSIONER GARLAND: Convenient that it's not with you. Thank you.

MR. HANNIG: Well, I'm sorry you feel that way sir, but I did speak with her and I do have my phone log from her calling me back, and discussing it with her. And she did mention a gentleman who was out of the office on a Friday, but she had email contact with him, and that she would dispatch an email and that he is the person -- it might even be you. I don't know -- the person that regularly works with Gavin Newsom with respect to State Lands. And she identified --

ACTING COMMISSIONER GARLAND: When was this call made?

MR. HANNIG: Two or 3 weeks ago. Maybe 3 weeks ago.

ACTING COMMISSIONER GARLAND: So do you realize when you say you called the Chairman, you were not calling the Chairman. The Chairman is the Controller's Office. So are you -- is there an issue here or was there and issue here?

MR. HANNIG: No. I called Gavin Newsom's office.
ACTING COMMISSIONER GARLAND: Thank you.

MR. HANNIG: That is who I understood from the State Lands schedule when we attended the meeting who was the top Executive Officer. So I must have --

ACTING COMMISSIONER GARLAND: That's just completely incorrect.

MR. HANNIG: Okay. So I had made efforts, but I will say I made efforts to contact through Gavin Newsom's office, and that's how it was passed along to me, that I would hear a response and I did not. But let me --

ACTING CHAIRPERSON GORDON: Let me stop you for one second.

MR. HANNIG: Yeah.

ACTING CHAIRPERSON GORDON: Mr. Fossum, do we have an accounting, at this point in time, of the amount of money that we believe that the leaseholder owes the State?

EXECUTIVE OFFICER FOSSUM: It's my understanding that a demand letter has been sent to the Uccelli's on how much we believe that they owe the State for lack of payment to the Commission. And we've asked for documentation as to these alleged attempts to send money in the past to the Commission, and we've received nothing.

ACTING CHAIRPERSON GORDON: Okay. How much is the accounting that the State Lands has come up with?
CHIEF COUNSEL LUCCHESI: We calculated it based on a payment on December 1st. With penalties and interest, it's approximately $406,000, give or take.

ACTING CHAIRPERSON GORDON: Absent penalties and interest, how much would they owe, just as -- there seems to be some confusion as to what happened from 1984 onward as to where the checks were supposed to be made. I'd be just interested in knowing if we were to try to get just straight rent what would that have come to, do we know?

CHIEF COUNSEL LUCCHESI: We can do some quick calculations. I can't do it right now in my head, but we'll -- let us add some things together.

ACTING CHAIRPERSON GORDON: All right. And you have sent a demand letter. What was the date of the demand letter, do we know?

CHIEF COUNSEL LUCCHESI: November 9th.

ACTING CHAIRPERSON GORDON: Sir, do you have -- have you received that letter?

MR. HANNIG: I have.

ACTING CHAIRPERSON GORDON: Okay. So at least we now have you know where you can pay. You know how much they're demanding.

MR. HANNIG: We have paid actually. The letter did not acknowledge that we paid the 20 some thousand dollars that they had on file at the time and did not
credit it in that calculation. But I would -- there are 2 issues. There's the statute of limitations and there's penalties and interest. And we are prepared to have --

ACTING CHAIRPERSON GORDON: I understand the legal issues involved. At least, we've now made that connection --

MR. HANNIG: Yes.

ACTING CHAIRPERSON GORDON: -- that there's an acknowledgement that there's an amount owed, and we can now begin negotiations on how to settle that.

CHIEF COUNSEL LUCCHESI: And we do have a meeting scheduled for next week to meet with Mr. Hannig to discuss these elements.

ACTING CHAIRPERSON GORDON: Well, that strikes me as a --

MR. HANNIG: I believe that's with the developer next week.

CHIEF COUNSEL LUCCHESI: Oh, okay.

ACTING CHAIRPERSON GORDON: Let me ask a question before we call the residents up, which is my understanding is this is a fairly large development.

MR. HANNIG: 411 homes.

ACTING CHAIRPERSON GORDON: 411 homes.

What is the need to take a public marina and turn
it into a private marina with regard to a upland housing
development? That strikes me as the crux of the issue.

These folks aren't even fighting your
development. They're acknowledging the development can go
forward. They are simply arguing -- and I've actually --
just so you'll understand, I've heard from some folks, I
think they define themselves as cruisers. People who live
on boats and move around the country to different places,
that there is a dearth of these kind of berths -- a dearth
of berths -- I'm going to follow Curtis -- in the Bay
Area. And that these slips are needed.

And also address another issue for me before we
turn to the others. I sit on several boards having to do
with below market rate housing. The Bay Area is an
extremely expensive place for people to live. We've
gentrified the entire coast.

These are, I believe, affordable middle class
rents. And I would like you to address for me why it's
necessary in building the development to remove these
slips from the public?

MR. HANNIG: All right. I'd be happy to address
your concerns.

First of all, why the connection with the change
in the marina to a more restricted marina than is
currently there?
And you are correct, it is the absolute essential element. It is the only contractual element that's a contingency in the contract between the buyer and the seller as far as governmental issues go. There's no entitlement clauses as is normally found. They're very confident ultimately they'll get city approval. You're incorrect that they are not opposing the development. They have filed an appeal with the City, and there's a city council hearing on January 20th appealing the unanimous planning commission approval of the project by the speakers that are here today.

ACTING CHAIRPERSON GORDON: But the issue raised though has to do with the privatizing of the marina not the development itself.

MR. HANNIG: And so let me explain how -- why that is such a crux of this.

The marina, if it is opened as a public marina, as I understand it, will have parking requirements. The project also will have parking requirements, and there would be insufficient parking on the site to address both the housing that is anticipated and the marina.

And so my understanding -- I'm not the developer. I cannot speak on behalf of the developer, but what I can tell you is for a project of this type, to be successful it has to have a certain amount of density. And they've
calculated that the project that they're proposing to be successful has 411 homes. And to make the marina work with that -- and I don't know how much margin there is in there. The developer might -- they need to have the housing there, provide the slips for the marina, so there's additional parking.

The good news, of course, is that when those slips are there and people in the -- that the residents, the apartment residents, the 411 are using those slips, other slips become available in the area.

So, yes, a boat slip there is being used by a resident, but that resident has moved their boat over from somewhere else, which now makes another slip available. In the Bay Area, we have a very limited number of boat slips. So when you -- and they're commuting closer to their slip, so it makes a lot of sense what they're doing. They have residents using slips that are very close to their boat.

ACTING CHAIRPERSON GORDON: Let me make a -- I think my role here sometimes is to find compromises. It would strike me that if -- I mean, we have a city council that has said you need X number of parking spaces for a particular development. A reasonable compromise might be that if the tenants and the developer went to the city council and said require less parking spaces for the
development, that you might be able to come up with a
solution that would meet everybody's needs.

If the only real issue are the number of parking
spaces, what is the impediment to that?

MR. HANNIG: Well, I think there's also --

EXECUTIVE OFFICER FOSSUM: Mr. Chair, if I could,
there are a number of legal as well as practical issues
that are involved in this as the speaker has made clear,
both regarding our lease and the relationship between the
owner of the uplands and their tenants. And so I think
that as desirable as it is to seek a resolution on this,
it may not be the appropriate time to get into too many of
the details on some of those issues.

ACTING CHAIRPERSON GORDON: Okay. Continue.

MR. HANNIG: So my understanding is not only that
the marina has availability for public boat slips, but the
conversation has transmuted to say "public" means
"liveaboard". And I can find no basis to say in the
Public Trust Doctrine that "public" means "liveaboard", or
below-market housing. And I cannot find any -- tracing
back to Roman law even, I cannot find anywhere where the
Public Trust Doctrine says that below-market housing is
part of the Public Trust Doctrine.

So it is possible that you get the compromise on
housing, it is possible that you would get the compromise
on parking perhaps, but I don't think that's going to solve the issues that are being presented to you today where people want to insist that they have liveaboard housing at that marina.

The marina cannot undertake the repair work nor can it undertake development, if it does develop, with residents -- liveaboard residents being there.

We have had litigation in the past with liveaboard residents when there's construction, and they have had a settlement in our area based on just less than a mile away from Pete's Harbor where they claimed overspray from construction damage to all their boats, and so they all had to have their boats repainted.

So the insurance companies and the contractors will not undertake development and construction work with residents being there at the same time or boats in general being there at the same time.

So there are many obstacles to your question in coming up with an answer to your question. I appreciate compromise, but I also have these other constraints that I have to advise you of that would pose some hurdle that would require us to get over them as well.

ACTING COMMISSIONER GARLAND: I appreciate you think you need to advise us, but we have excellent advisors into that in Ms. Lucchesi.
My understanding the marina we're talking about is under State Land lease, and therefore it's transfer for private use would have to be approved by this Commission?

CHIEF COUNSEL LUCCHESI: Our staff is continuing to look into this. There's a number of different layers. There's the statute to authorize this use. There's the stipulated judgment and then there's the lease language. The lease language that operates or that guides this marina talks about the use being a commercial marina and ancillary purposes.

A strict reading of that would lead one to believe that the use going from a commercial marina to a private marina that's only accessible by the upland residents would require an amendment to the lease to proceed.

EXECUTIVE OFFICER FOSSUM: And if I could add. If you look at the graphic up here, what you'll see is a number of elements. When we talk about a marina, there's the internal marina within the development that the Legislature basically said the State doesn't have any ownership interest in. There's some docks out in Redwood Creek that's actually granted to the local government by the Legislature for their management. There is the area in red, that is the part of the legislation as well that was directed -- that directed the Commission to enter into
a lease.

The provisions in that are different because there -- than the other lease that the Commission has entered into, which is in the lower left area. That area had already been determined to be State Lands Commission owned as part of an early title settlement, and so was not involved with Mr. Uccelli or the legislation at the time.

And then you can also see that there is some issues outside the -- in the, what I call, the north area that appear to be within the grant to the City of Redwood City and also appear to be within the Commission's lease. So there is a number of issues to resolve on this, and legal issues, boundary issues, and interpretations that are going to take some time to iron out, I believe.

ACTING COMMISSIONER GARLAND: Thank you.

MR. HANNIG: Did I provide enough information to respond to your question, sir?

ACTING COMMISSIONER GARLAND: No. I'd still like the name of my staff that you talked to.

MR. HANNIG: I'd be happy to provide that to you when I get back to my office. But again, she was very professional and I compliment her actually.

ACTING COMMISSIONER GARLAND: Thank you.

ACTING CHAIRPERSON GORDON: Ms. Madden.

MS. MADDEN: Okay. Thank you so much for taking
the time to hear from us today.

I do have a few documents that I would like to hand to you. I don't know if you've seen yet communicated from the staff a picture of the development. I think it helps. I also have the original complaint by the State of California in 1981, and it details the decades of good faith effort and negotiation that were put into working with Mr. Uccelli before they brought the action.

Attached to it are many exhibits -- and this I believe was in a later discovery memo -- many exhibits that show for years in the sixties and seventies that the Army Corps of Engineers repeatedly advised that he didn't have title, he needed permission. So I'd like to introduce these.

Kim, sorry.

So I do want to clarify that it's absolutely a correct statement that we are not opposed to their land based initiative at all. We respect the right of Ms. Uccelli to retire and to sell the property for the person who wants to buy it to develop. We're not opposed to the residences.

We do believe that this was fast tracked at the City level. And there's a lot of talk about for sale for 10 years. There's not for sale sign at the property. I've been looking at it to move down there since '96, and
I've never seen a for sale sign. There's a hallway with all kinds of commendations and newspaper articles, and there's nothing up there that shows the one article one time that was run where Pete Uccelli and The Chronicle said that he wanted to grant an option to the developer, which is The Pauls Corporation of Denver, and represented by Mr. Paul Powers, and he's here today.

So that was a long time ago in 2002. There was a clause added to the backside of the 4-page lease that said, "Since we are no longer admitting liveaboards, your status here is a favor". And that was in 2002, and for 10 years, they admitted liveaboards by the hundreds. And when I say that, they come and go. There might be cruisers. There might be recreational boaters. And this is not at all -- the issue is the Public Trust use of the outer harbor, and that is the issue here for the State Lands Commission, what the Commission will decide on when the proper application is made by the developer, which -- or owner, which we hope will be sooner rather than later.

So we were advised of this development. Since 2002, there was one proposal in 2003 to build a very large -- like a little city on this whole inlet, like a Redwood Shores, and the voters voted it down in 2004.

When they voted that down, both the ordinance of Redwood City and the initiative, the liveaboards and the
recreational boaters, the commercial harbor would have stayed. Since that vote down by the people, there has not one time been brought to the people a new proposed development. There was an effort in 2008 that was never made known to anybody. Due to the economic conditions, the developer withdraw it, went back to Denver. And not until this July 2012 has anyone ever heard of a development since 2004 when the voters voted it down.

    And one thing I do want to slip in there, we've been out there -- we talked to the voters and we thought, well, let's just see what they think, the people of Redwood City. Do you want to keep outer harbor commercial and accessible to the public instead of private dock slips for high-end residential luxury condos. And we got 600 signatures in a long weekend and we got 1000 change.org support.

    And we haven't been back out there because we have been going to the planning commission and to the city council. We do have an appeal, but you're absolutely right, Chair Gordon, our desire is that we work with them to perhaps have a few fewer apartments, so that there's enough parking to keep the outer harbor commercial.

    And so what I wanted to say is that it was very much fast tracked. When it came back this July, we were actively deceived for 2 months and told that there was
no -- that there had been no, you know, permit filed.

We were met with on September 20th. The State Lands Commission was met with on September 18th, 2 days before. The neighbors and the car dealer were met with 3 weeks before, the most important parties in this dispute.

The city attorney, the assistant city attorney in the open hearing public record has said, if the State Lands Commission does not consent to the -- the outer lease there is the one that was on the Leslie Salt land, that requires affirmative consent and has more of the traditional terms and conditions of the standard State Lands Commission lease. That requires affirmative consent. The other ones allow transfer, but that would only be transfer of the use that's consistent and permitted, which is a commercial harbor. It says it in the lease.

And there's a lot of different provisions in the lease. It was actually, you know, mandated by an act of the California Legislature in 1983, which was emergency legislation. And, you know, there's all kinds of provisions of that act. And one of them declares the existing commercial harbor and marina open for the public to be consistent with the Public Trust. So there's an act of the statute -- I don't know -- Mr. Hannig just made an argument that for 50 years they've been using this marina
to make millions and millions of dollars inconsistent with the Public Trust. That is -- that's the unavoidable conclusion to that argument.

So here we have it's an existing use, it's consistent with the Public Trust, and with people -- we have somebody who's going to read a statement. You know, a Vietnam veteran has lived there 20 years has paid $250,000 in rent. He could find where to pay his rent.

And, you know, we have -- he is at the VA today because he's having a surgery. He needs to go to the VA 3 times a week. We have a woman that couldn't come here today because she was hit by a car out of the Villas, which is next door, and she's been in just terrible pain for years, and she's unable to work. And so they're living on one income where she used to be a very vibrant phlebotomist and she can't come here.

We have other people who specifically asked this June, "Hey, we saw some surveyors. Are you selling the property?" And they were told no. And so they acted in their detrimental reliance and they have a houseboat, actually a floating home, that there is nowhere to put it now, because all of the other slips have been filled.

So Mr. Hannig raises a lot of factual arguments that -- you know, people fled in the first few weeks and took up all the remaining slips. So that's -- what I want
to say is that the city attorney, when I said in open hearing, she said if you don't consent to the outer lease and you don't approve the change in use, this particular permit that has been issued will go away.

And so that means everyone can go back to the drawing table and say why didn't you tell us, why didn't you ask the voters? And so what I wanted to say is when we go out and we ask them, since we've been in the press, we've been in -- you know, on TV, LA Times, all of this. They've been finding us. And they're finding me on LinkedIn. And they're finding us and saying we don't want you guys to go. So the voters want the boaters. I can tell you that.

If we put this to an initiative and said to the Redwood City, look, all you have to do is come up with parking. And right down the road, there's federal parking for the Bay Area -- the open space across, they're restoring the wetlands, there is space for parking down there on the street. The city has a right to have part of this road that goes in. It was the Leslie Salt easement, and it's private now, at 1 Uccelli. The city could make that its street sidewalk.

So there -- you know, there are options here, and there is so much room for compromise. And really I just feel that, you know, 2 days before we were told, it was
just assumed. And it's been like this since the 50s. It was assumed that they really feel they own that. It's been described in the press by Mr. Hannig as an ironclad 49-year lease that she has absolute rights over.

And so I think really that what I want to say is please don't allow the current -- what we've heard potential for is that the current money collection there is members of the Assembly that are involved in this. And we know politically that there may be a desire to, you know, go down the road of looking at all the facts, the good faith, et cetera, and there may be a potential for settlement on that. We'd really like to say please don't bring this privatization into that settlement. You know, please consider it the separate action that it is for public comment.

And finally, and I think probably, the most important thing that I came here for is to ask -- and I know we're not on the agenda today, and so I don't expect this today, but sometime between the Commission and the staff over the next few weeks to see if there's someway we could keep the status quo.

So it is true that the inner harbor is now the act, deeded it to Pete. If you looked at old maps, the slough wrapped around and it was Smith Slough. And so that's been resolved by the act now, and they can have
that. I want to say that next door, the Villas, has 150 residents and 3 have boats. That it is -- it is very much -- maybe 5 tops. It's a 2 to 3 percent of this 411, and if it gets reduced to 360 or, you know, something, they're going on the 40 density units per acre and making an argument that there's no way they can make money with fewer than that.

And they also have residents as planned in the 100-foot BCDC space. So I'm really calling this a place map. What it was intended to do is to give them a vested map for the most that they could ask for 2 years. When they built down the road at 1 Marina, they closed -- somebody else will talk more about this -- they closed 400 slips and eliminated 300 of the same, you know, type of people, recreational boaters and liveaboards. And this is just vitiating recreational boating in Redwood City. There's nowhere to go. The port commissioners said we were sleeping on Ms. Uccelli's couch. It has just been awful at the city level.

So what I want to say is if there's any opportunity, here is the timeline. We're told that we need to be out by January 15th. We will face eviction proceedings under the threat of attorney's fees. Our appeal is heard 2 weeks later. There is a State Lands Commission meeting in February. We hope that they would
have, you know, applied for this permit to have an
amendment to change the use. They might not do that for
Lord knows how long.

And we are prepared -- we have a -- I happen to
be an attorney. We have Internet, you know, start-up
people, we have investment, we have Vietnam vets that are
on a very regular income and they pay their rent. We're
prepared to get insurance. We're prepared to pay rent in
escrow. We're prepared to show you who we are, and that
we can -- in good faith, these people have been taking
care of this place like it's their own home for 20 years.

And so that's what we're asking for is some kind
of status quo, some indication. We know that it takes
months to work out all of the complexities of this. There
is the act, a judgment, 2 leases, there's a legislative
intent and I've gone and found it all. And, you know, I
have the letter from the Governor -- this is what I want
to stay, in the act, it was never, never, never proposed
that -- in front of the Legislature was the privatization
for residential use of Public Trust Lands. So the act
absolutely does not give that. It was like -- there's the
construction statutory and contract construction that --
and anything that -- what's not before a judge is not
decided. This was not before the Legislature. It was not
decided.
ACTING CHAIRPERSON GORDON: Who authored the act?

MS. MADDEN: It was Dominic Cortese. I believe his son is an elected official in Santa Clara County and is on the BCDC now. And we haven't heard, you know, anything from him. And the year before I would say -- I have the letter here to the Governor. The year before it was Naylor. There were 2 nays. I think one of them was Maxine Waters. And I can give you everything I brought today, because I have copies of it.

Are there any questions that I can answer?

ACTING CHAIRPERSON GORDON: I don't think so.

MS. MADDEN: Okay. Thank you.

ACTING CHAIRPERSON GORDON: Next.

MS. WEBSTER: So I don't know what to say. I think Alison said everything, but -- my name is Leslie Webster. I've lived at Pete's Harbor for over 4 years. I live on a houseboat. It's not a floating home. It has an engine and it's mobile. I'm one of what was, on September 20th, 144 liveaboards living on 86 boats at Pete's Harbor.

I'm here as a member of Save Pete's Harbor 2012, a coalition that wants the harbor to remain a commercial marina. What has been overlooked elsewhere is that we actually support the sale and development of the harbor, but we encourage reasonable and responsible waterfront development. We believe that Pete's Harbor should
continue to be open to liveaboards, cruisers, and weekend boaters. We believe it should remain a place where the public feels invited to use the lands, waterways, and resources, and we are concerned about the possibility of a non-public trust use.

As it is, Pete's Harbor is an open harbor where the public feels free to walk or bike around the ungated property wander down the docks, come watch the fireworks on the 4th of July, look at the boats, talk to the people who live on them, go kayaking. There are no gates, but it is a safe place precisely because of the liveaboards.

This existing usage is consistent with your regulations and your goals. If it continues as a commercial marina, you can be assured that it will generate revenues, enhance the economy, and assure the ongoing viability of the State Lands while protecting the environment.

We are concerned about the development plan that has been fast-tracked through the City of Redwood City. This developer -- this development is proposed by an out-of-State developer who previously cleared a nearby marina of over 400 slips and did not rebuild them. The same developer has stated that he has no interest in a marina at Pete's Harbor.

His project at Pete's Harbor pays lip service to
the public's enjoyment of the Trust Lands, when in reality it will be a place where the public will feel they are trespassing in a private luxury housing complex. It will not enhance the public's enjoyment of the Trust Lands. It will sacrifice much of the public benefit of Pete's Harbor for private advantage.

I know that you're not addressing this topic today, but I urge you to consider it carefully and not to consent to assign the lease and allow the change of use from commercial to private residential without adequate political -- without adequate public participation and comment.

Thank you.

ACTING COMMISSIONER GARLAND: Thank you.

Next speaker.

MR. LEE: Good afternoon to the Commission. My name is James Lee and I'm a Redwood City native. I was born and raised there. Like many people who are born and raised in Redwood City, I do have memories of Pete's Harbor as a child. As Leslie mentioned, it is a place that you go to see fireworks. It is a place that you go to feed the ducks, to see the water, get a little bit of nature. And so I don't personally live at the harbor myself, but I am a Redwood City resident, and I really care about what's happening to this community.
It is a community. It's almost -- with the liveaboards and the folks who live in their mobile homes at the harbor, there's almost 200 people -- or there were almost 200 people before this process started.

I wanted to talk about -- before we came here today, we've actually been lobbying over -- a few blocks down at the Capitol. We've talked to our State Assembly members, State Senators, and all the staff members we talked to have said, so, you know, "Why are you here? Why aren't you not at the city level?"

And one thing I want to convey to the Commission today is that we have made no headway at the city level. The folks at Save Pete's Harbor, folks like myself who are Redwood City residents, we've gone to multiple planning commission meetings, city council meetings, and it's like talking to a brick wall. It's really hard to get any sort of headway.

And the city recently also passed a new set of guidelines for how land use appeal hearings will be held. And those were voted on by the city council a week after the Pete's Harbor residents filed their appeal with the city.

There was one council meeting we attended where Ms. Uccelli was sitting in the back row with a planning commissioner just chit-chatting, not even outside of city
hall, but just chit-chatting.

And that's fine. You know, we can have any personal relationships we want, but it just shows the uphill battle we have when we're trying to make our case to a city that is friend of the landlord in this case here.

The folks at Pete's Harbor, when this process started, they should have been able to go to their city officials to ask for help, whether it was for relocation, mitigation, compromise like we were talking about.

Instead, one of their port commissioners, Lorianna Kastrop, came to a city council meeting and called -- and she is a friend of Ms. Uccelli, and she came to a city council meeting to call these Redwood City residents couch surfers, people who had an artificial sense of entitlement after paying thousands of dollars in rent for decades.

This is what we're dealing with. And when we talk to elected officials what we always get is that this is not in their purview. What happens in the city is not in their purview, even though the general plan for the city says that Pete's Harbor is great because it adds to the affordable housing element for the city.

And so that's why we're here at the State level. We want you to do what you can that is in your purview.
We are here to ask that you refuse to consent to assign
the lease, and certainly refuse to transfer the lease if
there's going to be a change in the use of the marina from
commercial public access to private and residential.

Thank you so much.

ACTING CHAIRPERSON GORDON: Next.

MR. ROSJAS: Good afternoon, Commission and 
fellow Californians. My name is Joseph Rosjas. I am not
from Redwood City, but I am a resident of the peninsula.
I'm from Sunnyvale, and I am an activist that has been
involved in low income and affordable housing issues along
the peninsula.

Even though the issue of liveaboards isn't
strictly part of the Public Trust, it is definitely part
of the public good. When we claim to be an area, a city,
and a State that is welcoming to our veterans, where we
claim to cry at their hardship and wax poetic about all
our efforts in their favor, I have here a letter from a
Vietnam veteran who was referred to earlier. His name is
Buckley Stone. And he was unable to be here because he is
having surgery. And I would like to read his letter and
add it to the public record.

"My name is Buckley Stone. I am 54 years old
and have lived a simple life afloat for 20 years.
I joined the U.S. Air Force after high school."
In 1977, I became terminally ill with lymphoma and was hospitalized for 18 months and survived experimental chemotherapy. During that time, I suffered renal failure, cardiopulmonary embolism, blindness and a host of other infections and side effects. I was clinically dead twice and my parents flew back east both times to bury me.

"I was air evacuated from Pease Air Force Base near New Hampshire to the National Institute of Health in Washington D.C., where I received medical care. In 1987, I was classified as being in remission and was deemed cured after 5 years without treatment.

"When I was well enough, I put myself through college and worked in the electronic industry for 25 years. I did not sit at home to collect a check from the VA. I went to work, and fortunately I put a lot of money into my Social Security, which I rely on for part of my income."

"In 2000, I fell ill again with Hepatitis C from the transfusions I received and had to have another year of chemo. During this time, I lost my career and my income. I was placed on permanent disability by the VA, and have been living on a fixed income since 2002. I've been
receiving medical treatment at the Palo Alto VA. And because of my extensive complicated medical history, I must be able to continue my medical treatment at this location.

"These complications and side effects have put my immune system in serious risk. It is critical to my health to remain as close to the VA as possible. My wife Wendy is my primary caregiver and takes care of my day-to-day needs. Without her I would have died again.

"Please save this piece of Redwood City history and our community. Thank you for your time and interest in this matter."

Now, it may not be part of the Public Trust to take care of our veterans, but it is part of the public good. And as a more personal issue, and an amateur photographer, Pete's Harbor is just absolutely gorgeous. Just looking out over the boats at night, any time of day you see the lights of 101, and the businesses across the bay, and it's absolutely amazing.

Please save Pete's Harbor. Please allow us to negotiate with the developers. Please deny the renewal of the lease.

Thank you.

ACTING CHAIRPERSON GORDON: Next witness.
MS. CARTWRIGHT: My name is Shawn Cartwright and I wish I was a famous soccer player.

Pete's Harbor is a community that matters. How many people in this room actually know everyone on their block?

You do?

You're the only one. You're the only one who raised their hand. So you're lucky.

The people at Pete's Harbor they know everyone on their block. They know everyone in the harbor. It's the only place that I've ever seen. And the other night, there was a car that crashed in my neighborhood. It came up on the sidewalk, drunk, the whole thing. How many people drive up on your sidewalk? Crashed into a palm tree. How many people came out in my neighborhood?

Me and a guy down the block. That was it. Three o'clock in the morning.

But in Pete's Harbor they would all come out. They would come out if you pulled up with like a fruit with. "Hey, welcome. How are you doing?" Somebody new in the neighborhood. That's how they are. And that's why it's a community that matters, and that's why we're here.

And that's why I'm here, because honestly when I first heard about it, "Ooh, a bunch of people on boats getting thrown out. Who cares?"
I thought because it was a bunch of rich people who could afford to live on boats. But it turns out, because it's Pete's Harbor, it's one of the biggest BMR communities on the entire peninsula. And to lose something like that, particularly as somebody who grew up on welfare, that's huge to me, to lose a big chunk of BMR housing. Redwood City doesn't have enough to begin with as it is.

I find that to be a travesty that we would even consider doing something like that. You know you can live aboard a boat for 700 bucks a month? That's kind of nice. You go on vacation, you just put away and go someplace new. That's really nice.

I wanted to say that over 2 dozen jobs are going to be lost due to business closure. Many of those businesses are owned by the people that live at Pete's Harbor.

We've already covered the veterans issue. We've got children that are going to be like having to switch schools. And there are 91 current registered voters at Pete's Harbor, so -- I bet you didn't know that?

Also -- I'm sorry. I've got all the notes here. The Pauls Corporation has a history of using non-union and non-prevailing wage. So what they did at their last building, the one right next door that they built was they
managed to get the unions, the trade unions, to go ahead and fund their EIR, and then after that, they still used non-prevailing wage and non-union labor. So there's no reason to believe that they're not going to do that again. It's a really nice trick.

So as somebody who believes in labor, I find that to be a big issue, and I believe that everyone should be paid a prevailing wage, particularly as somebody from San Jose and we finally upped our minimum wage, so woohoo. Proud of that.

Sausalito just went through the same issue. Sausalito just went through the same issue of them trying to get rid of the boaters.

And Peninsula Marina, anyone, anyone?

Yeah, there is no Peninsula Marina, because they got rid of them. They got rid of them. The same people got rid of them. So we've got to stop this. This is what's happening right now is getting rid of these boaters, getting rid of liveaboards.

And then you push them out, and then they anchor out. And then what happens? They end up crashed along the rocks. And then you don't even have the boat. And is this what we really want to do? Is this what we really want to do to boaters? Is this what we want to do to the biggest BMR community in the peninsula? Is this what we
really want to do to an entire neighborhood, a community
that matters?

In closing -- I see my little red dot -- this is
a breach of the Public Trust. I know my colors. I watch
Sesame Street. This is a breach of Public Trust. And I
implore you not to assign or transfer the lease, and not
to change the use from commercial public access marina to
a private residential one.

Pete's Harbor, it's a community that matters.
These people matter. And what's being done is wrong and
it's dishonest. More than anything, it is completely
dishonest.

Thank you.

ACTING CHAIRPERSON GORDON: Next witness. I
think last one. Leslie Webster.

MS. WEBSTER: I already spoke.

ACTING CHAIRPERSON GORDON: Oh, she already
spoke. Okay. Do we have anybody?

Is that it?

Do you have anything?

ACTING COMMISSIONER GARLAND: No, thank you.

ACTING CHAIRPERSON GORDON: One short statement,
which is, at least for one Commissioner, some knowledge of
the Public Trust. Had you gone back 25 years -- as
recently as 25 years ago, the view of the Public Trust in
California and in some instances was that it was simply a matter of coming down from Roman Law of navigation and the right to fish.

We have expanded the Public Trust as the years have gone by to take in recreational uses and environmental uses.

It's a living, breathing, document. It's living breathing common law theory over 2,000 years old and will continue to evolve. Whether having housing in a Public Trust use is appropriate, I think we're going to have to reach that decision going forward. But it strikes me that there's a compromise to be reached here somewhere.

And if that means downsizing the development a little bit or finding parking somewhere else, at least for one Commissioner, that will be something we will look at very, very seriously. I can't speak for either of the other 2 Commissioners, but we will be looking for a way to find a way out of this and keep the housing that currently exists.

Anything else?

All right. That concludes the open meeting.

We'll now adjourn into closed session. Will the public please clear the room.

Thank you.

EXECUTIVE OFFICER FOSSUM: Excuse me, Mr. Chair.
There is one other element on the agenda, Commissioners Comments.

    ACTING CHAIRPERSON GORDON: That's true. Yeah, hoisted on your own petard, as they say.
        Do you have anything?
        I think we're okay this time. Thank you, Curtis.
    EXECUTIVE OFFICER FOSSUM: Wonderful.
    ACTING CHAIRPERSON GORDON: Your final action.
    EXECUTIVE OFFICER FOSSUM: Thank you for that gift.

        (Off record: 3:38 PM)
        (Thereupon the meeting recessed into closed session.)
        (Thereupon the meeting reconvened open session.)
        (On record: 4:15 PM)
    ACTING CHAIRPERSON GORDON: We are now back in public session. We have finished private session. We are -- I am going to gavel this to a close in one second, unless there's any public comment.
        But first, we do need to say goodbye to Mr. Fossum and say thank you for your 50 years of service.
            (Laughter.)
    ACTING CHAIRPERSON GORDON: You disproved the rumor that you were here at the beginning of the State
EXECUTIVE OFFICER FOSSUM: Californian native 62 years.

ACTING CHAIRPERSON GORDON: Enjoy your retirement, Curtis. It's really been a pleasure and an honor to work with you this last year and a half.

EXECUTIVE OFFICER FOSSUM: Likewise. And thank you all. And look forward to keeping an eye on everybody on the webcast from my couch.

(Laughter.)

ACTING CHAIRPERSON GORDON: Meeting is closed.

(Thereupon the California State Lands Commission meeting adjourned at 4:15 PM)
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 meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of December, 2012.

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