TELECONFERENCE MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

CALIFORNIA STATE LANDS COMMISSION
MAIN CONFERENCE ROOM
100 HOWE AVENUE, SUITE 100 SOUTH
SACRAMENTO, CALIFORNIA

ADDITIONAL SITE
665 3RD STREET, SUITE 150
SAN FRANCISCO, CALIFORNIA

FRIDAY, MARCH 20, 2015
1:21 P.M.

JAMES F. PETERS, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063
APPEARANCES

COMMISSION MEMBERS:

Mr. Gavin Newsom, Lieutenant Governor, Chairperson (via teleconference)

Mr. Michael Cohen, Director of Department of Finance, represented by Ms. Eraina Ortega

Ms. Betty T. Yee, State Controller, represented by Ms. Anne Baker

STAFF:

Ms. Jennifer Lucchesi, Executive Officer (via teleconference)

Mr. Mark Meier, Chief Counsel

Mr. Ken Foster, Public Land Manager, Central/Southern California Region, Land Management Division

Ms. Sarah Mongano, Senior Environmental Scientist, Environmental and Planning Management Division

ATTORNEY GENERAL:

Mr. Joe Rusconi, Deputy Attorney General (via teleconference)
LEGAL

C01 CALIFORNIA STATE LANDS COMMISSION: Consider amendment of the Comprehensive Delegation of Authority, as amended, to 1) rescind the delegation to the Executive Officer to serve as the delegate, on behalf of the Chair of the Commission, to the California Coastal Commission, and; 2) authorize the Executive Officer to determine whether a dredging lease on granted public trust lands is necessary pursuant to Public Resources Code section 6707, subdivision (d), as added by Statutes 2013, Chapter 104, section 3. CEQA Consideration: not a project. (A & S: Statewide) (Staff: P. Griggs)

V INFORMATIONAL – NO ITEMS

VI REGULAR CALENDAR

02 TESORO REFINING & MARKETING COMPANY LLC (APPLICANT): Consider certification of a Final Environmental Impact Report (State Clearinghouse No. 2014042013); adoption of Findings, Statement of Overriding Considerations, and Mitigation Monitoring Program; and application for a General Lease – Industrial Use, of sovereign land located in the Carquinez Strait, near the city of Martinez, Contra Costa County; for the continued operation and maintenance of an existing marine oil terminal wharf,
periodic maintenance dredging, and for Marine Oil Terminal Engineering and Maintenance Standards compliance-related renovations. (PRC 3454.1; RA# 01411) (A 14; S 7) (Staff: K. Foster, S. Mongano, J. Fabel) 5

VII PUBLIC COMMENT 12

VIII COMMISSIONERS’ COMMENTS 12

IX CLOSED SESSION: AT ANY TIME DURING THE MEETING THE COMMISSION MAY MEET IN A SESSION CLOSED TO THE PUBLIC TO CONSIDER THE FOLLOWING PURSUANT TO GOVERNMENT CODE SECTION 11126:

A. LITIGATION.
THE COMMISSION MAY CONSIDER PENDING AND POSSIBLE LITIGATION PURSUANT TO THE CONFIDENTIALITY OF ATTORNEY-CLIENT COMMUNICATIONS AND PRIVILEGES PROVIDED FOR IN GOVERNMENT CODE SECTION 11126(e).

1. THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER GOVERNMENT CODE SECTION 11126(e)(2)(A):

California State Lands Commission v. City and County of San Francisco


Seacliff Beach Colony Homeowners Association v. State of California et al.

The Melton Bacon and Katherine L. Bacon Family Trust et al. v. California State Lands Commission, City of Huntington Beach

SLPR, LLC et al. v. San Diego Unified Port District, State Lands Commission

San Francisco Baykeeper v. State Lands Commission
2. THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER GOVERNMENT CODE SECTION 11126(e)(2)(B) or (2)(C).

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS. THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER GOVERNMENT CODE SECTION 11126(c)(7) – TO PROVIDE DIRECTIONS TO ITS NEGOTIATORS REGARDING PRICE AND TERMS FOR LEASING OF REAL PROPERTY.

1. Provide instructions to negotiators regarding entering into a new lease of state land for the Broad Beach Restoration Project, City of Malibu, Los Angeles County. Negotiating parties: Broad Beach Geologic Hazard Abatement District, State Lands Commission; Under negotiation: price and terms.

C. OTHER MATTERS

THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER GOVERNMENT CODE SECTION 11126(e)(2)(B) or (2)(C). THE COMMISSION MAY ALSO CONSIDER PERSONNEL ACTIONS TO APPOINT, EMPLOY, OR DISMISS A PUBLIC EMPLOYEE AS PROVIDED IN GOVERNMENT CODE SECTION 11126(a)(1).
PROCEDINGS

CHAIRPERSON NEWSOM: I'm Lieutenant Governor Gavin Newsom. I call this meeting of the State Lands Commission to order. Ms. Lucchesi, as this is a telephone conference meeting, will you please call the roll of the Commissioners in attendance.

EXECUTIVE OFFICER LUCCHESI: Yes Lieutenant Governor?

CHAIRPERSON NEWSOM: Here.

EXECUTIVE OFFICER LUCCHESI: Commissioner Baker?

ACTING COMMISSIONER BAKER: Here.

EXECUTIVE OFFICER LUCCHESI: Commissioner Ortega?

ACTING COMMISSIONER ORTEGA: Here.

EXECUTIVE OFFICER LUCCHESI: Great.

And Mr. Chairman, since we're doing a teleconference today, before each individual speaks, please identify yourself for the court reporter, so that he can be accurate in his transcription. And I'd also like to identify the members of the staff of the Commission and the Attorney General's office present for the record on this telephonic meeting.

In Sacramento with the Lieutenant Governor, Executive Officer Jennifer Lucchesi, and Deputy Attorney General Joe Rusconi.

CHAIRPERSON NEWSOM: In San Francisco.
EXECUTIVE OFFICER LUCCHESI: San Francisco. I've been doing that all morning. I'm sorry.

(Laughter.)

EXECUTIVE OFFICER LUCCHESI: In the Sacramento location at the State Lands Commission office with Deputy Controller Anne Baker and Deputy Director for Finance Eraina Ortega, Mark Meier, Brian Bugsch, Colin Connor, Ken Foster, Joe Fabel, Laura Kovary, Sarah Mongano, and our court reporter.

CHAIRPERSON NEWSOM: Great. Well, the first item for business will be the adoption of the minutes from the Commission's February 20th, 2015 meeting. May I have a motion to approve the minutes?

ACTING COMMISSIONER BAKER: So moved. Anne Baker.

CHAIRPERSON NEWSOM: Great. Seconded. Without objection.

EXECUTIVE OFFICER LUCCHESI: We will need to do that vote by roll call.

CHAIRPERSON NEWSOM: We will.

EXECUTIVE OFFICER LUCCHESI: Yes.

CHAIRPERSON NEWSOM: Let's do it.

EXECUTIVE OFFICER LUCCHESI: So Chair Newsom?

CHAIRPERSON NEWSOM: Yes. Aye. Yes, on this.

(Laughter.)
EXECUTIVE OFFICER LUCCHESI: Commissioner Baker?

ACTING COMMISSIONER BAKER: Yes.

EXECUTIVE OFFICER LUCCHESI: Commissioner Ortega?

ACTING COMMISSIONER ORTEGA: Aye.

CHAIRPERSON NEWSOM: Great. The minutes are adopted.

The next order of business is the Executive Officer's report. Mr. Lucchesi, I look forward to your presentation.

EXECUTIVE OFFICER LUCCHESI: I don't have a report.

(Laughter.)

CHAIRPERSON NEWSOM: That's why I was saying I look forward to it.

(Laughter.)

CHAIRPERSON NEWSOM: Unbelievably brief, to the point.

EXECUTIVE OFFICER LUCCHESI: Thank you.

CHAIRPERSON NEWSOM: There's nothing about it that we can critique actually.

EXECUTIVE OFFICER LUCCHESI: There you go.

(Laughter.)

CHAIRPERSON NEWSOM: At least nothing you said.

Next order of business will be the adoption of the consent calendar. And I want to just check, is there
anyone at any location that wishes to speak on this item?

CHIEF COUNSEL MEIER: There is -- this is Mark Meier, Chief Counsel. There is no one here to speak on anything on consent.

CHAIRPERSON NEWSOM: Great. No one here. With that, we'll now proceed with a vote on the consent calendar. Can I have a motion to approve the consent calendar?

ACTING COMMISSIONER BAKER: So moved. Anne Baker.

CHAIRPERSON NEWSOM: And is there a second?

ACTING COMMISSIONER ORTEGA: Yes, Eraina Ortega, I'll second.

CHAIRPERSON NEWSOM: Great. And so we'll do a vote by roll call.

EXECUTIVE OFFICER LUCCHESI: Yes.

Chair Newsom?

CHAIRPERSON NEWSOM: Yes.

EXECUTIVE OFFICER LUCCHESI: Commissioner Baker?

ACTING COMMISSIONER BAKER: Yes.

EXECUTIVE OFFICER LUCCHESI: Commissioner Ortega?

ACTING COMMISSIONER ORTEGA: Aye.

CHAIRPERSON NEWSOM: Great. Adoption of the consent calendar is approved.

Next order of business will be the regular
Item 2 is to consider certification of the Final EIR and the issuance of a general lease industrial use for the operation of an existing marine oil terminal wharf located at Carquinez Strait in Contra Cost County.

Can we have a staff presentation?

PUBLIC LAND MANAGER FOSTER: Yes, I'm Ken Foster. Good afternoon, Mr. Chairman and members of the Commission. My name is Ken Foster. I'm a Public Land Manager with the Commission's Land Management Division. I'm here to present information on Calendar Item C 02. This item asks the Commission to consider the following:

Certification of a Final Environmental Impact Report, adopt findings, a Statement of Overriding Considerations, and a Mitigation Monitoring Program; and authorize issuance of a general lease industrial use to Tesoro Refining and Marketing Company, LLC for the continued operation and maintenance of an existing marine oil terminal wharf, and for Marine Oil Terminal Engineering and Maintenance Standards, or MOTEMS, compliance-related construction and renovations at the terminal.

I'll be presenting background information on the existing terminal and the proposed lease. Sarah Mongano,
Senior Environmental Scientist with the Commission's Division of Environmental Planning and Management will be presenting information on the MOTEMS-required renovations in the EIR. Representatives from Tesoro are also present and available to answer questions as needed.

Slide two shows the Tesoro Avon Marine Oil Terminal location. The terminal is located in Contra Costa County just east of the Highway 680 Bridge in the Carquinez Strait near the City of Martinez.

Slide 3 shows the existing and proposed terminal facilities. Existing terminal facilities include the primary wharf area consisting of Berth 1, and the approachway or trestle and Berth 5. Berth 1 is currently being used for the transfer of petroleum products while Berth 5 is inactive.

Proposed construction activities include the addition of Berth 1A adjacent to Berth 1. Once completed, Berth 1A will replace the operations currently being conducted at Berth 1.

The project also includes the demolition of Berth 5, and installation of an osprey nesting platform away from the terminal to replace an existing nest site that will be lost when Berth 5 is removed.

Slide 4 shows basic lease provisions. The new 30-year lease term would begin January 1st, 2015. The
lease would authorize Tesoro to conduct refined petroleum product and intermediate petroleum product transfer operations, maintain the existing facilities, conduct periodic maintenance dredging, and perform MOTEMS compliance related renovations.

To address a concern raised by the Controller at the Commission's February 20th, 2015 meeting, Tesoro has agreed to a lease provision that specifically prohibits crude oil transfers at the Avon facility without prior Commission authorization.

Tesoro may request authorization to amend the lease to allow crude oil transfers at a later date, but this action is not part of the Commission's consideration at this time.

The base rent of $302,263 would be set for the first year of the lease, and would be adjusted annually using a Consumer Price Index adjustment of the prior year's rent. The base rent would be adjusted every 10 years based on appraisal.

Sarah Mongano will now present information on the MOTEMS-required renovations in the EIR.

SENIOR ENVIRONMENTAL SCIENTIST MONGANO: Good afternoon. My name is Sarah Mongano. I'm a Senior Environmental Scientist in the Commission's Division of Environmental Planning and Management. And I'm here to
discuss the Tesoro Avon Marine Oil Terminal Lease Consideration Project Environmental Impact Report, or EIR, which is slide 6 on your -- in your packet.

If you'll move to slide 7, the EIR analyzes the environmental impacts from a new 30-year lease for Tesoro, and for renovations to the Avon Terminal required by MOTEMS. The scope of MOTEMS renovations includes construction of a new berthing area called Berth 1A, decommissioning of the currently operational Berth 1, repairs, retrofits, and renovations to the approachway and pipeway, and demolition and removal of the existing, but non-operational, Berth 5.

Slide 8. The EIR identifies potentially significant adverse impacts from this project. All impacts associated with MOTEMS renovations have been mitigated to less than significant, but some of the impacts associated with the issuance of a new 30-year lease are more significant. They recognize that there are inherent risks to public health and safety and to the environment at any facility where petroleum products are routinely transferred over water.

Even with the application of all feasible mitigation measures, some of the impacts can't be reduced to less than significant. Those impacts are identified in the EIR in the sections for Operational Safety, Biological
Resources, Water Quality, Land Use and Recreation, and Visual Resources, but they all fall into two categories, those of impacts from ballast water discharge and hull fouling by vessels, and impacts that might occur from a large oil spill.

The complete Mitigation Monitoring Program with all the mitigation measures is included as Exhibit C in your packet. However, due to the current lack of effective systems for the treatment of ballast water to remove all non-indigenous organisms and the inherent possibility of an accidental oil spill, in spite of all available best management practices and safety technologies, these potential environmental impacts still remain significant.

There are benefits to the proposed project that the Commission may choose to find outweigh the unavoidable, adverse environmental impacts. Maintaining existing and operational facilities, such as the Avon Terminal, which currently meets all State and local environmental requirements, is critical to meeting existing and future demand for fuel in California.

Although California continues to advance towards alternative fuels, petroleum currently remains the State's primary source of transportation energy. Any future projects to construct petroleum product storage and
handling capacity would require extensive environmental assessment, and have significant environmental impacts that exceed those associated with maintaining the existing infrastructure, such as the Avon Terminal.

The Statement of Overriding Considerations is included as Exhibit D and provides an explanation as to why the benefits associated with this project outweigh the unavoidable adverse impacts.

Staff recommends that the Commission certify the EIR, adopt the Mitigation Monitoring Program findings and Statement of Overriding Considerations included as Exhibit C and D, and approve the lease as presented in Calendar Item number 2.

Thank you.

CHAIRPERSON NEWSOM: Thank you.

Thank you for the presentation.

Any comments from Commissioners?

Seeing none.

I just want to thank all of you for your patience on this, for again, your willingness to even have this special meeting. And I apologize for the inconvenience, particularly for those of you that came down from Sacramento. And I appreciate the patience of Tesoro and others as it relates to just getting some additional facts.
We were blessed to have a number of meetings over the last week or so. And I know Commissioner Yee's office did as well, and so very appreciative to everybody for their willingness to indulge us.

And as was noted before, when we asked for this continuance, the intention was not to delay this, but just to get some answers. And we're very hopeful now with that behind us that we can get this project done and complete, and grateful, again, for everyone's willingness to be as cooperative as they were.

So I just wanted to express that, and now ask if there's anyone from the public that wishes to express a point of view?

Seeing none. We'll close public comment.

And I'll ask the Commissioners if there's a motion to support and move forward with the authorization -- or rather the issuance of the lease?

ACTING COMMISSIONER BAKER: This is Anne Baker. I move the recommended Commission actions as outlined in the PowerPoint on page eight.

CHAIRPERSON NEWSOM: Great. Is there a second?

ACTING COMMISSIONER ORTEGA: Yes. This is Eraina Ortega. I will second.

CHAIRPERSON NEWSOM: Great. We'll do a vote by roll.
EXECUTIVE OFFICER LUCCHESI: Chair Newsom?
CHAIRPERSON NEWSOM: Yes.
EXECUTIVE OFFICER LUCCHESI: Commissioner Baker?
ACTING COMMISSIONER BAKER: Yes.
EXECUTIVE OFFICER LUCCHESI: Commissioner Ortega?
ACTING COMMISSIONER ORTEGA: Aye.
CHAIRPERSON NEWSOM: Great. Move forward. Thank you.

Now, are there any other members of the public that wish to address the Commission during this open public comment period?
Seeing none. We'll close public comment.
Do any of the Commissioners have any additional comments or questions?
Seeing none. This concludes the open meeting.
We'll now adjourn into closed session. Will the public please clear the room as they say.

(Off record: 1:32 PM)
(Thereupon the meeting recessed into closed session.)
(Thereupon the meeting reconvened open session.)
(On record: 01:41 PM)

CHIEF COUNSEL MEIER: All right. This is Mark Meier, Chief Counsel. We have -- currently have two
Commissioners present to reopen the meeting, Commissioner Ortega and Commissioner Baker.

So at this time, we -- there's no further public business to conduct. I'd ask that -- is that yours?

EXECUTIVE ASSISTANT LUNETTA: Yeah, it's Jen.

CHIEF COUNSEL MEIER: We're closed -- suspending the meeting for just a second.

(Off record: 1:42 PM)

(Thereupon a brief recess was taken.)

(On record: 1:42 PM)

CHIEF COUNSEL MEIER: Reopening the meeting. We have no further business to discuss. Is there a motion -- I guess we can just close the meeting at this point. We don't need a motion for that purpose.

So, at this time, the Commission meeting is closed.

(Thereupon the California State Lands Commission meeting adjourned at 1:43 PM)
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, 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 24th day of March, 2015.

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