

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

A P P E A R A N C E S

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)

I N D E X

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I 1:00 P.M. - OPEN SESSION	1
II CONFIRMATION OF MINUTES FOR THE REGULAR MEETING OF FEBRUARY 20, 2015	2
III EXECUTIVE OFFICER'S REPORT	3
IV CONSENT CALENDAR C01 THE FOLLOWING ITEM IS CONSIDERED TO BE NON-CONTROVERSIAL AND IS SUBJECT TO CHANGE AT ANY TIME UP TO THE DATE OF THE MEETING.	3

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,

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02 (CONTINUED) 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:	12
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	
Defend Our Waterfront v. California State Lands Commission et al.	
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	

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Keith Goddard v. State of California

Sportsman's Paradise v. California
State Lands Commission

California State Lands Commission v.
Lee Stearn

2. THE COMMISSION MAY CONSIDER MATTERS
THAT FALL UNDER GOVERNMENT CODE SECTION
11126(e)(2)(B) or (2)(C).

B. CONFERENCE WITH REAL PROPERTY NEGO ORS.
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).

Adjournment 13

Reporter's Certificate 14

1 P R O C E E D I N G S

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

7 EXECUTIVE OFFICER LUCCHESI: Yes
8 Lieutenant Governor?

9 CHAIRPERSON NEWSOM: Here.

10 EXECUTIVE OFFICER LUCCHESI: Commissioner Baker?

11 ACTING COMMISSIONER BAKER: Here.

12 EXECUTIVE OFFICER LUCCHESI: Commissioner Ortega?

13 ACTING COMMISSIONER ORTEGA: Here.

14 EXECUTIVE OFFICER LUCCHESI: Great.

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

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

25 CHAIRPERSON NEWSOM: In San Francisco.

1 EXECUTIVE OFFICER LUCCHESI: San Francisco. I've
2 been doing that all morning. I'm sorry.

3 (Laughter.)

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

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

14 ACTING COMMISSIONER BAKER: So moved. Anne
15 Baker.

16 CHAIRPERSON NEWSOM: Great. Seconded.
17 Without objection.

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

20 CHAIRPERSON NEWSOM: We will.

21 EXECUTIVE OFFICER LUCCHESI: Yes.

22 CHAIRPERSON NEWSOM: Let's do it.

23 EXECUTIVE OFFICER LUCCHESI: So Chair Newsom?

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

25 (Laughter.)

1 EXECUTIVE OFFICER LUCCHESI: Commissioner Baker?

2 ACTING COMMISSIONER BAKER: Yes.

3 EXECUTIVE OFFICER LUCCHESI: Commissioner Ortega?

4 ACTING COMMISSIONER ORTEGA: Aye.

5 CHAIRPERSON NEWSOM: Great. The minutes are
6 adopted.

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

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

12 (Laughter.)

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

15 (Laughter.)

16 CHAIRPERSON NEWSOM: Unbelievably brief, to the
17 point.

18 EXECUTIVE OFFICER LUCCHESI: Thank you.

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

21 EXECUTIVE OFFICER LUCCHESI: There you go.

22 (Laughter.)

23 CHAIRPERSON NEWSOM: At least nothing you said.

24 Next order of business will be the adoption of
25 the consent calendar. And I want to just check, is there

1 anyone at any location that wishes to speak on this item?

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

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

9 ACTING COMMISSIONER BAKER: So moved. Anne
10 Baker.

11 CHAIRPERSON NEWSOM: And is there a second?

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

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

16 EXECUTIVE OFFICER LUCCHESI: Yes.

17 Chair Newsom?

18 CHAIRPERSON NEWSOM: Yes.

19 EXECUTIVE OFFICER LUCCHESI: Commissioner Baker?

20 ACTING COMMISSIONER BAKER: Yes.

21 EXECUTIVE OFFICER LUCCHESI: Commissioner Ortega?

22 ACTING COMMISSIONER ORTEGA: Aye.

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

25 Next order of business will be the regular

1 calendar. Apologies.

2 Item 2 is to consider certification of the Final
3 EIR and the issuance of a general lease industrial use for
4 the operation of an existing marine oil terminal wharf
5 located at Carquinez Strait in Contra Cost County.

6 Can we have a staff presentation?

7 PUBLIC LAND MANAGER FOSTER: Yes, I'm Ken Foster.

8 Good afternoon, Mr. Chairman and members of the
9 Commission. My name is Ken Foster. I'm a Public Land
10 Manager with the Commission's Land Management Division.

11 I'm here to present information on Calendar Item
12 C 02. This item asks the Commission to consider the
13 following:

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

24 I'll be presenting background information on the
25 existing terminal and the proposed lease. Sarah Mongano,

1 Senior Environmental Scientist with the Commission's
2 Division of Environmental Planning and Management will be
3 presenting information on the MOTEMS-required renovations
4 in the EIR. Representatives from Tesoro are also present
5 and available to answer questions as needed.

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

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

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

20 The project also includes the demolition of Berth
21 5, and installation of an osprey nesting platform away
22 from the terminal to replace an existing nest site that
23 will be lost when Berth 5 is removed.

24 Slide 4 shows basic lease provisions. The new
25 30-year lease term would begin January 1st, 2015. The

1 lease would authorize Tesoro to conduct refined petroleum
2 product and intermediate petroleum product transfer
3 operations, maintain the existing facilities, conduct
4 periodic maintenance dredging, and perform MOTEMS
5 compliance related renovations.

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

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

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

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

22 SENIOR ENVIRONMENTAL SCIENTIST MONGANO: Good
23 afternoon. My name is Sarah Mongano. I'm a Senior
24 Environmental Scientist in the Commission's Division of
25 Environmental Planning and Management. And I'm here to

1 discuss the Tesoro Avon Marine Oil Terminal Lease
2 Consideration Project Environmental Impact Report, or EIR,
3 which is slide 6 on your -- in your packet.

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

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

22 Even with the application of all feasible
23 mitigation measures, some of the impacts can't be reduced
24 to less than significant. Those impacts are identified in
25 the EIR in the sections for Operational Safety, Biological

1 Resources, Water Quality, Land Use and Recreation, and
2 Visual Resources, but they all fall into two categories,
3 those of impacts from ballast water discharge and hull
4 fouling by vessels, and impacts that might occur from a
5 large oil spill.

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

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

22 Although California continues to advance towards
23 alternative fuels, petroleum currently remains the State's
24 primary source of transportation energy. Any future
25 projects to construct petroleum product storage and

1 handling capacity would require extensive environmental
2 assessment, and have significant environmental impacts
3 that exceed those associated with maintaining the existing
4 infrastructure, such as the Avon Terminal.

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

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

14 Thank you.

15 CHAIRPERSON NEWSOM: Thank you.

16 Thank you for the presentation.

17 Any comments from Commissioners?

18 Seeing none.

19 I just want to thank all of you for your patience
20 on this, for again, your willingness to even have this
21 special meeting. And I apologize for the inconvenience,
22 particularly for those of you that came down from
23 Sacramento. And I appreciate the patience of Tesoro and
24 others as it relates to just getting some additional
25 facts.

1 We were blessed to have a number of meetings over
2 the last week or so. And I know Commissioner Yee's office
3 did as well, and so very appreciative to everybody for
4 their willingness to indulge us.

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

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

14 Seeing none. We'll close public comment.

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

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

21 CHAIRPERSON NEWSOM: Great. Is there a second?

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

24 CHAIRPERSON NEWSOM: Great. We'll do a vote by
25 roll.

1 EXECUTIVE OFFICER LUCCHESI: Chair Newsom?

2 CHAIRPERSON NEWSOM: Yes.

3 EXECUTIVE OFFICER LUCCHESI: Commissioner Baker?

4 ACTING COMMISSIONER BAKER: Yes.

5 EXECUTIVE OFFICER LUCCHESI: Commissioner Ortega?

6 ACTING COMMISSIONER ORTEGA: Aye.

7 CHAIRPERSON NEWSOM: Great. Move forward. Thank
8 you.

9 Now, are there any other members of the public
10 that wish to address the Commission during this open
11 public comment period?

12 Seeing none. We'll close public comment.

13 Do any of the Commissioners have any additional
14 comments or questions?

15 Seeing none. This concludes the open meeting.

16 We'll now adjourn into closed session. Will the
17 public please clear the room as they say.

18 (Off record: 1:32 PM)

19 (Thereupon the meeting recessed

20 into closed session.)

21 (Thereupon the meeting reconvened

22 open session.)

23 (On record: 01:41 PM)

24 CHIEF COUNSEL MEIER: All right. This is Mark
25 Meier, Chief Counsel. We have -- currently have two

1 Commissioners present to reopen the meeting, Commissioner
2 Ortega and Commissioner Baker.

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

5 EXECUTIVE ASSISTANT LUNETTA: Yeah, it's Jen.

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

8 (Off record: 1:42 PM)

9 (Thereupon a brief recess was taken.)

10 (On record: 1:42 PM)

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

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

17 (Thereupon the California State Lands
18 Commission meeting adjourned at 1:43 PM)

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C E R T I F I C A T E O F R E P O R T E R

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