

MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSON

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DEFINITION

LEGISLATIVE OFFICE BUILDING
1020 "N" STREET
SACRAMENTO, CALIFORNIA

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TUESDAY, MARCH 8TH, 1994
1:37 P.M.

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Doris M. Bailey, CSR, RPR
Certified Shorthand Reporter
License Number 8751

A P P E A R A N C E S

COMMITTEE MEMBERS:

Gray Davis, State Controller, Chairman

Leo T. McCarthy, Lieutenant Governor, Commissioner

Theresa Parker for Russell S. Gould,
Director of Finance, Commissioner

STAFF MEMBERS PRESENT:

Charles Warren, Executive Officer

James F. Trout, Assistant Executive Officer

Alan Hager, Deputy Attorney General

Robert Hight, General Counsel

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P R O C E E D I N G S

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2
3 CHAIRMAN DAVIS: Gavel this open session, the
4 formal session of the Lands Commission into session. Welcome
5 our colleagues. We're going to start the formal session of
6 the Lands Commission. I've noted that all the Commissioners
7 are present.

8 I guess the first item of business is the review
9 and adoption of the minutes from our last meeting. Do I have
10 a motion?

11 COMMISSIONER MCCARTHY: Moved.

12 CHAIRMAN DAVIS: All right. Without objection the
13 minutes will be deemed adopted.

14 The next item before us is the consent calendar.
15 Mr. Warren, would you like to make any comments about the
16 consent calendar?

17 EXECUTIVE OFFICER WARREN: No, Mr. Chairman,
18 consent calendar items are one through 87. Two speakers have
19 asked to comment on consent calendar items, Mr. Pete Rabbon
20 on item number ten and Mr. Corkill on item number 83, but I
21 assume those requests are only if those items are removed
22 from the consent calendar. But I know we recommend approval
23 of the consent calendar.

24 CHAIRMAN DAVIS: All right. Governor McCarthy
25 brings to my attention the items that have been removed from

1 the consent calendar. Correct me if I'm wrong.

2 EXECUTIVE OFFICER WARREN: All right.

3 CHAIRMAN DAVIS: The following items are removed
4 from the consent calendar, C21, C33C, item number 60, consent
5 item number 65, number 81, number 86, number 88, and number
6 47.

7 EXECUTIVE OFFICER WARREN: 88 is a regular calendar
8 item which is to be removed.

9 CHAIRMAN DAVIS: All right. 88 is removed from the
10 agenda.

11 EXECUTIVE OFFICER WARREN: Yes.

12 CHAIRMAN DAVIS: Okay.

13 EXECUTIVE OFFICER WARREN: But you have the numbers
14 correct, yes, sir.

15 CHAIRMAN DAVIS: Do any of the members want to pull
16 any of the items from the consent calendar? All right.

17 Is there any objection to the adoption of the
18 consent calendar?

19 Do the two speakers have any objection if we adopt
20 their item rather than pull it from the consent calendar and
21 run the risk that we'll find some fault with it in light of
22 your testimony?

23 Hearing no objection then the consent calendar is
24 adopted.

25 88 has been -- can we keep it down, please? 88 has

1 been withdrawn.

2 Mr. Warren, would you speak to item 89?

3 EXECUTIVE OFFICER WARREN: Item 89, Mr. Chairman
4 and Commissioners, is a non-controversial item but we thought
5 it should be brought to your attention because of its
6 significance. It would authorize the purchase of 10,000
7 acres in north San Pablo Bay known as the Cargill Salt Ponds.
8 The purchasing parties would be the Wildlife Conservation
9 Board, the Coastal Conservancy, the Shell Oil Spill Trustees,
10 of whose number we are one, and the Kapiloff Land Bank Fund
11 administered by the commission.

12 This item seeks approval for the executive officer
13 to purchase up to 1,000 acres at no more than one million
14 dollars. The item is submitted to you in that way because it
15 is not known exactly what amount the Kapiloff Bank will
16 contribute. Most recently we heard that perhaps we could, no
17 more than 486,000 I believe would be required from Kapiloff.
18 But in any event we, in the past we've indicated our
19 willingness to recommend to you up to one million dollars,
20 and so this item would ask for your approval to spend up to
21 that amount in exchange for up to 1,000 acres of the 10,000-
22 acre parcel.

23 CHAIRMAN DAVJS: Make sure I understand. The staff
24 request is that we authorize up to a million dollars worth of
25 capital funds should they be forthcoming for the stated

1 purchase?

2 EXECUTIVE OFFICER WARREN: The funds are available.
3 We have the funds available. The question is how much will
4 be necessary in order to supplement the funds from under,
5 from other funding agencies. Wildlife Conservation Board I
6 think is spending up to a million and a half, Coastal
7 Conservancy a million, and the Shell Oil trustees six and a
8 half million, for a total of ten million dollars at \$1,000 an
9 acre.

10 CHAIRMAN DAVIS: Do any of my colleagues have any
11 questions?

12 ACTING COMMISSIONER PARKER: Mr. Chairman, I just
13 have one question of Mr. Warren. If there's no contention
14 about the amount of acreage that we're talking about -- is it
15 10,000 acres?

16 EXECUTIVE OFFICER WARREN: That's correct.

17 ACTING COMMISSIONER PARKER: So it's just a matter
18 of how much funds are available from the other entities who
19 are participating in this?

20 EXECUTIVE OFFICER WARREN: That's correct.

21 CHAIRMAN DAVIS: Therefore it's at least possible
22 that we won't have to spend all of our million dollars.

23 EXECUTIVE OFFICER WARREN: That's correct.

24 CHAIRMAN DAVIS: All right. Does anyone in the
25 audience want to speak in favor of the proposal?

1 Does anyone care to speak in opposition to it?

2 ACTING COMMISSIONER PARKER: I would move the staff
3 recommendation.

4 CHAIRMAN DAVIS: All right. Do you second that?

5 Then the staff recommendation is adopted
6 unanimously.

7 And I want to commend Mr. Warren who I know worked
8 personally on this project dilligently, and the entire staff.

9 EXECUTIVE OFFICER WARREN: Thank you.

10 CHAIRMAN DAVIS: These days it's not easy to put
11 together that kind of public private funding.

12 EXECUTIVE OFFICER WARREN: This is a significant
13 acquisition in my opinion.

14 CHAIRMAN DAVIS: Very good work. Now we go to item
15 90.

16 EXECUTIVE OFFICER WARREN: Item 90, Mr. Chairman
17 and Commissioners, is a reconsideration of a proposal by the
18 City of Hermosa Beach for leasing of offshore parcel for the
19 purpose of oil development. It will be presented to you by
20 Mr. Hager of the Attorney General's office.

21 CHAIRMAN DAVIS: Welcome.

22 DEPUTY ATTORNEY GENERAL HAGER: This matter has
23 been before you before. It's a proposal by the City of
24 Hermosa Beach to lease its granted tide and submerged lands
25 for oil and gas development. These granted lands are within

1 a drilling sanctuary which encompasses Santa Monica Bay. And
2 in order for the city to lease the lands it must receive
3 approval of its leasing proposal from the Commission. And in
4 order for the Commission to give that approval it must make
5 several findings, three to be specific. It must find that
6 oil is believed to be contained in the tidelands, that the
7 oil is being drained from wells on adjacent lands, and that
8 the leasing of the tidelands is in the best interest of the
9 the state.

10 In June of 1962, the Commission found that oil was
11 believed to be contained in the tidelands and was being
12 drained by wells on adjacent lands. It based this finding on
13 an interpretation of the operative statute 6872 of the Public
14 Resources Code that drainage can be a product of a reservoir
15 pressure differential causing mass production of wells that
16 are currently plugged and abandoned. That was the opinion
17 advanced by the city and its lessees. All it did at that
18 time was make a drainage finding. It did not move on to the
19 issue of approval of the lease because at that time agreement
20 had not been reached between the city and the staff regarding
21 the adequacy of the environmental document and the sharing of
22 the revenues that would be produced by the oil and gas
23 development. When agreement on those issues was reached the
24 matter came back to the Commission -- this was in April of
25 '93.

1 At that time the issue before the Commission was
2 approval of the lease. The Commission approved the lease
3 making all of the three findings. One, that oil and gas is
4 believed to be contained in the tidelands, it's being drained
5 by wells on adjacent land, and leasing was in the best
6 interest of the state.

7 Following that action a group of, several
8 environmental groups composed primarily of residents of
9 Hermosa Beach sued the Lands Commission. They brought a writ
10 of mandate in Los Angeles Superior Court. Their challenge
11 was successful. The court, however, made several different
12 rulings.

13 One, it sustained the interpretation that the
14 Commission made that drainage must, you can, you can have
15 drainage even though there are not any actively producing
16 wells. There are wells that had previously produced that,
17 created a pressure differential within the reservoir.

18 It also found that there was substantial evidence
19 supporting that finding, but where the court had a problem
20 was that the court felt that the Commission's, in the
21 Commission's decision it did not make adequate factual
22 findings supporting its determination that leasing of the
23 sanctuary lands was in the best interest of the state. And
24 for this reason it granted the petition and remanded the
25 matter back to the Commission to reconsider its decision.

1 The staff has prepared a rather lengthy calendar
2 item that fully discusses the issues and the options
3 available to the Commission. There are people here from both
4 sides, both environmental groups and the city and its oil
5 companies, and I think they all have quite a bit to say. If
6 this is an appropriate time to let them speak or if you want
7 more discussion from us.

8 CHAIRMAN DAVIS: Let me make sure we frame the
9 issue. Is the whole matter before the Commission to no vote
10 or are we only to deal with the third component, the third
11 finding which is whether or not this is, real drilling is
12 necessary in the best interest of the state.

13 DEPUTY ATTORNEY GENERAL HAGER: The former, the
14 whole matter is before you. They know you can be guided by
15 what the court said, but it is remanded to you to reconsider
16 your decision, so yes, it's before you.

17 CHAIRMAN DAVIS: Mr. Warren, how do you suggest we
18 proceed?

19 EXECUTIVE OFFICER WARREN: We have, you have before
20 you, Mr. Chairman, attendance records of those who want to
21 speak for the item and there are five such speakers, and the
22 attendance record sheets before you are in order of their
23 appearance.

24 There are six speakers who want to speak against
25 the item, and the attendance record sheets are in order of

1 their request of the appearance they've requested. I suggest
2 that each side be given a reasonable period of time.

3 CHAIRMAN DAVIS: Three or four minutes?

4 EXECUTIVE OFFICER WARREN: Well --

5 CHAIRMAN DAVIS: Five minutes?

6 GENERAL COUNSEL HIGHT: Maybe five --

7 EXECUTIVE OFFICER WARREN: Five minutes.

8 GENERAL COUNSEL HIGHT: -- per person.

9 CHAIRMAN DAVIS: Yeah.

10 EXECUTIVE OFFICER WARREN: Per person, that would
11 be more, per person. I was a little hesitant. Three minutes
12 per person would appear to me to be adequate, that would be a
13 total of 15 to 20 minutes each side.

14 CHAIRMAN DAVIS: Okay. Would the staff care to
15 make any other preparatory remarks or recommendations? You
16 want to wait until the conclusion?

17 EXECUTIVE OFFICER WARREN: I think we prefer to
18 await the conclusion of the testimony of the witnesses.

19 CHAIRMAN DAVIS: All right. Fine. The first
20 witness in favor of the project is the city manager of
21 Hermosa Beach, Stephen Burrell.

22 And I might add, as you come up, Mr. Burrell, if
23 there's some way that the proponents as well as the opponents
24 can decide amongst themselves which individual points they
25 want to make so that each proponent doesn't say the same

1 thing as every other proponent and each opponent doesn't say
2 the same thing as every other opponent. This is the,
3 apparently this is the third or fourth time this matter has
4 been before the Commission.

5 EXECUTIVE OFFICER WARREN: Yes, sir.

6 CHAIRMAN DAVIS: Okay.

7 MR. BURRELL: Mr. Chairman and Lieutenant Governor,
8 this is actually the first time I've been before the
9 Commission so I'd like to introduce myself.

10 My name is Steve Burrell and I'm the city manager
11 of Hermosa Beach and I appreciate the opportunity to -- is
12 this on?

13 ASSISTANT EXECUTIVE OFFICER TROUT: You have to get
14 very close to it.

15 MR. BURRELL: That sounds better. Okay.

16 I appreciate the opportunity to address the
17 Commission today regarding the Superior Court's action to
18 send this matter back to you so the Commission may explicitly
19 state the best interest finding for the record and cite the
20 evidence supporting such a finding.

21 At this time I'd like to make a few, take a few
22 moments to review the history of the project which I think
23 sheds some light on why you're here today.

24 In 1919, the city received the grant of the state
25 of the tidelands submerged lands of the Santa Monica Bay that

1 were within the city limits.

2 In November of 1984, the voters of Hermosa Beach
3 approved two exceptions to a prior prohibition of oil
4 drilling that would allow drilling to take place in the city.

5 The first measure allowed oil drilling to take
6 place in the tidelands from a site that the city owns at its
7 maintenance yard. This is at the corner of Valley Drive and
8 Sixth Street, approximately a half a mile inland from the
9 shoreline.

10 Second measure allowed drilling on an upland only
11 site, onshore site that was then owned by the Hermosa Beach
12 School District commonly known as the South School site.
13 This is about one block south of the maintenance yard.

14 In September of 1985, the city applied to the State
15 Lands Commission for approval of the lease for the tidelands
16 for exploration and production of oil and gas in order to
17 offset the drainage cost by the Redondo Beach tideland wells.

18 In November of 1985, the Commission acknowledged
19 receipt of the application, directed staff to work with the
20 city on completing that application, and report back to the
21 Commission as soon as possible.

22 The city advertised and solicited bids for oil and
23 gas leases of a city-owned onshore properties in June of 1986.
24 GLG Energy, Windward Associates, and Macpherson Oil were the
25 successful bidders.

1 And the city entered into a oil and gas lease with
2 surface drilling where the operation was confined to the
3 onshore city maintenance yard sites in October of 1986.

4 The city then began the process of preparing the
5 Environmental Impact Report which lasted for several years.
6 As part of the EIR process and as a mitigation measure, the
7 project was consolidated from two sites to one. The South
8 School site was dropped, and Macpherson Oil subsequently
9 entered into a separate agreement with the School District so
10 they would receive royalty from the oil drilling.

11 After numerous public hearings, extensive public
12 input, the City Council certified the final EIR on May 8,
13 1990, and in an accompanying statement of overriding
14 considerations, subject to Commission approval, the City of
15 Hermosa and Macpherson Oil entered into a tidelands lease
16 January 14th, 1992.

17 On June 30th, 1992, the Commission found that the
18 tidelands were being drained pursuant to the Public Resources
19 Code. On April 28, 1993, the Commission approved the oil
20 and, oil -- excuse me, oil and gas lease between the city and
21 Macpherson Oil, the final EIR, the accompanying statement of
22 overriding concerns, and the Memorandum Of Understanding
23 between the city and the Commission staff stating their
24 agreements to project-related matters of interest and concern
25 to the Commission and the state.

1 As was mentioned earlier, Hermosa Beach Stop Oil
2 Coalition and others commenced an action for writ of mandate
3 on August 17th, 1993, challenging the Commission's 1992
4 drainage finding and its approval of the tidelands lease.

5 The Superior Court has now sent this matter back to
6 the Commission to explicitly state for the record that the
7 proposed lease would be in the best interest of the state.

8 As the transcript of the June 30th, 1992 public
9 meeting reveals, there was substantial evidence presented to
10 support a finding that the proposed lease would indeed be in
11 the state's best interest. There was testimony offered that
12 the project would potentially produce 30 million barrels of
13 oil over a 20-year period. And one, will generate revenue
14 for the City of Hermosa Beach School District, State of
15 California.

16 And two, decrease the state's reliance on imported
17 oil from other states and nations.

18 And three, create jobs.

19 And four, provide additional and better open space
20 facilities available to all Californians.

21 CHAIRMAN DAVIS: You're down to about a minute, Mr.
22 Burrell.

23 MR. BURRELL: I'm timed perfectly. The city
24 requests, respectfully requests that the Commission reaffirm
25 its prior finding of June 30th, 1992, and explicitly state

1 the finding that the proposed lease is in the state's
2 interest along with the evidence of supporting such a
3 finding.

4 That concludes my remarks.

5 I would like to next introduce Don Macpherson.
6 He's the lessee with the city.

7 CHAIRMAN DAVIS: Okay. Mr. Macpherson, you want to
8 speak next?

9 MR. MACPHERSON: Please.

10 CHAIRMAN DAVIS: We have Mel Wright next in line,
11 but if Mr. Wright doesn't mind.

12 MR. MACPHERSON: Thank you, Commissioners, for the
13 opportunity to speak.

14 As previously stated, there's been two votes in
15 Hermosa Beach of the people. Both overwhelmingly approved
16 oil and gas development from the Hermosa Beach city yard.

17 CHAIRMAN DAVIS: Just a little stickler for detail
18 here. The second one didn't put the issue of drilling again,
19 did it? The issue was just how the royalties would be
20 divided?

21 MR. MACPHERSON: No, the second one was how the
22 revenue, what would be done with the revenue to buy parks and
23 open spaces. Specifically the vote was to buy parks and open
24 space which was the decision of the public with the revenue
25 from the oil.

1 CHAIRMAN DAVIS: Okay.

2 MR. MACPHERSON: With that vote the next step for
3 the city was to prepare a Request For Proposal. Before doing
4 so the city went to the State Lands Commission to conclude
5 what it would, what steps were necessary to lease the granted
6 title. The State Lands Commission stated they had to make
7 three findings; that there was oil, that there was drainage,
8 and that it was in the best interest of the state.

9 The city submitted drainage data to the State Lands
10 Commission staff. And at that time the staff stated that
11 there was sufficient evidence to make the drainage finding.

12 The next step for the city was to adopt a oil code.
13 The city went through a series of public hearings which
14 ultimately did adopt an oil code which permitted oil drilling
15 in the city yard.

16 The next step was for the city to prepare a Request
17 For Proposal. The city did go out on a competitive basis for
18 bids to develop the city yard. Part of the bid included the
19 obligation for the bidding company to pay for the cost of an
20 Environmental Impact Report necessary to obtain approval of
21 the tidelands lease. Macpherson Oil Company and GLG were the
22 successful bidders.

23 The next step was an Environmental Impact Report.
24 Over a series of public hearings, both in the Planning
25 Commission and City Council, the Environmental Impact Report

1 was ultimately certified by the City Council as being
2 accurate and adequate.

3 The Environmental Impact Report identifies the
4 environmental impacts of the project, and then it makes
5 recommended mitigation measures to mitigate those impacts.

6 Those mitigation measures were then made a part of
7 the conditional use permit with the city. Conditional use
8 permit was adopted in 1993 after a series of public hearings.
9 There were 108 conditions in that conditional use permit.

10 In that process there's been a total of 11 public
11 hearings on this process. In addition to that there's been
12 four public hearings here at the State Lands Commission,
13 including this hearing today.

14 As far as the project is concerned, Macpherson Oil
15 Company has conducted engineering and geologic studies to
16 determine how much recoverable oil there may be in Hermosa
17 Beach. These studies include seismic studies, horizontal
18 drilling, technology studies. And the one thing we can say
19 about Hermosa Beach is the geology is only as good as the
20 information.

21 Here in Hermosa Beach we are fortunate that we have
22 60 wells right next door in Redondo Beach. We have several
23 wells in Hermosa Beach that were drilled before the original
24 prohibition. There were several portholes drilled offshore
25 plus there was seismic data. With all that information we

1 were able to come up with our estimated recoverable reserves
2 which totals up to 30 million barrels.

3 Now we've made estimates of how much revenue the
4 city would receive based on their royalty ship -- city,
5 state, and public.

6 CHAIRMAN DAVIS: Is there any revenue at all for
7 the state?

8 MR. MACPHERSON: I believe that there is revenue
9 that benefits the state, yes.

10 GENERAL COUNSEL HIGHT: There will be no revenue
11 coming to the state general fund, no revenue -- the only
12 revenue to the state will be through income tax and the like.

13 MR. MACPHERSON: We've prepared estimates and we've
14 recently prepared estimates based on current oil prices. Oil
15 prices as you may know vacillate up and down, but we've taken
16 the last five-year average oil price for this particular oil.

17 The last five-year average was \$14.60 a barrel.
18 Assuming \$14.25 a barrel and assuming 27 million barrels of
19 oil recovery, the total revenue to the public would be \$104
20 million, of which the city would be entitled to 71 million;
21 the school would be entitled to roughly five million; and the
22 public land owners, 28 million.

23 If you -- that's based on current oil price based
24 on the last five-year average and an inflation factor of four
25 percent. If you assume oil prices did not increase at all,

1 just take \$14, and did not escalate at all over the life of
2 the project which is 20 years, there would still be total
3 revenue to the public of \$78 million.

4 Clearly this project brings revenue to the city.
5 It's a good project to the city. It's a good project to the
6 public. And it's a good project to Macpherson Oil Company.

7 The city has safeguarded itself by providing a
8 minimum royalty requirement of \$500,000 a year regardless of
9 what the oil prices are or what the oil quantities are. At
10 current prices we will develop this project. It's a good
11 project and we plan to develop it at current prices. There
12 is up side on lower prices related to the Alaskan North Slope
13 issue which is currently being discussed in Washington D.C.,
14 and if Alaskan North Slope is released from its current ban
15 there could be an increase in California oil prices somewhere
16 between \$3 and \$5 a barrel based on recent studies. To date
17 Macpherson Oil Company has spent two and a half million
18 dollars on this project and we, as I said earlier, it's a
19 good project. The benefits to the city and state --

20 CHAIRMAN DAVIS: You're down to your last minute.
21 I'm just trying to be a good timekeeper.

22 MR. MACPHERSON: Okay. I'll hurry along here. Let
23 me just speak to the drainage issue then if I may.

24 Apart from a definitional question which has been
25 laid to rest, there's been no difference of opinion on the

1 issue of drainage. There have been several studies made in
2 the past, and I have copies of those studies here which I
3 believe are all part of your administrative record.

4 In January, 1977, in a report prepared by the State
5 Lands Commission's division, which was a joint effort between
6 the State Lands Commission and the City of Hermosa Beach,
7 prepared by registered geologist Paul -- Robert Paul,
8 registered geologist John Cothunter, and registered engineer
9 Ragi Shaki. They stated,

10 "The upper main zone, the extension
11 of oil saturation reservoir conditions
12 into the City of Hermosa Beach granted
13 lands and drainage of same by boundary
14 wells is logical."

15 Number two, in the lower main zone, significant
16 accumulated oil production from border wells completed in
17 this zone, compared with interior lease production wells that
18 suggest that the existence of drainage of larger areas than
19 the leased lands, including the City of Hermosa Beach granted
20 lands in a report prepared on July, 1985 by Robert Hacker for
21 the City of Hermosa Beach.

22 Robert Hacker stated, quote,

23 "All the evidence presented in this
24 report establishes that not only has
25 there been drainage from Hermosa Beach to

1 Redondo Beach in the past, but it is
2 currently ongoing and will continue in
3 the future."

4 On March 19th, 1986 in a letter from the State
5 Lands Commission executive officer Claire Dietrich to the
6 Hermosa Beach council member Gary Brut, she stated,

7 "Further, since our meeting of
8 December 3rd, the drainage question has
9 been re-examined and detailed by our
10 engineering and geologic staff who
11 believe drainage is taking place."

12 On March 20th, 1986, in a letter from State Lands
13 Commission supervising mineral resource engineer, Al Willard,
14 to the City of Hermosa Beach manager Greg Meyer he stated,
15 quote,

16 "That the geologic and engineering
17 staff of Commission has completed a
18 analysis of production characteristics of
19 wells completed in the adjacent Redondo
20 Beach tidelands. The staff has concluded
21 that there is sufficient evidence to
22 support the drainage finding."

23 In February of 1992, a report prepared by Leonard
24 Brock and Mel Wright for the City of Hermosa Beach. They
25 state, quote,

1 "It is our strong professional
2 opinion that continued drainage of the
3 Hermosa Beach tidelands tract is
4 presently taking place. Such drainage
5 will continue until the pressure
6 depletion caused by 34 years of offset
7 production resulting in five million
8 barrels of oil has been stabilized."

9 There's never been a question of drainage over the
10 past 18 years and nothing has changed the facts on that
11 issue.

12 On the issue of the best interest of the state,
13 this project will create 342 high paying jobs. In addition,
14 it will allow the recovery of commercially valuable oil which
15 would otherwise be permanently lost.

16 The economic benefit includes tax revenue to the
17 state. And that revenue is in the form of state tax, sales
18 tax, and property tax.

19 Furthermore, it will reduce the state's dependence
20 on imported oil from other states and countries.

21 CHAIRMAN DAVIS: I'm going to have to ask you to
22 wrap up here.

23 MR. MACPHERSON: Okay. I'll just wrap up by saying
24 that last year in April, 1993, the State Lands Commission
25 approved the tidelands lease. And when they approved, when

1 this Commission approved it at that time it was my opinion
2 that the Commission did so because they believed that it was
3 in the best interest of the state. And I suggest to you that
4 nothing has changed. It currently is in the best interest of
5 the state, as it was then, and we respectfully request that
6 you approve the tidelands lease and conclude that it is in
7 the best interest of the state. Thank you very much.

8 CHAIRMAN DAVIS: Thank you, sir.

9 MR. MACPHERSON: I do have for the record copies of
10 these I'd be happy to give to you.

11 CHAIRMAN DAVIS: All right. We skipped over Mel
12 Wright.

13 MR. LEE: Excuse me. Mr. Chair, we had set an
14 order in which the city was going to make its presentation.

15 My name is Edward Lee. I am actually going to be
16 the next to make the presentation on that.

17 CHAIRMAN DAVIS: What happened to poor Mel Wright?
18 Did he die or what happened?

19 MR. LEE: He's right here.

20 MR. WRIGHT: Put me on the bottom of the pile,
21 please.

22 CHAIRMAN DAVIS: All right. Number two.

23 MR. LEE: Thank you, Mr. Chairman.

24 CHAIRMAN DAVIS: State your name for the record,
25 please.

1 MR. LEE: My name is Edward Lee. I am with Oliver,
2 Barr and Vose. I'm assistant city attorney for the City of
3 Hermosa Beach.

4 CHAIRMAN DAVIS: Welcome.

5 MR. LEE: And I'm here today before you primarily
6 just to emphasize again the legal context in which the city
7 finds itself before the Commission again.

8 We have asserted and we continue to assert that in
9 fact this body made its finding of the best interests in the
10 State of California in April of 1993. The Superior Court has
11 sent it back to this body simply because you failed to say
12 the magic words and that wasn't part, that was the basis for
13 the court's remand of this matter back to you. That court
14 upheld the legal foundation for your findings with respect to
15 the existence of oil and the existence of drainage.

16 I have a copy of that court order to submit to you,
17 and for your review. You can see exactly the language of the
18 court. I think it's fairly clear that the court has only
19 asked that you make that finding and essentially say the
20 magic words and allow us to proceed with a decade worth of
21 effort on the part of the city to try and get oil drilling in
22 place as approved by a vote of the people of the City of
23 Hermosa Beach.

24 The, there are a number of issues that have been
25 raised by staff with respect to environmental issues. It's

1 our contention that there have been no new environmental
2 issues raised, either in the several public hearings that the
3 city has conducted on this matter, in light of the various
4 permits that have had to be issued. In point of fact, the
5 city has imposed 108 conditions under its conditional use
6 permit to allow oil drilling as already noted. The
7 environmental concerns of this body, the Commission, were
8 addressed in a Memorandum Of Understanding which was executed
9 between the city and the state in April of 1993.

10 In point of fact, if environmental concerns are
11 true then that is an issue that's going to be decided by a
12 court within the near future as there has been a subsequent
13 writ action filed against the city to contest the adequacy of
14 our environmental findings and actions.

15 We again are simply here to ask you to restate your
16 decision that was made in April of 1993. Along those lines I
17 have with me and would like to present to the Commission a
18 proposed draft resolution which would say the magic words,
19 and if I can submit that to you. I would note that a copy of
20 this draft resolution had been submitted to your staff
21 earlier and I present it to you again.

22 Notwithstanding the scope of the court order, staff
23 continues to raise the issue of drainage which we believe
24 you've already made a finding of. In that respect the city
25 has brought with us and asked that to attend this

1 Commission's meeting, the city's consultants on oil. Mr.
2 Leonard Brock and Mr. Mel Wright, the infamous Mr. Mel
3 Wright, are both here in the audience to present testimony.
4 They both have extensive expertise in the oil industry. They
5 are here and available to answer any technical questions that
6 you may have if you wish to reopen that issue, which we would
7 hope you would not.

8 And at this point, Mr. Brock -- I would turn this
9 microphone over to Mr. Brock who will make some preliminary
10 comments and then again be available to answer any technical
11 questions you may have on this issue. Thank you.

12 CHAIRMAN DAVIS: I just --

13 MR. LEE: Yes.

14 CHAIRMAN DAVIS: I just have one question. As I
15 read this order from Judge Wayne, it basically says that we
16 need, as you suggested, to make an explicit finding that the
17 proposed ruling is in the best interest of the state, or to
18 vacate and set aside or revoke our action of 1993.

19 So our, as Attorney General's representative has
20 stated, our charge here is a little broader than just simply
21 adding the magic words.

22 MR. LEE: We're asking you to consider the equities
23 and fairness here, that in fact the city has been back before
24 you several times over the last decade asking for approval of
25 this oil and gas lease, and that in point of fact we believe

1 that the Commission made its' finding, all of those three
2 findings as required by the Public Resources Code in April of
3 1993, and the only reason why we're back here is because you
4 didn't say the magic words.

5 CHAIRMAN DAVIS: I'm not insensitive to that but
6 the order did not say that.

7 MR. LEE: I understand.

8 CHAIRMAN DAVIS: Are there any questions? Yes,
9 sir.

10 MR. BROCK: I am Leonard Brock, and unlike Steve,
11 the city manager, I have been in before. I believe the first
12 time Glen Anderson was sitting here, Alan Cranston was
13 sitting there, and Hale Champion was on the end.

14 CHAIRMAN DAVIS: I hope you weren't here on this
15 issue.

16 MR. BROCK: Anyway, I think that this drainage
17 issue has been really beaten to death. Our report was
18 misinterpreted by the State Lands' staff. We did not base
19 our opinion that the high pressures in Hermosa were
20 projections of the Stinnett wells. We knew that under
21 original conditions the Hermosa Beach properties were at
22 hydrostatic pressures.

23 The first pressures taken in the wells drilled were
24 at hydrostatic. All of these reports from the geology shows
25 that these reservoirs that we're producing on Redondo

1 extended under Hermosa Beach. I don't think there's any,
2 anyone that has contested that. I believe that probably the
3 one statement by the state that there was no drainage because
4 there was no evidence, no credible evidence of commercial
5 quantities of oil migrating.

6 First of all, I don't believe that there, that is
7 necessary, but I do also believe it's incorrect. I believe
8 that with the high pressures that existed on the Hermosa
9 Beach that there was extensive oil migrating and is still
10 migrating to the lower pressure areas, the known lower
11 pressure areas in Redondo Beach.

12 When you say credible, the State staff indicated
13 that you must have a well drilled into an area to know what
14 is there, or to be credible about what is there. If that had
15 been the case, we probably wouldn't have any oil in the
16 United States now. Almost every time, with the exception of
17 lives, structural or seismic blazes have been by wildcat
18 drillers drilling into areas there was no wells before.

19 Also to say that it's credible to think that
20 there's extensive oil production under Hermosa is the fact
21 that we have all of these geologic studies. We have a
22 seismic study that indicates there are highs under Hermosa
23 Beach.

24 I believe that the fact that a small producer is
25 willing to expend large sums of money to prove what he thinks

1 is there, I think that's credible evidence that there's a
2 good possibility that there's oil there.

3 In addition to this let me say, I believe it's
4 possible that there are commercial, extensive oil in the
5 extensions of the current production under Redondo Beach. I
6 believe there's a possibility that these reservoirs that are
7 known to extend under Hermosa Beach could possibly have false
8 or permeability barriers that will allow additional
9 production from those same reservoirs. I believe there's the
10 possibility that there's oil that exists deeper and in other
11 formations that do not exist in Redondo Beach.

12 I think with all of those things you have to say
13 that it's credible to think that there is additional oil to
14 be recovered under Hermosa Beach.

15 We have reviewed Macpherson's Oil Company's
16 estimates and projections of revenue and oil recovery. We
17 find that, that they are based on realistic assumptions, and
18 we think it's very possible that there is a large commercial
19 oil field under Hermosa Beach.

20 CHAIRMAN DAVIS: Any questions by the members?
21 Thank you, Mr. Brock.

22 CHAIRMAN DAVIS: Now, Mr. Wright.

23 MR. WRIGHT: Mr. Brock stated most all we wanted to
24 say. Can I just pass and say something later if I want to or
25 do I pass out?

1 CHAIRMAN DAVIS: Well you certainly don't pass out.
2 Do you have anything else to add to the Commission's
3 deliberations, Mr. Wright?

4 MR. WRIGHT: Not at this point, Mr. Davis. Thank
5 you.

6 CHAIRMAN DAVIS: I'm not guaranteeing you have
7 rebuttal rights, but I appreciate in the interest of time you
8 foregoing your opportunity to speak. All right. That
9 concludes the people who have signed up to speak on behalf of
10 this project.

11 Does anyone else from the audience care to come
12 forward to speak on behalf of the proposed project? All
13 right. Then let's move to the opponents.

14 In the order given to me -- and I would again
15 encourage the opponents to try and make differing points
16 during their testimony, the first is Jan Chatten-Brown.

17 MS. CHATTEN-BROWN: Thank you, Commissioners. We
18 have coordinated amongst the various opponents to the project
19 and will try to be as succinct as possible. I would ask the
20 forbearance of the Commissioners in terms of, to give us
21 some leeway on time. We'll try to be as concise as possible
22 but quite a number of people came a long distance because
23 there is a tremendous environmental issue here.

24 And I am, as indicated, Jan Chatten-Brown with the
25 law firm Shute, Mihaly and Weinberger here representing both

1 a community group, Hermosa Beach Stop Oil Coalition; and
2 three environmental groups, American Oceans Campaign, and
3 Lisa Weil from the campaign is also here; Heal the Bay, Roger
4 Gorky will be speaking; and Terry Tamminen from the Santa
5 Monica BayKeeper sent a letter but was not able to be present
6 because of a previous commitment. Three members of the
7 Hermosa Beach Stop Oil Coalition will also address specific
8 issues as referenced on my materials.

9 I do want to underscore a slight difference in an
10 interpretation from Mr. Lee. I was looking for the
11 transcript from the hearing but in fact the judge made it
12 very clear, first of all, that on the issue of drainage the
13 action of the Commission quote, "Is not clearly erroneous or
14 unauthorized."

15 That was the question of whether or not you could
16 have drainage when there was simply migration without any
17 actual extraction of oil. She did not say, except that it
18 was in the caption on the, on the tentative ruling that it was
19 quote "correct." She also made it very clear that you were
20 free to consider the drainage issues.

21 CHAIRMAN DAVIS: She said as long as we didn't
22 abuse our discretion making that finding.

23 MS. CHATTEN-BROWN: Correct. Correct. At the
24 hearing back in June of 1992, Commissioner McCarthy
25 specifically asked the staff whether there was environmental

1 impacts and was told that they were minimal. I'm delighted
2 that the staff has reassessed their position. In fact, this
3 is a, this project would result in very substantial adverse
4 environmental impacts.

5 And I would like to just start, since it wasn't
6 possible for you to come down to Hermosa Beach I would like
7 to start by attempting to put -- if I can find it and Tom
8 Morley will help me out, the current president of the Hermosa
9 Beach Stop Oil Coalition.

10 I'm going to show you a diagram of the area --

11 CHAIRMAN DAVIS: Can I just interrupt you for a
12 second? What I'm going to do is hold the proponents to the
13 same total so that's six proponents for five minutes, so you
14 get 30 minutes.

15 MS. CHATTEN-BROWN: Right. Thank you. I
16 appreciate that.

17 CHAIRMAN DAVIS: If you speak 29 minutes and they
18 speak a minute, that's fine.

19 MS. CHATTEN-BROWN: They have definitely more to
20 say than that but I think some of them can be substantially
21 under the five minutes so hopefully we'll do that.

22 Just to show you first of all. This is the
23 proposed, this is the single site. Here is obviously the
24 ocean. Herondo Street is the, is the junction of Hermosa
25 Beach and Redondo Beach. Redondo Beach has some industrial

1 development. That's the Southern California Edison plant.
2 Hermosa Beach is almost exclusively residential. There is
3 some light industrial immediately adjacent to the, to the
4 site which is right up here.

5 This is the property, the school site that had been
6 discussed originally for a tank farm. It had been considered
7 in the Environmental Impact Report. It has since been
8 acquired by the city as open space. It is being developed
9 this very summer for park space.

10 Immediately across the street from the site there
11 is the greenbelt of Hermosa Beach. It was acquisition of
12 this property that caused the citizens in 1984 to grant the
13 exception from the prohibition on oil drilling in order to
14 generate the funds to acquire those properties. Since then
15 those properties have all been acquired from other sources.

16 The, to give you a little bit more feel for the
17 property, this is the greenbelt area and we'll pass these
18 around. This photograph is actually a picture of, people use
19 the greenbelt for jogging, various recreational activities.
20 This is a picture from the sidewalk right in front of the
21 site. And you can see that homes, this is a densely
22 developed area, residential area. There are as many as
23 three --

24 CHAIRMAN DAVIS: But in fairness, the proposed site
25 is zoned for industrial purposes.

1 MS. CHATTEN-BROWN: Yes, it is, but the adjacent
2 properties are all very light industrial. There is no heavy
3 industry in the City of Hermosa Beach. There's just
4 commercial, light industrial, silk screening, Body Glove.

5 And this is a photograph actually looking at the
6 site. The city maintenance yard is there now. This would be
7 the view with a 135 foot derrick looking toward the ocean
8 from the homes on the hill above. This is in the bottom of a
9 natural gully. There's sand dunes now covered with homes to
10 the west of it. There are homes to the east of it and all of
11 them look down. This forms a natural kind of amphitheater in
12 terms of noise. Visually the people that have homes to the
13 east will have their view toward the ocean now pierced by 135
14 foot derrick which is about five stories high.

15 COMMISSIONER MCCARTHY: May I make a comment,
16 please?

17 MS. CHATTEN-BROWN: Uh-huh.

18 COMMISSIONER MCCARTHY: It would be very helpful if
19 you and the other witnesses understood the role of the State
20 Lands Commission in a matter like this before us.

21 We do not sit as the City Planning Commission. We
22 are trying to fulfill the requirements of state law directing
23 this Commission to protect certain public interests.

24 We could be totally sympathetic toward every point
25 that you're making regarding the view, regarding the, you

1 know, the impairment of the general area because of this
2 rather than an additional residential development.

3 If there is a history of the City of Hermosa Beach
4 having explored these issues and having made a finding at the
5 local level you're free to raise these points, but I think
6 perhaps you hit on what we have to look to under state law.

7 Now it's different offshore because that's under
8 state jurisdiction and we have been very restrictive in not
9 allowing a lot of offshore oil drilling to the dismay of many
10 people in the industry. When it's onshore and within a
11 political subdivision that under state law is given authority
12 to make certain decisions that's made there, and when this
13 gets to us we then have to base our decisions on the role of
14 the State Lands Commission. I just want you to appreciate
15 that.

16 MS. CHATTEN-BROWN: I do appreciate that but
17 certainly --

18 COMMISSSTONER MCCARTHY: We can't substitute our
19 judgment --

20 MS. CHATTEN-BROWN: I understand that and we do
21 have a separate --

22 COMMISSIONER MCCARTHY: -- even if we disagree with
23 it.

24 MS. CHATTEN-BROWN: And we do have a separate
25 lawsuit involving the California Environmental Quality Act.

1 But on the question of what is in the state's interest, the
2 judge, without any briefing on this issue had stated, you
3 know, if you're going to consider the environmental impact
4 you're really talking about the balance. If there are
5 adverse environmental impacts and, as we believe there are,
6 no significant economic benefits. In fact, there may be no
7 economic benefits.

8 I mean, we will address the issue of drainage. We
9 have a petroleum geologist that reviewed this and we do
10 concur with the staff on that issue, but I wanted to make it
11 very clear we're not talking about a project that has minimal
12 environmental impacts. This has very significant
13 environmental impacts both to the immediate community and of
14 great concern to Santa Monica Bay, because once you lift the
15 oil and gas sanctuary for one location that can be the domino
16 because you do that, and if they found oil, which we doubt,
17 but then the adjacent jurisdictions to them would then come
18 back to you with the same request. It really makes the oil
19 and gas sanctuary meaningless in our opinion if you can base
20 a finding of drainage upon past drilling, many years in the
21 past.

22 CHAIRMAN DAVIS: Perhaps keep in mind that this is
23 a granted, these lands are granted to the city without any
24 mineral reservation. That is not always the case up and down
25 the coast. That's why we get no revenues.

1 MS. CHATTEN-BROWN: Correct. Yes. No, I do
2 understand that, but of course I'm going to get to the
3 finding of drainage. I just wanted to point out that a well
4 that has been managed by the city on this site for years, the
5 Stinnett well and which was abandoned recently, and this is
6 in Terry Tamminen's letter, Appendix A -- and I did tab these
7 for the Commission, talks about how he went and discovered
8 that the hundred gallons of petroleum were leaking from this
9 old capped well. It was capped. It wasn't capped at that
10 time. I'm sorry.

11 A hundred gallons, even though it wasn't in
12 operation the city failed to clean it up until they made, the
13 Santa Monica BayKeeper made a public issue of this.

14 The City of Hermosa Beach is also being sued by the
15 Natural Resources Defense Counsel for failure to comply with
16 provisions of the Clean Water Act. So we don't have great
17 confidence in terms of their oversight of an operation as
18 difficult as this. We're talking about --

19 CHAIRMAN DAVIS: You have, just for the record,
20 about ten minutes into the presentation.

21 COMMISSIONER MCCARTHY: We'll deduct time for
22 questioning.

23 MS. CHATTEN-BROWN: Thank you. Thank you. Here's
24 the diagram, the site plans. When I say this project is
25 being shoe-horned on to a little more than an acre, that's

1 very clear from this diagram which shows these five tanks,
2 which can be 16 feet high and 40 feet across, in close
3 proximity with the wells and in violation of both the State
4 Fire Code, and that is included as Appendix -- things are
5 getting out of order here, Appendix B, the State Fire Code,
6 and the Public Resources Code, provisions under the division
7 of oil and gas regarding well spacing. So I would urge you
8 additionally not to issue a, approve a lease where the
9 specific plans for implementation of that lease are in
10 violation of State Fire Code.

11 One of the environmental impacts that we feel has
12 not, was not adequately addressed initially and certainly now
13 needs to be re-addressed, is the issue of earthquake hazards.
14 And we have a declaration from Dr. David Jackson who's on the
15 National Academy of Sciences. He is a respected
16 geophysicist, teaches at UCLA. He is on the California
17 Earthquake Prediction Evaluation Council.

18 And he said that the reinjection of water into this
19 site, well the reinjection of water into any site will
20 increase the likelihood of risk of earthquakes based upon an
21 L.A. Times article and other studies that have come out
22 recently about the fact that Northridge has increased the
23 risk of earthquakes in our basin.

24 I think that anything that would further increase
25 that risk should be seriously questioned.

1 CHAIRMAN DAVIS: Could I just interrupt you for a
2 second?

3 MS. CHATTEN-BROWN: Uh-huh.

4 CHAIRMAN DAVIS: You're an enormously well
5 respected environmental attorney but just reflect on what you
6 just said. We had the Northridge earthquake so now does that
7 mean there should be no drilling in Southern California?

8 MS. CHATTEN-BROWN: No, I'm not saying that, but in
9 Southern California there are studies that indicate it is a
10 more perilous venture now because of a certain instability.
11 We don't believe the EIR initially, properly considered that
12 issue of earthquakes. They've never had the preparation of
13 the Emergency Response Plan, the Hazard Mitigation Plan.
14 Many of the other plans for this site had been promised, the
15 subsidence study, for example. There's issues about
16 liquefaction. I am saying not that we should never have oil
17 drilling, you know, but really, perhaps one of the earlier
18 witnesses said it best when talking about wildcatting. What
19 we're saying is wildcatting is not appropriate in the midst
20 of a residential neighborhood.

21 Macpherson Oil drilling has no experience in urban
22 oil development. Frankly, I'd feel a little more comfortable
23 if you were talking about somebody with a great deal of
24 experience in this kind of development to put this kind of a
25 project -- not saying there should be no oil drilling.

1 I, we are very concerned about the impact upon the
2 oil and gas sanctuary in the bay. Pipelines will go into the
3 bay but could rupture in case of an earthquake. We're saying
4 on the earthquake issue it wasn't properly considered by the,
5 by the city initially and now there's new information. They
6 didn't talk about water reinjection at the time of the EIR.
7 That was raised, that was proposed subsequently because they
8 were concerned about the tidelands so they said, "Okay, then
9 we'll have water reinjection." The problem with that is
10 there are studies that indicate that that increases the
11 likelihood of earthquakes.

12 I really urge you to look at the declaration of
13 Dr. Jackson. He talks about two specific studies where when
14 water was reinjected into a site they had a series of
15 earthquakes.

16 CHAIRMAN DAVIS: Just again, in Long Beach,
17 Mr. Warren, don't we have, aren't there a great number of
18 wells that currently function in Long Beach as a result of
19 water injection?

20 GENERAL COUNSEL HIGHT: There's probably in excess
21 of 2,000 wells in Long Beach.

22 MS. CHATTEN-BROWN: I'm not saying, there is the
23 Newport fault that goes very close. We didn't bring in maps
24 of all the faults, but there are several faults very close to
25 this site. I'm not familiar with the faults down in Long

1 Beach. I'm just saying it's an issue.

2 I, probably because I don't want to use everybody
3 else's time, should focus on the issue of drainage which we
4 really think is critical to this project anyway. We don't
5 believe that this is in the interest of the state for
6 environmental and economic reasons. But I want to focus for
7 a few minutes on the issue of drainage because the various
8 reports that have been submitted -- and first I should say we
9 concur with the analysis of the Commission staff. Even if
10 there was drainage in the past, which is questionable, there
11 is not drainage today.

12 First, we think, and the letter presented by our
13 petroleum geologist who again is, I think has impeccable
14 credentials. He teaches petroleum geology at UCLA. He is
15 Exhibit H of the documents. He serves on the State Board for
16 Registration of Geologists, etcetera.

17 He examines and it goes through, and again I would
18 urge you to read this because I'm not going to have time to
19 go through each of the points, but he examines the issue of
20 drainage and concludes, and this is the most relevant portion
21 based upon the maps, division of oil and gas maps which he
22 looked at which do not show the reservoir extending
23 significantly into Hermosa Beach, just a tiny, tiny portion
24 that goes into it all, reviewed the production data from the
25 Redondo Beach wells which were well over 96 percent water

1 before they were shut down.

2 I mean, this is why Redondo Beach shut down their
3 wells, because they were producing water. And those are the
4 only wells, if in fact this is one reservoir which is the
5 only way you could approve a finding of drainage then the, as
6 Mr. Hallinger says -- it's very difficult to again get a flow
7 of oil once you've gotten that kind of quantity of water.
8 His point is stated on the fourth page of his letters,

9 "That they're located such that it
10 is possible that they did in fact --"

11 This is the wells directly offsetting the Hermosa
12 Beach tidelands,

13 "-- did in fact drain some portion
14 of oil from under the Hermosa Beach
15 tidelands. This has not been
16 conclusively proven by the studies
17 reviewed for the report. Nonetheless,
18 that drainage, if it did occur,
19 essentially stopped with the cessation of
20 production of those wells. In fact, the
21 characteristics of last production of
22 those wells is such as to prevent the
23 re-establishment of any channel of
24 drainage in the future.

25 "I therefore must conclude that

1 there is no credible evidence of current
2 drainage from the Hermosa Beach
3 tidelands."

4 I would also point out that of the various reports
5 prepared by Hester and Hacker, those were in 1984 and 1986,
6 even then Hacker said quote, "It's doubtful that much
7 drainage is occurring." That's back in 1984. The city's own
8 experts in, in the Hester report he said, and I put the page
9 numbers and the exact quote in my materials, quote, "Creating
10 only slight if any drainage." The city's own experts. And
11 then you have the statement of our expert.

12 Also, I would bring to your attention that Mr.
13 Barker who submitted a letter, I know he's not here today,
14 but submitted a letter, a technical letter in support of the
15 reports of Merrill Wright and Brock previously, is a limited
16 partner in this project, and I would ask you to count his
17 previous testimony.

18 I have a whole entire section on why we believe
19 that the Macpherson estimates are economic projections, are
20 unrealistic, and one of the other witnesses, Tom Morley, is
21 going to cover that.

22 What I really want to say is the economic benefits,
23 if any, are minimal. There are issues of diminishment of
24 property values that will be addressed by another witness.
25 There is the loss of the recreational values, the open space,

1 the park that's one block away, the greenbelt which is
2 immediately adjacent, across the street from this property.
3 There is the loss to the community of a real sense. The type
4 of community this is as well as the risk of opening Santa
5 Monica Bay to repeated tideland oil development. And both
6 Commissioner McCarthy and Commissioner Davis I know were
7 extensively involved in offshore oil drilling issues in the
8 past.

9 And one of the reasons for the federal sanctuary
10 was that this state had a sanctuary. If that sanctuary is
11 violated, I think somewhere down the road we may have the
12 specter, face the specter of offshore rigs.

13 We don't believe that the economic benefits offset
14 the significant environmental impacts. The risk of
15 additional liability to the city -- and by the way I should
16 mention that the city's lease provides that portions of the
17 royalty go into the Emergency Trust Fund. I question whether
18 that's an appropriate use, the uses of the Trust Fund are
19 supposed to be for beach pier protection, etcetera, etcetera,
20 something else that this staff might want to look at.

21 Anyway, I am going to just close in strongly urging
22 you to disapprove this lease for all of the reasons that are
23 listed and ask Lisa Weil to come up.

24 And I'm sorry I've gone over my time. I hope
25 everyone will be as concise as possible.

1 CHAIRMAN DAVIS: I'm being a very generous
2 timekeeper that we've used up 17 minutes of the --

3 MS. WEIL: I'll speak fast. Thank you. Good
4 afternoon, Commissioners. My name is Lisa Weil. I'm the
5 policy director of American Oceans Campaign. We are a
6 national organization with offices in Santa Monica,
7 Washington D.C., and Seattle, and our mission is basically to
8 protect and preserve all of our nation's coastal waters.

9 This proposal is flawed not only from a technical
10 point of view but from an economic best interest of the state
11 point of view as well. No drainage exists pursuant to the
12 provisions of Section 6872 of the Resources Code.

13 The staff report from State Lands Commission
14 specifically articulates that the report offered by the City
15 of Hermosa Beach is based on conjecture. Surely conjecture
16 should not be sufficient to undermine the coastal protection
17 laws of our state as well as subjecting our precious coastal
18 waters to the high probability of an environmental disaster.
19 How many more alarms need to be sounded before we realize
20 that a Valdez disaster can happen in our backyard?

21 To get to the bottom line, this site is totally
22 inappropriate for oil and gas development. Oil is a highly
23 toxic and hazardous fossil fuel. Pollution to our marine
24 ecosystem resulting from tanker accidents, pipeline ruptures,
25 and natural disasters have escalated the past five years

1 since the disastrous Valdez spill.

2 Technology to respond to oil spills before
3 detrimental environmental impacts occur is still far behind
4 in being able to sufficiently respond and clean up before
5 damage occurs.

6 Our position is that there is no evidence
7 supporting drainage or that this will be in the best interest
8 of the state is hardly based upon conjecture. In fact, you
9 have before you more than sufficient scientific and technical
10 documentation from geologists and other experts which
11 strongly support our position.

12 Santa Monica Bay is designated a marine sanctuary
13 by state law. Drilling is prohibited except in cases of
14 drainage by other wells. It has been estimated that a major
15 Valdez type spill will happen in Santa Monica Bay within the
16 next two decades, which is within the life of this project.

17 This type of project, unsupported by either
18 scientific evidence of facts that would be in the best
19 interest of the state as well as the inexperience of the
20 proposed driller would clearly undermine the state laws that
21 protect our coastal resources and sanctuaries.

22 Oil drilling and a protected marine sanctuary has
23 tremendous statewide impacts. We urge the Commission to
24 reject this proposal. Thank you.

25 CHAIRMAN DAVIS: Any questions by the members?

1 Thank you.

2 MS. CHATTEN-BROWN: Tom Morley.

3 MR. MORLEY: Thank you, gentlemen. I have here
4 some presentation materials that will allow you to follow my
5 presentation a little bit earlier. It's five copies of my
6 presentation materials that relate to the financial aspects
7 of this project. I will make this brief.

8 Firstly, Macpherson Oil Company has always had this
9 estimate to the city regarding the maximum amount of revenue
10 to the city and the maximum amount of volume to the city of
11 oil to be recovered. Generally on the first page of that
12 document it shows that they expect to -- here, 9,500,000
13 barrels of oil over the life of the project. But they also
14 expect the oil prices to start at \$18 and escalate at seven
15 percent a year.

16 The city tidelands portion of that mineral royalty
17 is estimated here at \$19.6 million on the estimate the city's
18 been, that's been promoted by Macpherson Oil and used by the
19 city in all of their decision process throughout the life of
20 the EIR and the other studies and public hearings that have
21 occurred. Therefore this was the basis, the nine and a half
22 million barrels, that many decisions were made on in the City
23 of Hermosa Beach.

24 And I'm here to tell you how that is not a
25 realistic figure on this volume oil, that the \$18 a barrel

1 escalating at seven percent a year is not a realistic oil
2 price, and that tidelands mineral royalty will not be \$19
3 million a year. And in fact, there's very little benefit to
4 the tidelands with this project.

5 To support that is a letter from Macpherson Oil
6 himself which during the Environmental Impact Report hearings
7 there was much discussion about whether or not this portion
8 of Redondo Beach where the Edison Plant is would be a more
9 desirable site, something that's already industrialized
10 rather than high density area of the city.

11 There were six sites that were suggested by the
12 public. And the State Lands Commission in fact asked the
13 question in their submission for the EIR hearings whether or
14 not those alternate sites had been studied. Macpherson's
15 response to that was in its' letter on February 27, 1990,
16 where he said that all of the oil could not be recovered from
17 the Hermosa pool, from any alternate site, that this would be
18 the only appropriate site for the project.

19 And the paragraph here justifying that he says that
20 he, "The average well will produce about four million dollars
21 in revenue." And, which means that any well costing more
22 than about a million dollars will be noncommercial. He's
23 stating that there's some limitation to whether or not this
24 field is commercial, and also that he could not drill more
25 than 4,700 feet which would limit this project's access, the

1 oil field to only the city yard site.

2 So in justification of using the city yard site he
3 writes this letter. But that letter has no reality in
4 relationship to the oil promises previously made. Again,
5 Macpherson's original estimate, which Mr. Davis is the first
6 item in that presentation packet, is Macpherson's original
7 economic estimate to the city. In that estimate he mentions
8 that only nine and a half million barrels of oil would be
9 produced at \$18 a barrel, creating the city tidelands mineral
10 royalty of nineteen and a half million dollars.

11 Using the letter justifying why he could not drill
12 from any other site, Macpherson states that he would get
13 maximum, or on an average four million dollars per well.
14 Four million dollars per well doesn't relate to the volume
15 estimate that he projects his revenues on.

16 Using Macpherson's oil prices, because all of this
17 occurred during the same 1990 period, using his volume of
18 nine and a half million barrels which creates this \$19
19 million for the tidelands, he would be producing \$11 million
20 per well. But in his own letter he states that he couldn't
21 drill from any other site because his average well will have
22 four million dollars a well. Something's not right about
23 these numbers.

24 His promises to us are \$19 million for tidelands
25 which means he could have created \$11 million a well. But

1 his actual letter saying why he has to do it from here says
2 he's only getting four million dollars a well. What does
3 that relate to? It relates to Macpherson's own expectation
4 was less than four million barrels were going to come out of
5 this project in order to come up with this justification of
6 why the project has to occur in Hermosa Beach. This number
7 is very important. Four million barrels is not nine and a
8 half million barrels. What he mentioned earlier was 27
9 million barrels of oil. That's three times the highest
10 estimate ever presented to the city. It is eight times --
11 seven times the amount of volume he relied on to pin himself
12 down on this one site. Something's wrong with these numbers.

13 So I have four scenarios of what these numbers
14 might more likely be. This is Macpherson's own numbers, his
15 nine and a half barrels. We go to a more realistic figure of
16 \$10.50 for the current oil price of that type of oil. That's
17 the price that's stated in your staff report. Using that
18 10.50 we also escalate the price at seven percent a year.
19 That's what was on his original estimate starting at 18. The
20 total value of oil at those prices throughout the life of the
21 project is almost a hundred million dollars for the Hermosa,
22 for the total volume of oil times those kind of prices. Out
23 of that hundred million dollars the tidelands royalty would
24 be about nine and a half million dollars, not \$19 million, at
25 today's prices.

1 But that figure there isn't reality. Reality is
2 what's the present value of a dollar today. For future
3 dollar, and he's projecting the project will be 30 to 35
4 years. Today he said it would be 20 years. We used the
5 figure of 24 years. Using his own volume and today's prices
6 and the present value reduction of 15 percent, it's not 19
7 million, it's not nine and a half, it is \$3.3 million to the
8 tidelands.

9 But there's other costs involved in this project.
10 The first \$636,000 of this project is an advance loan by the
11 oil company to move the city yard which is operating on that
12 site now somewhere else, and it gets paid back immediately
13 out of royalty.

14 The second expense for the tideland fund -- excuse
15 me.

16 This is a hundred percent out of tidelands revenue
17 according to the lease. I don't know why, but it is.

18 Second, from years five through fifteen, five
19 percent of all the city's royalties has to go into an
20 Emergency Fund which is to be built up to two million
21 dollars. That further reduces the net royalty to the
22 tidelands through the life of the project.

23 So now there's \$19 million that we were first
24 promised. Now it's three times that according to his volume
25 estimate today. There's really only \$1.9 million or ten

1 percent of the original estimate. And these are all costs
2 that are in the lease not associated with any risk involved
3 in this project. This is what the lease says. So I'm
4 looking at other numbers here about, you know, what would be
5 more realistic.

6 The Hester Report, where that nine and a half
7 million barrels came from was a high estimate. The Hester
8 Report had a lowest estimate of 6.2 million barrels. That's
9 the city's consultant. If the number is 6.2 million barrels,
10 using the same scenario here, the real revenue to the
11 tidelands after the costs of relocating the city yard and
12 Emergency Fund is less than a million dollars. It's not \$19
13 million.

14 Another scenario here, if you look at Redondo
15 Beach's actual 30 well production, he mentions that 60 wells
16 are in Redondo Beach, 30 wells were adjacent to Hermosa
17 Beach. Sixteen more were added in 1971 but they're farther
18 south, away from the border.

19 Using the actual production over the first 14 years
20 and estimating what the 30 well portion would be for the
21 following years, that's only four and a half million barrels
22 of oil actually recovered in Redondo Beach using the same oil
23 prices and the same scenario. The royalty after cost to the
24 tidelands is 3.5, \$356,000, not 19 million, using numbers
25 that are realistic today.

1 But actually the scenario boils down to what
2 Macpherson himself relied on. In his letter to the city he
3 mentions four million dollars, an average well. That's why
4 he has to drill on that site.

5 CHAIRMAN DAVIS: What was the date of that letter?

6 MR. MORLEY: February 27, 1990.

7 Using that information that he used to rely on to
8 use this site, and not something else that's already
9 industrialized, the revenues come up -- I think you might
10 have missed this, at four million dollars a well using the
11 numbers that he was using in 1990. That's less than four
12 million barrels of oil. He was relying on a pool of four
13 million barrels. Today that 3.9 million in today's dollars
14 extended out a net royalty to the tidelands after the built
15 in expenses from the lease is \$227,000 over 24 years. It's
16 not \$19 million. And this is, the 27 million barrels of oil
17 is seven times the amount of oil he used to justify this.
18 It's six times the actual amount of oil that Redondo Beach
19 used, actually recovered from that board area which he's
20 calling a common pool. Either Redondo Beach left most of
21 their oil down there or, or there's some amazing new
22 technology that wasn't there three years ago when Redondo
23 shut down. Something's unrealistic about this picture.

24 I am saying here that any educated person with a
25 calculator can do these same figures using today's prices of

1 oil. The staff's recommended number was \$10.50. Escalate it
2 annually and generously at seven percent, get a present
3 value, and see that less than a quarter million dollars is
4 not \$19 million or three times that. This is before any risk
5 involved in the project.

6 Venice has a problem, it's in your presentation
7 pack, where there's two and a half million dollars required
8 to clean up a one-acre site. They only had \$700,000 in their
9 trust fund. That's taxpayers' money and it's not coming out
10 of revenue. That could happen to us.

11 Finally, in closing, the numbers aren't realistic,
12 but some protection is offered in the lease related to it,
13 Emergency Fund. That Emergency Fund is only required to be
14 fulfilled to a level of two million dollars for the city and
15 six million by the oil company, only in the years five
16 through fifteen and at a rate of five percent of the total
17 oil revenue to the city and to the oil company. So the oil
18 company is, after expenses, after all of their royalties and
19 production costs and so forth, using the most optimistic
20 estimate of the nine and a half million barrels and today's
21 price of oil, this Emergency Fund is never fulfilled. At
22 most 38 percent of the city's portion of two million is
23 fulfilled, and at most 44.5 percent of the oil company's
24 money is fulfilled, and it's never fully, and there's never
25 much in there in the early years anyway. Anything could

1 happen if this is not a good enough situation. There
2 wouldn't be anything to help an Emergency Fund, to clean it
3 up.

4 But that's using the highest estimate, nine and a
5 half million barrels. Using the estimate that he appears to
6 rely on to use the site is four million barrels of oil. This
7 Emergency Fund is only funded, the two million dollars of the
8 city fund, \$280,000 over those ten years, 14 percent funded.
9 What kind of fund is that? It's embedded in the lease. Also
10 Macpherson's portion is only funded 16.4 percent over fifteen
11 years into the project. There's still only \$665,000, there's
12 not four million.

13 There's something wrong with these numbers.
14 There's something wrong with the person that can tell you
15 now, not a person but a projection, there's 27 million
16 barrels of oil.

17 COMMISSIONER MCCARTHY: Did you make this
18 presentation down in your city to the Planning Commission,
19 the City Council, general bodies, we're hearing? Did you
20 have all of this in hand at that time --

21 MR. MORLEY: No.

22 COMMISSIONER MCCARTHY: -- what you've pointed out
23 to us?

24 MR. MORLEY: We've been stopped along the way from
25 discussing anything economic. During the EIR hearings there

1 was a letter from the city attorney saying that economics
2 don't have to be discussed in an EIR hearing. That would be
3 the area of consideration at the CEP hearing. At the CEP
4 hearing the city attorney told the Planning Commission and
5 the City Council that you don't have to discuss economic
6 issues.

7 There's never been an independent estimate from our
8 city on this project. The only thing ever used in our city
9 is this original projection from the oil company back in
10 1989.

11 COMMISSIONER MCCARTHY: Now from the first
12 estimates of how many barrels might be drilled for to the
13 last estimates, what was the span of time between those
14 estimates?

15 MR. MORLEY: The first two estimates of either nine
16 and a half million barrels or 6.2 million barrels was in
17 1986, Hester Report, the city's own consultant.

18 COMMISSIONER MCCARTHY: That was the nine and a
19 half million barrels?

20 MR. MORLEY: Nine and a half and 6.2. The four and
21 a half million barrels is out of the actual production
22 records in the City of Redondo Beach. And the last eight
23 years I've estimated based on the number of wells and their
24 production capacity, the actual drainage in Redondo.

25 COMMISSIONER MCCARTHY: Have you shared these

1 figures with the proponents of this application to ask them
2 to respond to the points that you're making that the, there
3 are many fewer barrels recoverable, therefore the revenue
4 produced to the city would be much less than the -- have you
5 addressed this?

6 MR. MORLEY: Well there's no ability for a citizen
7 to have communication with the lessee. We've made every
8 attempt in every public hearing to get them to address the
9 financial aspects of this project ever since 1989 and we've
10 never had the opportunity.

11 Last April in your hearing was the first time any
12 citizen had, has been notified we had an opportunity to talk
13 to Sacramento. And I'm sorry to say sometimes we have to
14 circumvent our local decisionmakers because what they want is
15 to remove the obstacles to this project, not look to find an
16 obstacle.

17 CHAIRMAN DAVIS: Well since we're over the 30
18 minutes already I'm going to give the proponents the five
19 minutes that Mr. Wright so generously declined to take to use
20 in any fashion they want to.

21 MR. MORLEY: Thank you, commissioner. I think this
22 project is not good for the state. There's no evidence that
23 there's any financial benefit whatsoever. Thank you.

24 COMMISSIONER MCCARTHY: I think you have, if your
25 testimony is to believe that the revenue would be as low as

1 you say it is, well there is some benefit to the state. Your
2 argument is that it's substantially less than what the
3 proponents advocated in this case.

4 MR. MORLEY: The, on an assets and liability side
5 of the equation there would be some assets, but liabilities
6 are innumerable, and there's evidence in Venice how the
7 citizens had to pick up the tab well and above any fund
8 created to pay for them.

9 CHAIRMAN DAVIS: You're also saying the assets are
10 a great deal less than publicly stated by the proponents.

11 MR. MORLEY: I'm saying the highest estimate using
12 today's oil dollars are ten percent of what is publicly
13 stated. The lowest estimate is less than a quarter million
14 dollars not 19 million, more like five percent.

15 CHAIRMAN DAVIS: Any questions?

16 ACTING COMMISSIONER PARKER: Mr. Morley, to follow
17 up on Mr. McCarthy's question, the Commission, the City
18 Council voted on this following the Commission's action in
19 April of 1993, and at that time the City Council, there was
20 no presentation or were they willing to listen to your
21 comments?

22 MR. MORLEY: They've been unwilling to listen to
23 economic arguments entirely since 1989.

24 ACTING COMMISSIONER PARKER: So there was an
25 attempt at that point in time to clear the issue before the

1 council and the council did not not even give you an
2 opportunity to address it?

3 MR. MORLEY: Yes, the city has a normal procedure
4 to have future agenda items on their council packets and
5 their Planning Commission packets. There was never a future
6 agenda item presented that there would even be a conditional
7 use permit process. Immediately following your approval back
8 in April 29th of '93, immediately within a month the
9 conditional use permit item was on the agenda and had been
10 advertised. We had a month to prepare for that.

11 During those hearings my first and next opportunity
12 to discuss the financial aspects, the city attorney told the
13 Planning Commission that this is not the time, conditional
14 use permits are not the time or place to discuss financial
15 aspects. Same with the City Council, when they went to look
16 at the conditional use permit which had several hundred items
17 promised in the EIR, remove 200 of 'em and leave 108. At
18 that time they also would not discuss the finances of this
19 project. We feel steamrolled.

20 ACTING COMMISSIONER PARKER: Thank you.

21 CHAIRMAN DAVIS: Thank you for your time.

22 All right. I'm going to, before we call the
23 proponents I'm going to give, and I will extend the time to
24 the proponents. You're over your 30 minutes. Anything
25 anyone else wants to say will be added to the proponents'

1 time, so be succinct.

2 MR. GORKE: I will be brief. My name is Roger
3 Gorke. I'm the Policy Analyst for Heal the Bay. Heal the
4 Bay is a nonprofit environmental organization with over
5 12,000 local members in Los Angeles. We feel we represent
6 the tens of millions of people that visit Santa Monica Bay
7 and use its' resources, both recreationally and economically.

8 Probably the biggest thing that we're concerned
9 with is the economics versus the environmental impacts.
10 Hermosa Beach is one of four entities that has been sued by
11 the Natural Resources Defense Counsel for their lack of
12 compliance with the municipal NPDES permit for stormwater.
13 They just don't understand the impacts that stormwater has on
14 Santa Monica Bay. And this project, as you can very well
15 see, is very close to the bay, is very close to the beach.
16 And having a large oil project that close to the beach can
17 cause spills and pollute the beach that many residents use.

18 And again, I don't want to say what other people
19 have said, but this is basically, it may open the door for
20 other oil exploration in Santa Monica Bay.

21 Santa Monica Bay is finally starting to recover.
22 In the nine years since the City of L.A. has stopped dumping
23 sludge from the municipal sewage treatment there's been
24 remarkable increase in biodiversity and biomass in the ocean
25 and near the ocean outfalls.

1 And I ask that you just finally don't allow,
2 subject Santa Monica Bay to another new source of pollution.
3 There's a reason that there's an oil and gas sanctuary there,
4 and we ask that you not go around that sanctuary and not
5 allow the oil drilling to go there. Thank you.

6 CHAIRMAN DAVIS: Thank you. Any of the other
7 proponents that were signed up to speak?

8 MR. SACKS: My name is George Sacks. I'm a
9 resident of Hermosa Beach and I live over here and the
10 project's going to be over here, and I'm a worried man. I'm
11 speaking I feel, also for residents who couldn't be here
12 because this room would be full of citizens waiting to voice
13 their concerns about drilling in a crowded community, I'm
14 sure.

15 The last public hearing on this issue in May '93,
16 at the Hermosa Beach City Council, 35 spoke before the Mayor
17 and the public session till near midnight. Thirty-three were
18 opposed; two in favor; and one of those in favor worked for
19 Mr. Macpherson, or had worked. They were concerned about
20 fumes, noise, dust, traffic, truck traffic, all of which
21 would make life unbearable.

22 CHAIRMAN DAVIS: Could I interrupt you? What
23 action did the City Council take?

24 MR. SACKS: They approved the CUP. There was, a
25 few stand out in my mind. It was a, even a twelve-year-old

1 boy spoke who was worried about his little brother who had a
2 respiratory disease. A mother was desperate at the thought
3 that her asthmatic daughter would be exposed to dust and oil
4 fumes. I mean all these residences are very close to that
5 site. A postman had just bought a house near that proposed
6 site, invested all his earnings. There's an elementary
7 school on this same Valley Drive at which the oil site would
8 be located. Children will be walking down that street past
9 the oil site to the school. And these were all concerns
10 which we expressed and had at that time.

11 And since the earthquake of January 17th, which
12 shook us up pretty badly down in the Los Angeles area, a
13 number of new frightening concerns have arisen.

14 One I think wasn't mentioned, that the contractor
15 proposes to build a pipeline to connect the site with, with
16 the main pipeline going to the refinery. This would run
17 along the same small narrow street in front, very close to
18 residences. And in the last earthquake there were breaks in
19 oil pipelines, I believe in Ventura, which caused fires, and
20 this is very close to my house.

21 Also, as mentioned about oil injection -- I mean
22 water injection to these wells, this produces devastating
23 condition of liquefaction which also devastated a marina
24 district of Los Angeles -- I mean, of San Francisco. And
25 actually in the South Bay even though we were shaken pretty

1 badly the damage was comparatively light except at one place
2 and that was King Harbor in, in Redondo Beach. And I'd like
3 to just give you this news article. At King Harbor we had
4 this devastating mixture of, of water and sand which's
5 literally dissolved the whole area, that is the paved area
6 surrounded by the sea wall, and the cars just collapsed into
7 the sink hole, and structures and the sea wall was pushed 20
8 feet. And I'm really frightened about this.

9 So I think that considering the threats to life and
10 property of drilling in a crowded urban area this lease is
11 not justified and it would be in the best interest of the
12 state and the people of California if this lease were
13 revoked. Thank you.

14 COMMISSIONER MCCARTHY: Thank you.

15 CHAIRMAN DAVIS: All right. Thank you very much.

16 Rosamond Fogg.

17 MS. FOGG: I have supporting documents. The single
18 most thought I'd like to communicate today is that in this
19 instance the interest of the state and citizens of Hermosa
20 Beach are not mutually inclusive. Materially affecting our
21 community is setting the precedent that broadens and weakens
22 the definition of drainage, allowing an inexperienced driller
23 to undertake and environmentally and financially prepare this
24 project would harm all of us.

25 Currently Hermosa Beach has no heavy industry. In

1 one, our most intent zone allows light assembly, wholesale,
2 bakeries, and now incongruously, oil drilling.

3 A decade ago we halfheartedly approved drilling as
4 the lesser of two evils. The more evil being the loss of
5 important recreational open spaces. We were persuaded by the
6 argument that one acre of property was needed to be
7 sacrificed in order to prevent development on 25 acres of
8 land. And today it's doubly ironic that the land in question
9 has now been bought and paid for by citizens and would only
10 be harmed by allowing oil drilling next to it.

11 Former Mayor Roger * Creighton who finalized the
12 EIR and signed the statement of overriding considerations
13 wrote you a letter that says in part,

14 "The open space in question has been
15 acquired by other means. I hope you
16 consider the incentive that initially
17 prompted our city to trade one acre of
18 development for 25 acres of parks, is now
19 anachronistic."

20 Newspaper polls show that both the voters and
21 today's City Council, the majority oppose drilling.
22 Unfortunately the lease obliges the city to make every effort
23 to support this project which leaves us citizens with a local
24 government powerless to act on our behalf.

25 Our city is entrusting a complex project to an

1 operator who lacks the necessary experience. The many
2 contradictions and broken promises are very troubling. We've
3 lost confidence that this project is feasible and that our
4 city would exercise responsible oversight.

5 In one mass mailing Macpherson wrote, "Redondo
6 Beach has generated over \$70 million in oil revenue."
7 Fourteen is the accurate figure. When confronted with this
8 falsehood he said, "I did not state nor was it intended to
9 imply that Redondo Beach generated over \$70 million in oil
10 revenue." Macpherson may have spent two and a half million
11 dollars on this project; the city has received \$100,000 for
12 its bid; \$57,000 for the EJR study; and the city relocation
13 study, \$20,000, it's not been drawn on yet; and then there's
14 a \$50,000 litigation fund.

15 When Macpherson needs to persuade that drainage is
16 occurring he describes the oil reserve as a large pool. When
17 he needs to argue that the oil he will withdraw in Hermosa
18 Beach differs from the Redondo Beach one percent low quality
19 oil, 99 percent water mixture he says, "The bulk of Hermosa
20 Beach reserves remain untapped. If so I would assume they
21 are also undrained." I know geologic changes occur over
22 time, but I seriously doubt that they happen so rapidly and
23 at the convenience of Mr. Macpherson.

24 Before the State Lands Commission today and
25 elsewhere Mr. Macpherson refers to himself as the successful

1 bidder. Mr. Macpherson was the only bidder, largely because
2 the invitation to bid wasn't published in an oil trade
3 journal, wasn't published in the Wall Street Journal, wasn't
4 published in a national paper, instead run one time in the
5 back of a Hermosa Beach throwaway newspaper.

6 A former city attorney's memorandum reveals that
7 the City Council deliberately worded the RFP so as to
8 eliminate consideration of alternate sites and specifically
9 prevent a Redondo Beach driller from bidding to slant drill
10 from their site.

11 Elsewhere city correspondence mentioned the
12 concerns about exposing the non-competitive nature of the
13 bidding process. When Mr. Macpherson last appeared before
14 this Commission he failed to disclose to you that his
15 partner, GIG Energy, had already sold off 75 percent of their
16 assets and had announced their intention to dissolve the
17 company.

18 We're very disappointed the final plans failed to
19 provide important mitigations promised in the EIR. I will
20 not go into them except to say that the emergency catch basin
21 is now less than a third the size of the one promised in the
22 EIR.

23 A recent accident last summer underscores the
24 necessity for adequate safety measures. Just north of our
25 city an oil storage tank at the Southern California Edison

1 plant ruptured. Because the barrel could not contain the
2 fluid, oil clogged the storm drains and backed up all over
3 the beach. A major thoroughfare was closed for over a month.
4 Now this major utility company couldn't prevent the accident,
5 but at least it could afford the cleanup.

6 We take no comfort in the assurances given us by
7 someone with Mr. Macpherson's lack of expertise and financial
8 resources. As far as I know all he's done is lease an
9 exhaustive oil field and invest in two failed test wells in
10 the Los Angeles area. Macpherson's performance bond for the
11 city of \$100,000 for 30 oil wells is almost criminally
12 inadequate. The lease requires a meager five million dollars
13 in liability. Certainly such terms would create undue
14 hardship in the event of a major accident.

15 And I deeply hope your decision today will be the
16 one that protects our quality of life, our economy, and the
17 sanctity of the Santa Monica Bay. Thank you.

18 Questions?

19 COMMISSIONER MCCARTHY: Do you have the name of the
20 other oil company that was prepared to drill from another
21 site?

22 MS. FOGG: Yes, sir, Triton Oil. And there is a --

23 COMMISSSTONER MCCARTHY: Did they appear at public
24 hearings on this matter and indicated they wanted to bid on
25 the process?

1 MS. FOGG: There is a newspaper article in there
2 that refers to Triton Oil. There's a memorandum from Jim
3 Lowe that talks about the city deliberately omitting Triton
4 Oil. I believe Triton Oil, itself at least, didn't believe
5 it was feasible to continue to drill, you know, their high
6 water cut convinced them presumably to pull out.

7 COMMISSIONER MCCARTHY: Did Triton Oil indicate
8 publicly that they were prepared to bid for drilling the same
9 reservoir of oil that's at issue here?

10 MS. FOGG: No. No.

11 COMMISSIONER MCCARTHY: I don't mean to --

12 MS. FOGG: Not publicly that I know.

13 COMMISSIONER MCCARTHY: I don't mean in an official
14 document. Did they state publicly at any time that they were
15 prepared to enter into a competitive bid?

16 MS. FOGG: No. And I would assume based on their
17 experience with Redondo Beach that they would, perhaps
18 wouldn't have, but the fact that our city took steps to
19 eliminate the possibility that they would bid is revealing.
20 But no, I have no concrete evidence about that and I wouldn't
21 want to imply one way or the other something that I don't
22 have tangible evidence for.

23 COMMISSIONER MCCARTHY: Thank you.

24 MS. FOGG: Thank you.

25 CHAIRMAN DAVIS: All right. Now we'll conclude

1 this with any rebuttal that, you can take ten minutes if
2 you'd like, and I'd appreciate it if you wouldn't but you are
3 entitled to it.

4 MR. LEE: Can we keep the order if we split up the
5 rebuttal?

6 CHAIRMAN DAVIS: If you want.

7 MR. LEE: Thank you.

8 CHAIRMAN DAVIS: If you at least join the issues
9 raised by Mr. Morley on the revenues expected.

10 MR. LEE: I will leave those comments actually to
11 Mr. Macpherson because actual, in point of fact, the
12 economics of this project, while the city benefits the, I
13 want to make sure that we distinguish, the city does receive,
14 will receive economic benefits, and I will make comment on
15 that in terms of we want to ensure though that we separate
16 the issue of risk and who assumes that and that is the oil
17 operator and the lease. Our lease is very clear on that.

18 With respect to environmental issues just --

19 COMMISSIONER MCCARTHY: Which risks are you
20 referring to, Mr. Lee, that the oil operator assumes, not the
21 city?

22 MR. LEE: The risks of if there are environmental
23 hazards there's a five million dollar insurance requirement.
24 They have the bulk of the requirement for the Emergency Trust
25 Fund of six million dollars. The city's requirement to put

1 monies into that Emergency Trust Fund are from oil royalties.
2 I would point out that the development of the oil, the drill
3 site, whether or not that's with respect to monies advanced
4 by the oil operator, by the city, are all payable only from
5 oil royalties. They are not a general fund obligation of the
6 city. We don't have any obligation otherwise to repay those
7 monies. If oil drilling, if they don't find commercial
8 quantities of oil as they begin their exploration, all of
9 that risk is on their shoulders and not on the city. We
10 don't have to pay them back for relocating our yard. We
11 don't have to pay them back for the studies that have gone
12 into looking for a new maintenance yard.

13 The risk to the city at this point has been its
14 administrative and legal cost to bring us to this point of
15 giving that oil operator an opportunity to take advantage of
16 the Tidelands Trust as well as the uplands that is in the
17 city's authority to grant. And that's where we're at in
18 terms of the economic benefits.

19 While I'm on that subject, we believe that if in
20 fact he can find commercial quantities of oil there is
21 continuing benefits to the city. While it's true that we've
22 acquired open space using other sources of funds, there is
23 the issue of maintenance of that open space which is a large
24 issue for any city. In today's tight budget times the city
25 needs whatever revenues are available to continue to maintain

1 and keep that open space, whether or not it's park land or
2 the beaches, available not only to its residents but to all
3 of the residents of the County of Los Angeles, the State of
4 California, who may possibly use those recreational
5 facilities.

6 With respect to environmental issues it is our
7 contention that in fact the city has never minimized
8 environmental concerns. I think that a number of conditions
9 in our CUP make that fairly evident. The length of time it's
10 taken for us to process and certify the final EIR makes that
11 evident. The fact that we are not drilling from an offshore
12 platform makes it evident that we are concerned about a
13 sanctuary of Santa Monica Bay.

14 In point of fact, one of the benefits that we would
15 contend from an onshore drilling site is that it will reduce
16 the risk of tanker spills. We will have less dependence upon
17 transport by tankers, and that is a good reason for this
18 Commission to once again reaffirm its position.

19 With respect to the, there are a number of other
20 issues raised about the existing well that had been
21 undertaken by a former oil operator, Stinnett. That's an
22 existing well that's been there since the early thirties. In
23 point of fact, the city brought a lawsuit against that oil
24 operator under a lease that had been in place with the city
25 for some number of years to force them to abandon and

1 undertake their abandonment obligations and cleanup
2 obligations, and we have finally entered into a settlement
3 agreement which would accomplish that task.

4 With respect to the lawsuit by NRDC, quite honestly
5 I think that's irrelevant to the issue before you about the
6 environmental impacts created by oil drilling and whether or
7 not this particular project has environmental impacts that
8 cannot be mitigated. We believe that we have substantially
9 addressed those particular issues. And that in point of
10 fact, the MOU with the State of California which has been
11 executed back in 1993, in fact addresses all of those
12 concerns that the state, that the State Commission and your
13 staff had asked and raised with us with respect to
14 environmental concerns. We believe we've been very sensitive
15 to the issue of addressing environmental concerns and will
16 continue to be.

17 With that I would turn over this podium to Mr.
18 Macpherson to address the economic issue, because again I
19 believe that really is a question for the oil operator.

20 COMMISSIONER MCCARTHY: I don't know whether you or
21 the city manager wants to address this question.

22 Opponents, the other side of this issue has said
23 that there were six sites where drilling might have occurred
24 but the city government in this entire process
25 systematically -- and not their words, my words, my

1 understanding of what I heard, systematically excluded in
2 that process a potential choice of other sites for drilling,
3 based as I heard it, on the allegation that the oil company,
4 that the, that the revenues would be reduced because the
5 number of barrels that could be extracted would be reduced.

6 Would you comment on that please? Were there any
7 other serious sites? Were there six sites? Were any of them
8 seriously considered? My question is, again I'm not going to
9 place myself in a position of being a member of the City
10 Planning Commission's council. Rather I'm asking the
11 question how this bears upon the basic issue of the revenues
12 and the benefits in a broader state sense which is one of the
13 issues in the best interest of the state.

14 MR. LEE: My recollection of the final EIR that was
15 approved and certified by the city did in fact consider
16 alternative sites. One of which was outside of the city.
17 Within the city -- let me point out that the only two sites
18 that the city could consider were the sites that by an
19 initiative of the people was allowed for drilling operations,
20 and that is the existing city yard maintenance site upon
21 which this drill site, this project is being planned as well
22 as a site that is about a block down the road which is the,
23 what we term the South School site.

24 Through that environmental process this project was
25 consolidated for environmental reasons on to the city

1 maintenance yard site. There are no other sites that are
2 allowed by a vote of the people.

3 COMMISSIONER MCCARTHY: The two sites you're
4 referring to --

5 MR. LEE: Are both within the City of Hermosa
6 Beach.

7 COMMISSIONER MCCARTHY: -- were included in the
8 1984 vote?

9 MR. LEE: Correct. By ordinance of the people the
10 City Council had no choice to consider any other alternative
11 sites within the city.

12 COMMISSIONER MCCARTHY: By ordinance contained in
13 that initiative?

14 MR. LEE: Correct.

15 COMMISSIONER MCCARTHY: That was a city initiative
16 voted upon in 1984?

17 MR. LEE: Yes.

18 COMMISSIONER MCCARTHY: Or was that placed on the
19 ballot by the City Council?

20 MR. LEE: No, that is, was a people's initiative.

21 COMMISSIONER MCCARTHY: So whoever drafted the
22 initiative included those two sites?

23 MR. LEE: Correct.

24 COMMISSIONER MCCARTHY: Why was the other site
25 rejected?

1 MR. LEE: The other site was an alternative.
2 You're aware under environmental CEQA we are required to look
3 at feasible, consider other alternative sites. Another site
4 was identified that is outside the City of Hermosa Beach and
5 that site was addressed within the EIR.

6 I will let Mr. Macpherson talk about the economics
7 of drilling from that site, but from the city's perspective
8 obviously we can't enter into a drilling lease, oil lease for
9 a site that's outside of our community.

10 COMMISSIONER MCCARTHY: Where was it?

11 MR. LEE: In Redondo Beach.

12 COMMISSIONER MCCARTHY: Redondo Beach?

13 MR. LEE: Correct. Now with respect to the
14 question of economics and how that should or shouldn't have
15 been addressed by the City Council, my office has never
16 issued an opinion that the economics should not be questioned
17 on this project. We have issued an opinion that in fact
18 under CEQA that an economic analysis is not a requirement
19 under CEQA, but that has never precluded the opponents of
20 this project from raising those issues at public hearings and
21 in point of fact they have done that.

22 I don't recall these particular sets of numbers,
23 whether or not any of those numbers were presented to the
24 council, but they'd never been precluded.

25 COMMISSIONER MCCARTHY: Have the estimates of the

1 number of barrels that could be extracted and the revenue
2 projections based on the number of barrels extracted, have
3 they been part of the testimony before the City Council or
4 any public bodies --

5 MR. LEE: Yes.

6 COMMISSIONER MCCARTHY: -- of your city?

7 MR. LEE: Yes. Estimates both conducted by the
8 city's consultants as well as by the oil operator's
9 consultants and their projections have both been made.

10 COMMISSIONER MCCARTHY: My question is, have any of
11 the opponents of this project had the opportunity to
12 challenge those numbers, the numbers as to the barrels that
13 could be extracted, numbers as to the revenues projected on
14 that?

15 MR. LEE: We have had innumerable public hearings
16 at any of which they could raise that issue. At the point in
17 time of the approval, consideration of this oil and gas lease
18 before the City Council, that was conducted in a public
19 hearing into which a number of the opponents had attended and
20 provided testimony. The issue of economics of this project
21 could have been attacked and contested at that point without
22 any problem on their part.

23 CHAIRMAN DAVIS: Do you recall if it was?

24 MR. LEE: My recollection was yes, that he did
25 present questions and information on that issue, raised those

1 questions with the City Council.

2 COMMISSIONER MCCARTHY: Mr. Morley says flatly that
3 that is not the case, that opponents of the oil drilling
4 project were not allowed to contest these numbers.

5 MR. LEE: I think Mr. Morely is confusing again the
6 issue of whether or not he had the opportunity to discuss
7 that as a consideration of approval of a lease versus in the
8 CEQA context. And again it's my contention that CEQA does
9 not require the city as part of its Environmental Impact
10 Report to do economic analysis. However, all of these
11 numbers, projections of the city, projections of the oil
12 operator have been part of the record, have been under
13 consideration by the council in making its decision whether
14 to move forward with the oil and gas lease.

15 MS. CHATTEN-BROWN: Mr. Chairman.

16 MR. LEE: All subject to comment and debate by
17 opponents of the project.

18 CHAIRMAN DAVIS: Let's, let's hear from Mr.
19 Macpherson and that will wrap it up.

20 MR. MACPHERSON: Thank you. On the issue of
21 projected recovery, barrels of oil, I think Mr. Morley is
22 mistaken or confused on the revenue estimates. Our estimates
23 have always been up to 30 million barrels of recoverable oil.
24 I believe he's referencing a study done by another party, Mr.
25 Hester, not Macpherson Oil Company. Our estimates have

1 always been 30 million barrels.

2 Our geologic and engineering studies have been
3 submitted to the City of Hermosa Beach's consultants, Mr.
4 Brock and Mr. Wright. They have reviewed that and I think
5 they concur or give you an opinion as to what they believe
6 our estimates are. But that's really all I can say on that.
7 Our estimates have always been 30 million barrels and, as I
8 said before, 27 million barrels was a projection, a
9 conservative projection that would generate \$104 million in
10 revenue.

11 On the question of Macpherson Oil Company's
12 experience, Macpherson Oil Company has been in operation in
13 the State of California for many years. We operate some 400
14 wells in the State of California. In the past ten years
15 we've drilled roughly 30 wells and we've participated in two
16 wells in the L.A. basin in this type development project.

17 To the contrary of previous speakers, we do have
18 experience in the state and this is what we do, and we
19 believe this project is an excellent project. And that's why
20 we're here today and that's why we've spent two and a half
21 million dollars to date.

22 On the issue of environmental --

23 COMMISSSTONER MCCARTHY: I am sorry, Mr. Macpherson.
24 Did you state where else you drill along the coastal region?

25 MR. MACPHERSON: In the L.A. basin we participated

1 in two wells in the Sawtelle field. Sawtelle field is --

2 CHAIRMAN DAVIS: That's inland, isn't it?

3 MR. MACPHERSON: Yeah, it's about eight miles
4 inland.

5 COMMISSSTONER MCCARTHY: Anywhere else in the state?

6 MR. MACPHERSON: In Kern County, in around Mount
7 Field, Midway, Sunset Fields.

8 COMMISSSTONER MCCARTHY: Okay.

9 MR. MACPHERSON: We also have production out of the
10 state as well.

11 On the issue of environmental, there was testimony
12 earlier about oil spills related to oil tankers. This
13 project is not a project that permits platforms in the water.
14 There's no pipelines in the water. In fact, this project
15 produces oil onshore. And to the extent there are 30 million
16 barrels recovered by this project, that will reduce the
17 amount of tankers ultimately bringing oil into the State of
18 California. We estimate, based on tankers carrying 100,000
19 barrels of oil, this would reduce the number of tankers
20 coming into the L.A. basin by 300 tankers over the life of
21 the project.

22 CHAIRMAN DAVIS: Just a second, Mr. Macpherson.
23 If, there would be some kind of a pipeline, wouldn't there,
24 to return the oil from offshore to, to your drilling site on
25 land?

1 MR. MACPHERSON: There's no, no, there's no
2 pipelines.

3 CHAIRMAN DAVIS: You would just drill straight
4 down?

5 MR. MACPHERSON: Yeah, they're down. There are no
6 pipelines in state waters. There's no platforms in state
7 waters.

8 On the issue of alternative sites, I'll just
9 confirm what the city attorney said. Alternative sites were
10 studied in the Environmental Impact Report.

11 And on the issue of questions related to economics,
12 those questions were raised in public hearings. We've had 11
13 public hearings on this project, and I promise you this group
14 had made similar statements, and testimony has been received
15 by the city and considered. So these are not new arguments
16 that I've heard.

17 So all I can say in closing is thank you very much
18 for your, for your consideration in this matter.

19 CHAIRMAN DAVIS: Okay. All right.

20 MS. CHATTEN-BROWN: Mr. Chairman, could I have just
21 two minutes make three points?

22 CHAIRMAN DAVIS: I think all the issues have been
23 made unless the Commissioners want to hear it.

24 MS. CHATTEN-BROWN: It's just three very brief
25 points I'd like to make.

1 CHAIRMAN DAVIS: All right.

2 MS. CHATTEN-BROWN: Thank you.

3 First, I was present at the Planning Commission
4 hearing, and I confirmed my recollection with Rosamond Fogg
5 who was also present, that Mr. Morley attempted and was
6 denied the opportunity to make a presentation.

7 CHAIRMAN DAVIS: You were at the Planning
8 Commission in Hermosa Beach?

9 MS. CHATTEN-BROWN: I was at the Planning
10 Commission hearing in Hermosa Beach when Mr. Morley attempted
11 to raise the issue of the economics and he was told not to.
12 There was a two minute limitation on all presentations, in
13 any case that would have been impossible to do this.

14 Secondly, if you'll note that in response to
15 Commissioner McCarthy's questions about where they had
16 operated there are, to the best of our knowledge, no urban
17 oil sites that Macpherson Oil has operated. They have
18 participated in two dry wells in Sawtelle. That's very
19 different than operating an urban oil drilling site.

20 Finally, in terms of the consideration of
21 alternatives, I have reviewed the EIR. The alternatives were
22 rejected out of hand. The alternatives, specifically of the
23 Redondo Beach site which at the time was being operated as an
24 urban oil drilling site, and in our opinion that is because
25 in 1986, before any environmental review, this city entered

1 in the lease, and essentially everything since that date has
2 been a post hoc rationalization for a decision that has
3 already been made. Thank you.

4 CHAIRMAN DAVIS: All right.

5 MR. MORLEY: Sir, may I present something just for
6 the record?

7 CHAIRMAN DAVIS: If you want to submit something,
8 fine, but we have to make a decision here.

9 MR. MORLEY: It's items from the Environmental
10 Impact Report regarding the consideration of the alternate
11 sites.

12 CHAIRMAN DAVIS: All right. Mr. Warren, you've
13 heard the proponents and the opponents' testimony. What is
14 the staff recommendation?

15 EXECUTIVE OFFICER WARREN: The staff
16 recommendation, Mr. Chairman, is set forth on pages seven and
17 eight which is to deny the application. However, having said
18 that I would like to note that the record contains testimony,
19 and the testimony from these witnesses are such that on the
20 points that are in contention and are relevant to the
21 decision by the Commission there is ample evidence on either
22 side to justify your decision. It, there is no convincingly
23 persuasive body of evidence on any of the points. It's a
24 perspective and subjective consideration for your decision.
25 There is evidence to support your decision in the record on

1 the points at issue before you.

2 CHAIRMAN DAVIS: Let me ask you this question.
3 We're basically being asked to make an exception to the oil
4 and gas sanctuary that is in effect in this state.

5 EXECUTIVE OFFICER WARREN: Yes, it is an exception
6 which is provided by the sanctuary provisions.

7 CHAIRMAN DAVIS: Right. Has this Commission made
8 such an exception in Southern California?

9 ATTORNEY GENERAL HAGER: No.

10 GENERAL COUNSEL HIGHT: Not in the last 20 years.

11 CHAIRMAN DAVIS: And where was that exception made?

12 GENERAL COUNSEL HIGHT: Previous to that there was
13 an attempt at the City of Los Angeles in the harbor, but that
14 was in the sixties if my recollection serves me correct.

15 CHAIRMAN DAVIS: All right. Under what authority
16 is Redondo Beach drilling?

17 ATTORNEY GENERAL HAGER: I believe the wells
18 predated the sanctuary.

19 CHAIRMAN DAVIS: They were grandfathered in --

20 ATTORNEY GENERAL HAGER: Yeah.

21 CHAIRMAN DAVIS: -- and the sanctuary was proposed?

22 ATTORNEY GENERAL HAGER: The sanctuary was
23 established --

24 CHAIRMAN DAVIS: Legislatively.

25 GENERAL COUNSEL HIGHT: Legislatively.

1 ATTORNEY GENERAL HAGER: -- legislatively.

2 CHAIRMAN DAVIS: In the early seventies?

3 ATTORNEY GENERAL HAGER: Early seventies, correct.
4 Could have been a little earlier. The wells are very old.

5 CHAIRMAN DAVIS: Didn't the Commission on a
6 piecemeal basis start to set aside various parts of the state
7 in the sanctuary and then the legislature acted?

8 DEPUTY ATTORNEY GENERAL HAGER: My recollection is
9 that when, actually that goes back to the fifties, the
10 Cunningham Shell Act. When the Cunningham Shell Act, which
11 is the basic statute that authorizes leasing of statewide
12 submerged lands, and that was passed in the fifties. At that
13 time the legislature set aside various areas in the state to
14 be sanctuaries and they have since then added on to areas.
15 And then this Commission has administratively determined not
16 to lease some areas that are not sanctuaries.

17 GENERAL COUNSEL HIGHT: And the legislature has in
18 almost all of the cases with the Commission, has imposed an
19 administrative sanctuary, done it legislatively.

20 DEPUTY ATTORNEY GENERAL HAGER: And I was just
21 going to add one point, that the sanctuaries are not
22 absolute. The exception is really, to use the word again,
23 drainage. If somebody's out there draining the sanctuaries,
24 the state or the grantee of the lands need not stand idly by
25 and see that public resources taken by someone else. And

1 that is the reason for the exception in the Public Resources
2 Code that would allow you to permit drilling in a sanctuary.

3 We have talked about best interest of the state.
4 Best interest of the state in the way I read the statute is
5 if you find that there's no drainage, that ends it. There's
6 no way you can approve leasing, approve an exception to the
7 sanctuary. However if there is drainage and you still have
8 questions about the leasing then you can say, well in that
9 case is leasing still in the best interest of the state even
10 though we have found drainage? And that's why the issue was
11 before the court and was before you previously because you
12 had found drainage.

13 So I just want sort of put it in perspective.
14 First, you must find drainage if you want to allow an
15 exception to the sanctuary.

16 COMMISSIONER MCCARTHY: We've already acted on
17 that.

18 DEPUTY ATTORNEY GENERAL HAGER: You had before.
19 And then if there is drainage, then you must determine
20 whether in spite of draining leasing is still in the best
21 interest of the state.

22 COMMISSIONER MCCARTHY: That's it.

23 CHAIRMAN DAVIS: All right. Are there any comments
24 or suggestions from the members?

25 COMMISSIONER MCCARTHY: This is a very painful

1 decision. This is not a Court of Appeals that can insert
2 itself in place of every local government body that has heard
3 a matter. I sat on a city board of supervisors for five
4 years and I knew that the decisions that we had to make on
5 land use issues. And had I been on the Hermosa Beach City
6 Council ten years ago, I think maybe I would have argued for
7 some alternative choices.

8 But we're presented here with a, with a succession
9 of actions by people in Hermosa Beach and then told that some
10 of them, like Mr. Creighton, have changed their mind after
11 the fact. We have the initiative that created part of the
12 factual pattern here. We have action by the City Planning
13 Commission. We have action by the City Council. The
14 question is, what attention do we pay to all those choices?
15 Do we just ignore them? Do we do what we think is the
16 correct thing and substitute our judgment for what those
17 judgments were when under state law we have delegated some
18 rights and responsibilities to the local government
19 jurisdiction in this case? I am very reluctant to do that.

20 I have never been reluctant to, to act on offshore
21 because we had that clear authority, and we moved decisively
22 to control offshore oil drilling on numerous occasions in
23 this State Lands Commission.

24 But this is not a unique set of facts in the sense
25 that we've been asked by other groups of citizens coming from

1 other local government actions, not identical to this one,
2 but in substance the same, where a series of decisions were
3 made at the local government level and then we were asked to
4 simply overturn them, not necessarily based on our mandate
5 under state law even liberally construed. So this presents a
6 dilemma to us which we have seen before.

7 I asked myself as I was listening to the persuasive
8 testimony of some of the witnesses opposed to the drilling,
9 why hasn't there been another attempt at an initiative in the
10 past several years? Why hasn't there been a recall of the
11 elected officials of the city government to throw the rascals
12 out if you thought they committed grave misdeeds? Are we
13 sitting here to substitute ourselves for all of the judgment
14 calls that were supposed to be made by the voters of Hermosa
15 Beach? I don't know.

16 We've been asked to do something similar in dozens
17 of other cases coming from other jurisdictions around the
18 state, and we try to resist that to avoid being arbitrary.
19 We're not afraid to exercise authority but a little bit
20 respectful, I hope, of how we delegate and divide up that
21 authority in the State of California.

22 This is, this is, this is a very hard thing that's
23 presented before us. I'm, I am not inclined to, to
24 substitute my judgment for all of the sequence of actions
25 that has occurred in Hermosa Beach, even though if I were

1 there ten years ago I probably would be one of the advocates
2 for the position of the opponents, at least seeking another
3 site or doing something, because I understand what you're
4 saying about the residential neighborhood. But that's not
5 our role here.

6 MS. CHATTEN-BROWN: But your role is to make a
7 determination about what is in the interest of this state.

8 CHAIRMAN DAVIS: Please, Ms. Brown. We've been
9 very patient with you.

10 MS. CHATTEN-BROWN: Thank you. You have been.

11 COMMISSIONER MCCARTHY: I have a, you know, based
12 and trying to balance all of the, how you make these
13 decisions.

14 One thing that we have seen in our duties as
15 elected officials here is the bitter recession the state's
16 been in for three years. And I've talked to a number of
17 individuals out of work or working for half as much and so
18 on, and while I heard the testimony that said this won't
19 produce that many jobs or this won't produce that much
20 revenue, we hear the same exact testimony opposing every kind
21 of development around the state. And I guess I've talked to
22 an awful lot of people who were unemployed or were not able
23 to support their families and going through some humiliation.

24 I'm not suggesting to you that the burden for
25 curing the recession falls on the shoulders of those who are

1 opposed in this oil drilling, but there are scores of
2 proposed developments. Somehow we have to make a judgment in
3 the larger context as well of where the economy in this state
4 is and where a lot of families are. So that's an issue that
5 I would put as a factor in trying to assess what's in the
6 best interest of the state if you will.

7 I was, I mean obviously the evidence on, on the
8 amount of revenue that would come in is in direct conflict.
9 I think Mr. Morley's testimony was persuasive if it were left
10 uncontradicted, if it were demonstrated to be quite accurate.
11 We have now a direct contradiction of that testimony before
12 us, and we have to make some kind of judgment call as to
13 whether or not that kind of evidence was allowed at any point
14 in the hearings along the way.

15 And I only raise that issue because the number of
16 revenues goes to what additional taxes are available to the
17 State of California, sales and corporate and personal income
18 taxes to help mitigate the problems we're facing in trying to
19 pay for schools and other vital services which we've cut back
20 on savagely in the last two or three budgets up here. And
21 some local government which we have reduced up here because
22 recession and economy is draining our revenues. Those are
23 the issues that I'm including in my evaluation of this thing.

24 And I'm, I must say I was moved by some of the
25 testimony that I heard by opponents of the drilling, but on

1 balance, Mr. Chairman, I'm going to vote to make findings
2 that this decision we made several months ago is still in the
3 best interest of the state.

4 CHAIRMAN DAVIS: Thank you.

5 ACTING COMMISSSTONER PARKER: Mr. Chairman, I have
6 not had the advantage of either of my colleagues here,
7 sitting through obviously a number of previous hearings on
8 this. It seems that there has been much debate and much
9 conversation and is certainly a lot of testimony here today,
10 particularly noting the fact that this is an exception to,
11 asking for an exception to the drilling in this particular
12 sanctuary area. In that sense it is a significant item to
13 move forward on. However my presumption is that these things
14 have all been discussed on previous hearings and taken into
15 consideration by this Commission in its previous decisions.

16 For myself, it's a matter of trying to listen to
17 the testimony today and see if there has been something that
18 has been presented that might be new information or perhaps
19 really a re-discussion of issues that had been talked about
20 in the past and then left, as Commissioner McCarthy is
21 saying, from the standpoint of having to make a decision
22 which would override or perhaps be in lieu of what has been
23 done at the local level.

24 I am uncomfortable with trying to make a decision
25 here outside of the community and the people who are in

1 Hermosa Beach who have essentially, through either their vote
2 or their representation, their community leaders, have made a
3 decision about going forward with drilling.

4 So it is with respect to that that I would concur
5 with Mr. McCarthy from the standpoint of making a finding
6 that there would be this, that this would be in the best
7 interest of the state.

8 CHAIRMAN DAVIS: Okay.

9 EXECUTIVE OFFICER WARREN: Excuse me, Mr. Chairman.
10 Given the nature of the motion I wonder if we could have read
11 into the record before the vote on the motion and its second,
12 a statement of finding. Mr. Hager has prepared such a
13 statement.

14 CHAIRMAN DAVIS: All right. I will make my
15 comments and then we can read it into the record.

16 EXECUTIVE OFFICER WARREN: Fine.

17 CHAIRMAN DAVIS: At the last hearing my
18 representative abstained on this matter. The vote was two to
19 zero. I too think that times call for a reappraisal of what
20 is in the state's interest. I have voted for projects in the
21 last year that I wouldn't have voted for in the previous
22 seven years I was controller because we have an obligation to
23 people who aren't working. And we certainly have an
24 obligation to the next generation.

25 And I think my friends in the environmental

1 movement have to ask themselves, what is it that we say to
2 people who are looking for a job? What is it do we say to
3 the 300 people that I talked to at the Institute of
4 Government Relations at Berkeley last month, about a fourth
5 of whom had found job opportunities? I mean, this is a very
6 different world than most of us were born into, and we have
7 to re-think our priorities.

8 I, however, am not going to cast a vote in favor of
9 this project for one reason. I am not convinced there is
10 subsidence. If I was the swing vote on this I would be
11 willing to put it to a third party. The Department of
12 Conservation has offered to send experts down to make their
13 own best judgment on whether or not there has been
14 subsidence.

15 It seems to me when you are making an exception to
16 a statewide moratorium on oil and gas drilling it ought to be
17 clear and convincing evidence that oil in fact has been, has
18 subsided from one jurisdiction to another, and it's not clear
19 to me that that has occurred. It might have, it might not
20 have, but it's not clear and convincing in my view. If I was
21 convinced there was subsidence I would vote for this project
22 for the reasons I stated before. We cannot just say no, no,
23 no, no.

24 I went to see -- this is a little bit, digress a
25 little bit, but I went to see a major lender, as a matter of

1 fact one of the premier mortgage lenders in this country who
2 is about to move 2,500 people out of the state and I said,
3 "How can you do that?"

4 And he says, "Well you can't be competitive here."

5 I said, "What do you mean competitive? You don't
6 have to manufacture. You don't have CEQA. You don't have a
7 QMD."

8 He says, "95 percent of my workers' compensation
9 cases come from California."

10 And I said, "Well why don't people sue you in other
11 states?"

12 He said, "People don't sue their employer in other
13 states. They're happy to have a job. They're not suing
14 their employer."

15 So we have to have a change in attitudes, my
16 friends, or this state is going to go down the tubes like a
17 rock in a pond. Maybe you just want to sit here looking at
18 one another with nobody making any money and the schools
19 going down the tubes, but I don't want to be part of that.
20 So I am voting no because I don't believe subsidence --

21 GENERAL COUNSEL HIGHT: Drainage.

22 CHAIRMAN DAVIS: Drainage, I am sorry. Drainage,
23 excuse me, drainage has occurred. But I'd be willing to be
24 proven wrong on that, to have a third party look at that, and
25 be guided by that third party decision. But again, if I was

1 certain drainage had occurred I would vote in favor of this
2 project. These are extraordinarily difficult times and we
3 can't pretend the world hasn't changed because it has.

4 With that, let's read into the records the findings
5 that the majority of the Commission will adhere to.

6 GENERAL COUNSEL HIGHT: Yes. In the event that you
7 had decided to make the findings that the court said that
8 were necessary to make, we prepared findings that we believe
9 will pass muster with the court. And let me read those:

10 "The leasing of the Hermosa Beach
11 tidelands submerged lands will be in the
12 best interest of the state for the
13 following reasons:

14 "One, additional domestic oil
15 resources may be produced.

16 "Two, drilling and production
17 operations in Hermosa Beach will bring
18 additional jobs and demand for services
19 and materials that will help the economy
20 of Southern California.

21 "Three, tidelands oil can be
22 developed from an inland drill site
23 several blocks from and out of the view
24 from the beach. This means that there
25 will be no platforms in the ocean, no

1 well locations and production facilities
2 on the beach, and no transportation of
3 crude oil, whether by tanker or by
4 pipeline, in the ocean off the California
5 coast. Therefore the serious risks of
6 oil spills in the ocean usually attended
7 to tidelands oil production will not be
8 present.

9 "Four, drilling will occur from the
10 city maintenance yard. The drilling rig
11 which will be present during less than
12 one-seventh of the estimated 35-year life
13 of the project will be camouflaged by
14 being encased in a tower. When
15 production phase begins, the rig and the
16 tower will be removed leaving no visual
17 intrusion. During the production phase
18 the only impacts on the residents will be
19 some traffic from trucks servicing the
20 production facility. The electrically
21 operated equipment will be soundproofed.

22 "Five, the development of the
23 tidelands oil resources will provide
24 money to the city for use in improving
25 and maintaining its beaches."

1 CHAIRMAN DAVIS: All right. So do you recommend
2 we -- Mr. Attorney General, what do you recommend?

3 DEPUTY ATTORNEY GENERAL HAGER: I would recommend
4 that you --

5 COMMISSSTONER MCCARTHY: I move that we place that
6 finding of facts into the record, Mr. Chairman.

7 CHAIRMAN DAVIS: Let's have a motion to adopt the
8 finding.

9 DEPUTY ATTORNEY GENERAL HAGER: I adopt the
10 finding, yes. Two, you should make a determination. I think
11 we should, just to make sure that we've been, done this
12 right, let's go through and make the determinations in 6872
13 making all the -- that there,

14 "That oil and gas deposits are
15 believed to be contained in the Hermosa
16 Beach tidelands, that these deposits are
17 being drained by wells on adjacent land,
18 and that leasing of the tidelands for the
19 production of oil and gas would be in the
20 best interest of the state."

21 Those findings, the first two being based on the
22 record before the Commission previous to this; the last one,
23 in the best interest of the state, being based on the
24 findings that were just put into the record.

25 And then also you must then approve, you must

1 approve the leasing of the tidelands pursuant to 7054.5 of
2 the Public Resources Code, and then you must find that an EIR
3 was prepared and certified for the project by the city and
4 that the Commission has reviewed and considered the
5 information.

6 CHAIRMAN DAVIS: All right. So shall we vote on
7 these sequentially?

8 DEPUTY ATTORNEY GENERAL HAGER: It's all one thing.

9 GENERAL COUNSEL HIGHT: One package.

10 DEPUTY ATTORNEY GENERAL HAGER: One package.

11 CHAIRMAN DAVIS: All right. The Commission will
12 construe that as a motion put before us by counsel.

13 And the vote in favor of that will be two to one.

14 ACTING COMMISSIONER PARKER: Yes.

15 CHAIRMAN DAVIS: I oppose and the other two
16 Commissioners support it.

17 COMMISSIONER MCCARTHY: It's, of the motion that I
18 made before the Commission -- Mr. Chairman, if I may?

19 CHAIRMAN DAVIS: Can we say your motion was amended
20 by the --

21 COMMISSIONER MCCARTHY: Yes, it encompasses
22 everything that the Attorney General's representative just
23 said.

24 DEPUTY ATTORNEY GENERAL HAGER: Sounds fine.

25 CHAIRMAN DAVIS: And that vote, that motion passes

1 two votes to one.

2 DEPUTY ATTORNEY GENERAL HAGER: Okay.

3 EXECUTIVE OFFICER WARREN: Thank you very much, Mr.
4 Chairman.

5 We have one other item on the regular calendar
6 which will be brief and then -- we have one more item on the
7 regular calendar which will be brief, Mr. Chairman and
8 Commissioners, and then if you will, we need to save some of
9 your time for an executive session which we were unable to do
10 before the public session. We can hold that in this room
11 after it's been cleared.

12 As the room is being cleared the next item, 91, Mr.
13 Chairman, requests that you ought to -- may I proceed?

14 CHAIRMAN DAVIS: Please.

15 EXECUTIVE OFFICER WARREN: Item 91, Mr. Chairman,
16 requests that you authorize the Executive Officer to execute
17 a Memorandum Of Understanding with eight local governments
18 and districts as part of an initiative by the State Lands
19 Commission to enhance the public trust values of the eastern
20 shore of San Pablo Bay in the Carquinez Straits which
21 connects that bay. It has the support of the local
22 governments and Congressman Miller, Senator Compton, and
23 Assemblymembers Campbell, Hannigan, and Valerie Brown.

24 It may well be a useful pilot for further similar
25 initiatives by the State Lands Commission in its management

1 of public trust lands.

2 The initiative itself consists of four parts which
3 Elizabeth Patterson, our senior planner and the project
4 director of this initiative, will briefly summarize, if I
5 may.

6 MS. PATTERSON: Thank you. The MOU initiative is a
7 planning process that also has a status of trends report that
8 will be prepared on the public trust resources and uses of
9 the Carquinez Strait, an area that actually is interesting in
10 its fragile balance of industrial water related commerce and
11 explicit scenic and open space and habitat values.

12 The Resource Management Plan will take all of those
13 uses and resources into consideration, integrate and
14 coordinate the existing plans, and resolve any conflicts.

15 We have the inner governmental process which is the
16 MOU, and we have a preservation trust which is being
17 established by the MOU parties and the organizing committee
18 that was mentioned of the legislators. And that trust is for
19 the purposes of implementing the Resource Management Plan.

20 EXECUTIVE OFFICER WARREN: I might add that the
21 trust will consist of not only the MOU participating
22 governments but also an equal number of representatives from
23 the business and industry community and an equal number from
24 the public interest community itself to help with the
25 process. So we're trying to bring both government and the

1 private sector into a collaborative effort to deal with, to
2 try to enhance the, not only the, well the environmental but
3 the economic public trust values of the region. So it would
4 be worthwhile.

5 CHAIRMAN DAVIS: Sounds like it. Are there any
6 other comments?

7 ACTING COMMISSIONER PARKER: No, I just concur in
8 this environment, that in this environment, economic
9 environment, to see business public and government in a
10 collaborative effort. I'm very impressed with staff's work.

11 COMMISSIONER MCCARTHY: I wanted to just say I think
12 this is a great piece of work and I really want to compliment
13 the staff who put this together. This is a significant,
14 significant achievement.

15 CHAIRMAN DAVIS: Talk to Charlie Warren on that.

16 COMMISSIONER MCCARTHY: My congratulations to
17 Carquinez Strait Public Trust.

18 EXECUTIVE OFFICER WARREN: Are you, I would
19 appreciate an aye vote on that.

20 COMMISSIONER MCCARTHY: Moved.

21 CHAIRMAN DAVIS: The motion is unanimously adopted.

22 COMMISSIONER MCCARTHY: Okay.

23 EXECUTIVE OFFICER WARREN: One other thing, just
24 for your information, make sure that we are now ready for the
25 executive session, next week the staff will be testifying

1 before Senator Mike Thompkins' subcommittee on river
2 restoration. Senator Thompkins is, as you'll recall, the
3 chairman of the Senate Committee on Natural Resources and
4 Wildlife. Following the publication of our Public Trust
5 Report on the state's rivers he formed a subcommittee on
6 river restoration.

7 Our information is that he intends to, for the
8 subcommittee to hold hearings throughout the state this year,
9 the first of which will be Tuesday, but we've been given the
10 responsibility of making the lead presentation, and we'll be
11 representing you at that subcommittee hearing and at
12 subsequent hearings by the Senate.

13 CHAIRMAN DAVIS: Good.

14 EXECUTIVE OFFICER WARREN: And now I turn it over
15 to our chief counsel for the executive session.

16 (Thereupon the foregoing State Lands
17 Commission meeting was concluded at 4:05
18 p.m.)

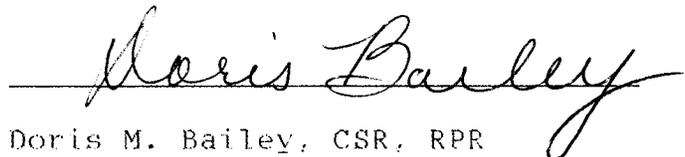
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1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2
3 I, DORIS M. BAILEY, a Certified Shorthand Reporter
4 and Registered Professional Reporter, in and for the State of
5 California, do hereby certify that I am a disinterested
6 person herein; that I reported the foregoing meeting in
7 shorthand writing and thereafter caused my shorthand writing
8 to be transcribed by computer.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said proceedings, nor in
11 any way interested in the outcome of said proceedings.

12 IN WITNESS WHEREOF, I have hereunto set my hand as
13 a Certified Shorthand Reporter on the 14th day of March,
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