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CALIFORNIA STATE LANDS COMMISSION HEARING

TRANSCRIPT OF PROCEEDINGS

1685 Main Street
Santa Monica, California
May 12, 1997
11:00 A.M.

REPORTED BY:
Katherine Gale,
CSR 9793
Our File No. 36093

1 APPEARANCES:

2 COMMISSION MEMBERS PRESENT:

3 GRAY DAVIS
4 Lieutenant Governor
Chairman

5 TAL FINNEY
6 For Kathleen Connell
State Controller

7 THERESA PARKER
8 For Craig L. Brown
Director of Finance

9

10 STAFF PRESENT:

11 ROBERT C. HIGHT, Executive Officer

12 JACK RUMP, Chief Counsel

13 MICHAEL VALENTINE, Senior Staff Counsel

14 GARY GREGORY, Chief, Marine Facilities
15 Division

16 SHARON SHAW, Administrative Assistant II

17

18 OFFICE OF THE ATTORNEY GENERAL:

19 RICHARD M. FRANK, Senior Assistant Attorney
20 General

21 PUBLIC SPEAKERS:

22 RALPH APPY, Port of Los Angeles

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PROCEEDINGS

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MR. DAVIS: I call this meeting of the State Lands Commission to order. And the secretary will note the presence of a quorum.

THE SECRETARY: Controller Deputy Finney.

MR. FINNEY: Here.

MR. DAVIS: All right. Mr. Hight.

MR. HIGHT: Yes, Mr. Chairman. We have item C55; C89; C64 and C26 removed from the consent calendar and will be heard at a future date.

We have received one letter in regard to C79 which I'll let Rick Frank briefly summarize and then we can take up the consent calendar.

MS. PARKER: Can we do the minutes, Mr. Hight?

MR. HIGHT: Yes. Would you like to approve the minutes first?

MR. DAVIS: All right. Minutes are unanimously approved.

MR. HIGHT: And also before we get to that, we are honored today to have Rick Frank who is the new Assistant Attorney General in charge of the land law section of the Attorney General's office.

1 He has replaced Jan Stevens who retired May 1st.

2 MR. FRANK: Thank you. I'm glad to be
3 here, Mr. Chairman and members. I just wanted to
4 assure you that it is my hope and attempt to provide
5 the Commission and its staff with the same high level
6 of legal representation that Jan Stevens did under
7 his leadership over the last several years.

8 As to the letter that was received by
9 the Commission, this relates to the proposed
10 settlement agreement with respect to the El Dorado
11 Improvement Corporation litigation. The letter does
12 not take issue with the proposed settlement that will
13 be before you later this afternoon, but only asks
14 that due consideration be given to the proposed
15 mitigation projects that the Tahoe Meadows Group
16 would like to see the settlement funds devoted to.

17 In our view it would be inappropriate
18 to make any direct commitment of those funds to this
19 or any other project at this time and we don't
20 understand the letter as requesting that. The
21 Commission will make that decision as to how those
22 settlement funds should be used assuming the
23 Commission approves that settlement only after
24 consultation with respect to other Tahoe based
25 organizations the necessary environmental review and

1 public notice and opportunity be heard by affected
2 members of the public.

3 Thank you.

4 MR. HIGHT: With that, the consent
5 calendar will be ready for your action.

6 MR. DAVIS: Anyone here object to the
7 consent calendar? Do we have a motion?

8 MR. HIGHT: Motion.

9 MR. FINNEY: Motion to the consent.

10 MR. DAVIS: Motion is unanimously
11 approved.

12 MS. PARKER: I would just like to
13 represent that the staff recommendation that it will
14 not include the language that has been requested of
15 the letter forwarded to us today.

16 MR. HIGHT: That's correct.

17 MR. DAVIS: I think that's acceptable
18 to the Commission. Is everyone in favor of the
19 consent calendar?

20 MS. PARKER: Yes.

21 MR. DAVIS: That's unanimous.

22 Next item.

23 MR. HIGHT: The next item,
24 Mr. Chairman, is Item 92 which is the authorization
25 for a 49-year lease to the Department of Fish and

1 Game for some 600 acres at Batiquitos Lagoon.

2 In 1987 the legislature, through
3 special legislation, authorized the Port of Los
4 Angeles, the Commission and the City of Carlsbad to
5 restore Batiquitos Lagoon.

6 We have with us today Dr. Ralph Appy of
7 the Port of Los Angeles who will make a very brief
8 presentation on the Batiquitos Lagoon project and
9 show us some slides about its restoration.

10 DR. APPY: Commissioners, thank you
11 very much for this opportunity. I'm Ralph Appy. I'm
12 with the Port of Los Angeles. I work in the
13 Environmental Management division, and I've been
14 working on this project ever since the time when I
15 had hair. It's been a very lengthy process; maybe
16 I'll go directly to some slides.

17 In 1987 the State Lands Commission
18 along with five or so other state, federal and local
19 agencies entered into an agreement to restore towards
20 the restoration of Batiquitos Lagoon. Here we are 10
21 years later and having just newly completed that
22 project. This project was intended as mitigation for
23 fills for carbon tunnels in the outer Los Angeles
24 Harbor and it's a very precedent setting agreement.
25 I think it's done United States all very well.

1 This approval today is one of those key
2 milestones in this project; it has to do with turning
3 over the lagoon to the Department of Fish and Game to
4 maintain it as an ecological reserve for perpetuity.

5 Batiquitos Lagoon is in Northern San
6 Diego County, 600 acres. Since the time of European
7 settlement, it's been the subject of a lot of
8 sedimentation from agricultural practices, building
9 of roads across the lagoon. As a result of the once
10 fully tidal system, it has been cut off from the
11 ocean, filled with sediment, and doesn't function for
12 marine habitat at all. It has value for a lot of
13 shorebirds and water fowl in its existing condition.

14 The restoration plan was to dredge the
15 sediments out onto the lagoon, build those white
16 areas which are nesting sites for a couple of
17 endangered species, the California Least Tern and the
18 Snowy Plover, to build an inlet at the entrance to it
19 so that it maintains a connection to the ocean.

20 This is also going to be fully tidal so
21 what you're looking at here is a rendition of it at
22 full side.

23 When the tide goes out it leaves a lot
24 of mudflat available for shorebirds, as you can see
25 kind of a narrow channel going up into the eastern

1 part of the lagoon.

2 In 1993 we began the first part of
3 construction on this nesting site on the very western
4 end of the lagoon. Immediately upon construction we
5 had tremendous success in nestings with the
6 California Least Terns. They went from a very few
7 numbers to over 85 nests on that one little piece of
8 property right there.

9 This is what the Least Tern looks like.
10 It nests on the ground in shallow depressions in the
11 sand and those are some Least Tern chicks. And I
12 think we have some models here we can show you a
13 little bit later for you to look at.

14 The lagoon was entirely dredged with
15 these -- this type of equipment here, there were
16 actually three dredges used in the lagoon at one
17 time, they're electric dredges, a couple of them are
18 from San Diego Gas and Electric that they use, and
19 they were specially equipped to allow the contouring
20 of the lagoon. This is quite a technological feat,
21 actually, to develop the very flat slopes in the
22 lagoon that they did.

23 Part of the project was to take the
24 sediment and put it someplace, and we put over 1.5
25 million cubic yards of clean white sand on Carlsbad

1 beaches. Presently -- or before this time they were
2 largely cobble beaches, and so the sand then provides
3 a great recreation source for the City of Carlsbad.

4 This is an aerial photo showing the
5 jetty construction at the mouth of the lagoon. At
6 this point it was closed, but you can see the small
7 jetties being constructed. They are designed not to
8 go too far into the ocean so it doesn't affect the
9 transport of sand up and down the coast. You can see
10 in the bottom the nesting site there that I talked
11 about earlier.

12 This is an aerial photo last summer of
13 the actual -- the way the lagoon looks nearing
14 completion of construction. The only thing that
15 wasn't done here was this basin closest to us, the
16 west basin.

17 This final set of slides is kind of a
18 momentous sort of thing. A bunch of us who have been
19 involved in the project for the last eight or ten
20 years all sat down on the bridge on the date of the
21 opening of the lagoon and so the next series of
22 slides have only been seen by you and maybe about 20
23 other people that were there present on that day.
24 This is the actual final opening of the lagoon. It's
25 been opened before for brief moments and then closed

1 up immediately, but this is hopefully the final time
2 in maybe the last 50 years this lagoon's been closed
3 that we're now opening it.

4 So to kind of give you an idea, this
5 guy on this backhoe has started to open it and then
6 is backpedaling pretty quickly here as the lagoon
7 started to open to the ocean.

8 And then that's the last shot showing
9 the water flowing out.

10 Perhaps one of the most important parts
11 of the lagoon is not just the restoration of it but
12 the proof is in the pudding. And I have some
13 information here to give you that has some
14 information in it that talks a little bit about the
15 success we are seeing already.

16 The two endangered species that we have
17 in there have -- we had over 200 nesting pairs of
18 Least Terns in the lagoon last year, over 35 Snowy
19 Plovers which is up from maybe three before we
20 started. We have just started a long-term monitoring
21 plan, a 10-year plan and our first surveys came in,
22 the shorebirds and water fowl are in this winter at
23 least as high levels as previous to the project and
24 we're starting to get a lot of recruitment of the
25 marine resources. In fact, the California Halibut

1 has started to show up in large numbers, and that's
2 one of our key species that we're trying to restore
3 the lagoon for.

4 So I appreciate this opportunity and
5 thank you very much. And are there any questions?

6 MR. DAVIS: Yes. This took about 10
7 years, this process from start to finish?

8 MR. APPY: The process did, yes.

9 MR. DAVIS: And the restoration process
10 started in '93?

11 MR. APPY: Actually 1994. It took us
12 three years and part of the reason for the length of
13 time, probably could have done it in a year and a
14 half or so, but with the endangered species nesting
15 in there we had to stop the construction during the
16 summer and also there are restrictions on putting
17 sand on the beach, you can't do that during the
18 summer when it's being used. So those things added
19 to the length of time required to actually do the
20 physical restoration.

21 And the cost of the project is about
22 \$60 million of entitled harbor revenue monies. And
23 8.5 million of that will shortly go into a
24 maintenance account that Fish and Game is going to
25 use to maintain the lagoon, another 1.8 into the

1 long-term monitoring program.

2 MR. DAVIS: Entitlement revenues as
3 opposed to port funds?

4 MR. APPY: Excuse me, port funds --
5 harbor revenue funds.

6 MR. DAVIS: It seems like a very
7 impressive project.

8 MR. APPY: Thank you.

9 MR. DAVIS: You should feel good about
10 it. Let me ask my colleagues on the floor if they
11 have any brief comments.

12 MS. PARKER: Well, actually I
13 appreciate the response because I just wanted to make
14 sure that there was adequate funding for short-term
15 and long-term projects given the significant
16 activities to date.

17 MR. APPY: Actually, it's a very clever
18 funding mechanism. It was set up after the agreement
19 was done. It actually has two accounts: First
20 account takes through 30 years, another account waits
21 and accrues interest until after 30 years and then
22 that is looked at and put into the maintenance
23 account. So it's really kind of a perpetuity sort of
24 maintenance account.

25 MR. FINNEY: I have no questions. I

1 just wanted to say that I've been down there, it's
2 beautiful and it's exciting.

3 MR. DAVIS: Good job.

4 MR. APPY: Thank you.

5 You were probably afraid I was going to
6 show you all these slides; right?

7 MR. FINNEY: Very well.

8 If there isn't any more discussion, I
9 would make a motion to approve the project.

10 MR. DAVIS: Is there anyone here who is
11 opposed to this item?

12 Hearing none, do I have a motion to
13 approve?

14 MS. PARKER: I move the motion.

15 MR. FINNEY: I second it.

16 MR. DAVIS: That makes it unanimous.

17 Again, I want to commend the Port of
18 Los Angeles and the many public agencies that work to
19 produce an excellent public policy result and to
20 enhance the environment of that area. I've not
21 been -- I've been by that many times, but hopefully
22 I'll have a chance to stop and visit.

23 MR. HIGHT: We'll arrange a personal
24 tour. And I would like to thank Curtis Fossum of the
25 commission staff who has spent years in the trenches

1 working on this, and the port has a small present for
2 you.

3 MR. APPY: Little explanation, those
4 are actual decoys we set on the nesting sites to
5 attract the birds to nest there, and those are exact
6 specifications of the bird and what they look like.

7 MR. FINNEY: All we need now are some
8 chicks.

9 MR. DAVIS: Thank you.

10 MR. HIGHT: Next item, Mr. Chairman, is
11 Item No. 93. And this is a settlement in the
12 longstanding Mono Lake water issue. Mike Valentine,
13 senior staff counsel from the Commission will make a
14 brief presentation on that item.

15 MR. VALENTINE: Good morning,
16 Mr. Chairman, Commissioners, good afternoon.

17 This is an effort to settle 18 years in
18 litigation between the Department of Water and Power
19 of the City of Los Angeles, several state agencies
20 including the State Lands Commission and several
21 environmental groups including the National Audubon
22 Society, the Mono Lake Committee and California
23 Trout.

24 The Water Board, State Water Board in
25 1994 issued orders to the Department of Water and

1 Power on stream flows and lake levels, and at that
2 time also ordered the Department to develop plans for
3 the restoration of water fowl habitat and stream
4 habitat. I know streams have been degraded as a
5 result of their diversion plan.

6 The Department of Water and Power has
7 presented to the board both a stream restoration plan
8 and a water fowl restoration plan, and the Board has
9 considered -- several months ago has convened
10 hearings to hear objections to those plans which were
11 made by many parties including the State Lands
12 Commission by and through its staff.

13 MR. DAVIS: Could you pause for just a
14 second. I think we're -- I want to pass a note to
15 the stenographer.

16 MR. VALENTINE: I don't want to see
17 myself misidentified.

18 MR. DAVIS: All right, you may resume.

19 MR. VALENTINE: The stream -- in the
20 context of these proceedings the Department of Water
21 and Power most of the other parties entered into
22 intense prolonged and detailed negotiations with a
23 view towards settlement.

24 Those negotiations have resulted in a
25 settlement which we're recommending to you today.

1 The settlement would -- for in terms of
2 water fowl would require the Department to pay the
3 sum of \$3.6 million to the Water Fowl Restoration
4 Fund of which the Commission would be one member and
5 that foundation would make decisions on what water
6 fowl restoration plan to endorse and to pay for.

7 It also sets up a monitoring and
8 restoration program.

9 Finally, it recognizes that a
10 scientific panel has chosen Mill Creek Restoration as
11 the second most valuable water fowl habitat program
12 for Mono Lake.

13 But if the settlement is approved, what
14 the Commission will be doing is authorizing the staff
15 and the other agents to proceed to analyze that
16 program pursuant to the California Environmental
17 Quality Act. And at such time as we're ready for on
18 the ground implementation, you will be again
19 requested to either approve or disapprove that
20 implementation.

21 The settlement is -- has been endorsed
22 by the Resources Agency, the National Audobon
23 Society, the Mono Lake Committee and the United
24 States Forest Service as well as the Department of
25 Parks and Recreation and California Trout.

1 I would be happy to answer any
2 questions which you may have. You have some cards
3 from speakers who I believe are here to support the
4 settlement and which -- and who would be available
5 also to answer questions.

6 MR. DAVIS: Well, we have Francis Weber
7 is here, Robert Komifky.

8 MR. HIGHT: No, he's not -- that was
9 75.

10 MR. DAVIS: Pardon me?

11 MR. HIGHT: That was 75.

12 MR. DAVIS: Oh, okay.

13 Let me see if there's anyone else on
14 this item.

15 UNIDENTIFIED SPEAKER: Mr. Jerry Garvey
16 from the Department of Water and Power is also here.

17 MR. DAVIS: All right. Those are the
18 two.

19 Francis, are there comments you would
20 like to make to the Commission or do you just want to
21 answer questions?

22 MS. WEBBER: Just questions.

23 MR. DAVIS: All right.

24 First let me ask you this: Is there
25 anyone in opposition to this project who is here or

1 who has written the Commission?

2 MR. HIGHT: We have received no written
3 communication in opposition, Mr. Chairman.

4 MR. DAVIS: There doesn't appear to be
5 anyone here.

6 Based on the description of the efforts
7 to resolve this dispute, I think it's remarkable to
8 get some of the agencies in agreement on the matter
9 effecting Mono Lake. So I don't have any questions.

10 Terry, do you have one?

11 MS. PARKER: No. I think the
12 opportunity to resolve a number of years of
13 litigation and a number of parties, I just -- the
14 only comment I would add in our letter from the
15 resources agency they essentially told us that our
16 support for the agreement would be influential in
17 their board's decision on the water rights licenses
18 and I would encourage upon our action today that we
19 in that sense use our action to influence them to act
20 as quickly as they possibly can so we can move
21 forward in implementing this settlement.

22 MR. HIGHT: We will make sure that they
23 are well aware of your desires.

24 MR. DAVIS: Mr. Finney.

25 MR. FINNEY: I just want to point out

1 that given that we're not actually voting on the
2 implementation of the plan today if there are any
3 concerns, they can probably address it at that stage.

4 MR. DAVIS: There is a second bite of
5 the apple if any opposition materializes, but again,
6 I commend the Commission and the other agencies that
7 have tried for many years to bring closure to this
8 dispute in a mutually satisfactorily manner.

9 So do I hear a motion to approve the
10 item before us?

11 MR. FINNEY: Motion to approve.

12 MS. PARKER: Second.

13 MR. DAVIS: All right, that's
14 unanimously approved.

15 MR. HIGHT: The next item,
16 Mr. Chairman, is consideration of the adoption of
17 regulations addressing inspection, testing and
18 maintenance of pipelines at marine terminals, and
19 Gary Gregory is here from the -- he's chief of the
20 Marine Terminals Facility Division, and he will make
21 a brief presentation on this item.

22 MR. GREGORY: See if this all works.

23 Good afternoon, Mr. Chairman,
24 commissioners. It's a pleasure to be here this
25 afternoon. We are here asking you to consider

1 adoption of regulations governing inspection, testing
2 and maintenance of pipelines at marine terminals.

3 I wanted to give you a brief overview
4 of the process and show you some pictures of the
5 things that we're talking about so you have an idea
6 of where we're going.

7 You have the popular presentation title
8 slide, basically the process. The Lempert-Keene-
9 Seastrand Oil Spill Prevention Response Act of 1990
10 provides responsibility and authority to the
11 Commission to provide rules, regulations and
12 guidelines for marine oil terminals to ensure that
13 they are safe and pollution free, and that the
14 regulations are -- and rules are issued providing the
15 best achievable protection of the public health and
16 safety and the marine environment.

17 There were some jurisdictional issues,
18 however, with this particular part of the act in that
19 it says marine oil terminals include all the
20 pipelines at marine oil terminals except those that
21 are under the jurisdiction of the California State
22 Fire Marshal.

23 Well, that sounds simple, but it was
24 actually relatively difficult to get together with
25 the State Fire Marshal and determine who had

1 jurisdiction over what pieces of pipe out at marine
2 oil terminal.

3 We had an MOU with the State Fire
4 Marshal, it was completed in the early part of 1994.
5 And under that MOU, representatives of the State Fire
6 Marshal and the State Lands Commission Marine
7 Facilities Division walked every pipeline at every
8 marine oil terminal in the State of California along
9 with a representative of the terminal to determine
10 jurisdictional issues.

11 This was important in that many of
12 these pipelines are not regulated, the State Lands
13 Commission asserted some jurisdiction over some
14 pipelines based upon leasing practices, and the State
15 Fire Marshal asserted jurisdiction in some cases
16 simply because they felt that they needed to assert
17 jurisdiction to ensure this pipeline was safe.

18 We did for the marine oil operators
19 determine jurisdiction for them and got them out of
20 some confusing issues that existed up to that point.

21 As a result, we created documents with
22 the State Fire Marshal and with the terminal
23 operators that laid out this delineation of
24 jurisdiction. The division chief for the hazardous
25 materials pipeline and the State Fire Marshal and I

1 signed an agreement in 1996 which finished up that
2 portion of the project.

3 The MOU also required us to, in fact,
4 write regulations that would ensure best achievable
5 protection of the public health and safety and the
6 marine environment.

7 In writing those regulations we did our
8 common practice of developing a technical advisory
9 group which was composed of industry, government,
10 environmental groups, academics, engineers, to put
11 together regulations that would both be effective and
12 would be efficient in terms of cost to benefit, and
13 to make sure that we would achieve what we were
14 trying to achieve.

15 Also in this particular issue we worked
16 very closely with the Western States Petroleum
17 Association and the California Coalition of
18 Independent Refineries and terminal operators to
19 ensure that we've covered issues adequately.

20 We were looking at, in fact, what we
21 call leak protection issues and found that there was
22 another world of preventive maintenance and issues
23 that we needed to take a good look at. And with WSPA
24 and CCIRT we were able to develop the regulations, I
25 think, in a more full manner that provided for

1 effective implementation and again cost efficient.

2 Basically, we are providing
3 requirements that are consistent with existing
4 requirements, that is, the pipeline testing
5 requirements that exist in Title 49 of the Code of
6 Federal Regulations. The federal requirements, our
7 testing is consistent with that although somewhat
8 different because of the nature of our pipelines.
9 But they are consistent.

10 We also use industry standards. We
11 have a list of seven or eight industry standards, API
12 standards for the maintenance of pipelines, for the
13 testing of pipelines, for the certification of
14 personnel that are doing that testing, witnessing
15 that testing and certifying the pipelines.

16 So we haven't created new, wild and
17 strange entities, but we've pulled together entities
18 that exist out there, requirements that are
19 recommended practices that exist and brought them
20 under this umbrella for these marine terminals in the
21 state of California.

22 What do they look like? Well, marine
23 terminals in the state of California are tremendously
24 varied. This is one of the newest and one of the
25 largest in the state of California, this is Arco's

1 first 121 in L.A./Long Beach, Long Beach Harbor in
2 fact. Pipelines here, some of them are greater than
3 36 inches in diameter, a large number of pipelines.
4 You can see that ship in the background, 1,000 feet
5 long, moves a lot of oil. Very modern, very new
6 facility, an excellent facility.

7 These pipelines are at Texaco's
8 facility in Long Beach, an older terminal, a terminal
9 built in the '50s; nonetheless, a very efficient and
10 effective terminal. But you can see the large number
11 of pipelines here are various and sundry diameters.

12 All of these pipelines that have
13 petroleum products moving through them would be
14 required to be tested under these requirements.
15 There is only a very loose federal requirement today
16 for any sort of testing and looking at those
17 pipelines and this will provide a much greater level
18 of safety at those terminals.

19 This is another berth in Long Beach
20 where you can see some of this has a very long piping
21 run inside the terminal itself. Just on the other
22 side of the wall there, the berm, you can see tank
23 farms, that's outside the jurisdiction of the State
24 Lands Commission. There's a large number of
25 pipelines in there also. You can see quite a few

1 pipelines here moving different directions, fairly
2 complicated affair.

3 This is a facility that we're fairly
4 familiar with in that Kevin Mercer, the System
5 Division Chief for the Marine Facilities Division ran
6 this marine terminal for six years. And while it
7 isn't quite clear from this slide, there are a number
8 of pipelines running under the pier and a number of
9 pipelines running above the pier, sort of a hybrid
10 situation. We are much concerned about these
11 pipelines that are under the dock in that any leak
12 goes directly into the marine waters for the state of
13 California.

14 And some of the terminals are a lot
15 smaller and a lot simpler, and this is an example of
16 what you see at some of the very small marine oil
17 terminals that are dealing with barges and bunkering
18 operations.

19 And up in Northern California we see
20 this type of facility where we have long stretches of
21 pipeline, and this is relatively short, but you have
22 stretches of pipeline over the water leading out to
23 the vessel out in the stream, this is up in the
24 Cartinas Striates, we've a large number of facilities
25 that look a lot like this with unprotected pipelines

1 over marine waters.

2 Very briefly, there are three issues
3 that were of note here. We classify pipelines in two
4 ways, one is Class I and Class II. Class II
5 pipelines are those that are over marine waters that
6 are not protected or those pipelines that have had
7 more than two leaks in the last three years. If you
8 are a Class II pipeline, you have some differences in
9 terms of testing and preventive maintenance.

10 If you don't fall into that category,
11 you're a Class I and you have a somewhat easier
12 testing and maintenance regime.

13 Leak protection: At one point we were
14 looking at possibly requiring leak detection in all
15 of these pipelines, a rather tough issue. We did
16 discover that if you looked at the preventive
17 maintenance systems that were out there that were
18 recommended practices, you could be as successful as
19 having a physical leak detection system, a
20 sophisticated electronic system. So we're, in fact,
21 providing the marine terminals the opportunities to
22 either install a leak protection system or to go with
23 the full-blown maintenance program or a hybrid of the
24 two.

25 And the third was the tester

1 certification. There are people who are certified to
2 test marine oil terminal pipelines. There are
3 certain proceeds and practices they must follow,
4 certain calculations that need to be made. There are
5 unfortunately a half a dozen different ways that you
6 can be trained and certified to be one of these. And
7 at one point we were looking at requirements that we
8 found out would take about half the people in the
9 state of California and make them ineligible to do
10 the job that they were doing for the last 20 years.
11 Obviously not what we had intended.

12 We have, in fact, developed state
13 regulations that have tester certification criteria
14 which would allow people that are successfully doing
15 this job to continue to do it and would bring in
16 people that are certified by the California State
17 Fire Marshal also as certified testers.

18 Those are the three main issues that we
19 had worked out particularly with the industry and
20 with the Western States Petroleum Association, and
21 that actually concludes my brief presentation, and I
22 would be happy to answer any questions that you might
23 have.

24 MR. DAVIS: Well, the issue before us
25 is the adoption of this calendar item which would be

1 the adoption of the regulations to send them onto OAL
2 and industry, and everybody supports these
3 regulations.

4 Have we any participation from either
5 environmental groups or homeowner groups or anyone
6 else?

7 UNIDENTIFIED SPEAKER: I'm sorry, I
8 don't have the numbers right in front of me. We
9 received a large number of comments, however,
10 primarily from the industry. Our technical advisory
11 group has put together, we requested involvement of
12 environmental groups, so they were involved for the
13 first few months and then dropped out of the process,
14 it became highly technical. I think they believed
15 that what they wanted to accomplish was being
16 accomplished by these requirements.

17 MR. DAVIS: But we have no opposition
18 to adopt these regulations?

19 MR. HIGHT: No.

20 MS. PARKER: Were they to be contacted
21 at the end to see whether or not they wanted to make
22 any comment on it?

23 MR. GREGORY: Only indirectly in that
24 throughout the process members who had been involved
25 in the technical advisory group received copies of

1 drafts as they were developed and we've been through
2 the public comment review process, two occasions made
3 some minor modifications and went through a second
4 review process.

5 MR. DAVIS: For those of you new to the
6 Commission, I know that the Controller was not in
7 office then and I don't know, Terry, if you were
8 covering the Commission for Finance in those days,
9 but the Lempert-Keene Bill was actually sponsored by
10 the State Lands Commission. The initial draft of it
11 was prepared by then Lieutenant Governor Davis in my
12 then capacity as Controller. It was adopted in 1990
13 and signed into law. So it's nice to see things
14 coming full circle here seven years later.

15 MR. GREGORY: We're working hard. It's
16 taking us a bit longer than we thought on some of
17 these issues. We have these issues and others yet to
18 come.

19 MR. DAVIS: Good. Well, if there's no
20 opposition -- one other comment, I gather from the
21 presentation that these regulations are significantly
22 more stringent than federal regulations on this
23 issue.

24 MR. HIGHT: Yes. That's correct.

25 MR. GREGORY: Correct.

1 MR. DAVIS: And in most areas is there
2 concurrent jurisdiction? In other words, do both the
3 federal government and the state government have
4 concurrent jurisdiction over these pipelines?

5 MR. GREGORY: In most places they are
6 not addressed. They are not regulated other than the
7 very brief coast harbor requirement that these
8 pipelines be pressure tested once a year. Other than
9 that, in most situations there's no regulation of
10 these pipelines whatsoever.

11 MR. DAVIS: Again, I think that's a
12 significant contribution to public policy and safety
13 and want to commend the commission staff for taking
14 the lead on this. Any comments from the members?

15 MR. FINNEY: Yeah. I had a chance to
16 look at the summary of the proposed regulations. I
17 was just wondering, I know we've come a long way but
18 how about -- you pointed out a number of pictures
19 where the pipe was exposed over the water still, is
20 that something you're working towards dealing with as
21 well?

22 MR. GREGORY: Well, it's a very
23 difficult situation. We're looking at structural
24 standards for marine oil terminals, seismic standards
25 and how do we deal with this issue. Most of the

1 terminals in the state of California are built that
2 way with the pipeline exposed hanging over the water.
3 And the cost to retrofit would be excessive. We need
4 to look at things such as leak detection, such as
5 good preventive maintenance programs first, if we
6 find that that doesn't work, we may have to work
7 further.

8 We are looking at building structural
9 requirements for new oil terminals, and the Port of
10 Los Angeles will be building some new terminals as
11 they go through their redevelopment process.

12 There are a number proposed for
13 Northern California. We hope that we can avoid that
14 sort of situation.

15 MR. FINNEY: I notice that was one of
16 the aspects of regulation was design construction
17 criteria for the new pipelines.

18 MS. PARKER: This is consistent since
19 Tal and I were both not here, it's consistent with
20 the intent when this was adopted by the Commission in
21 1990 from the standpoint of a program to design this
22 program.

23 MR. HIGHT: Yes, that's correct.

24 MS. PARKER: It's always nice when you
25 actually have the history from the point in time when

1 something was initiated to see its actual -- the
2 culmination of it being implemented. Not all of us
3 have the longevity.

4 MR. DAVIS: Good or bad. And again,
5 this all grew out of the oil spill at Huntington
6 Beach that was the genesis for the passage of it
7 not the Lempert-Keene oil spill prevention
8 legislation which was the underlying statute that
9 gave us the authority to bring about these
10 regulations.

11 MS. PARKER: Are there similar
12 preventions that are in other states that have the
13 oil activity? I mean, for example, Alaska, are we
14 sort of pioneering again in California in terms of
15 more comprehensive programing?

16 MR. GREGORY: If I might make a pitch,
17 we are the only state agency that I am aware of, with
18 the exception of one agency and the state of
19 Washington, that deals with prevention issues
20 exclusively. And to my knowledge, there are no other
21 states that are dealing with prevention issues of
22 marine oil terminals such as this. However, I can
23 say that we talked to them a lot and we provide lots
24 of drafts and lots of copies of material to several
25 coastal states that are looking at adopting programs

1 similar to ours. I do believe we are breaking ground
2 here.

3 MS. PARKER: That's great. If you're
4 looking for a motion, I would move to adopt that
5 recommendation and break ground on this program.

6 MR. FINNEY: I second the motion,
7 Mr. Chairman.

8 MR. DAVIS: I support it as well, so
9 it's unanimously adopted.

10 MR. GREGORY: Thank you.

11 MR. DAVIS: Again, significant work. I
12 mean, I just think this year alone with the Bolsa
13 Chica resolution of that dispute which involved a
14 host of state and federal agencies, Batiquitos Lagoon
15 and here --

16 MS. PARKER: -- Mono Lake.

17 MR. DAVIS: -- Mono Lake. Pretty
18 significant.

19 MR. HIGHT: That's all the items that
20 come before the Commission today, Mr. Chairman. We
21 would like to thank Mayor Pam O'Connor of the City of
22 Santa Monica for arranging for the room and all of
23 the hospitality that she's shown us.

24 MR. DAVIS: Thank you very much.

25 If there's no further business to come

1 before the meeting, this meeting stands adjourned.

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1 STATE OF CALIFORNIA)
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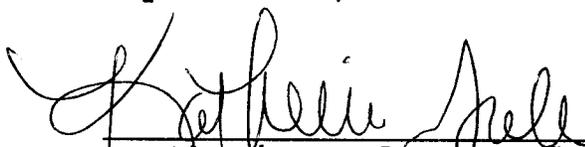
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I, Katherine Gale, CSR 9793, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That said proceedings was taken before me at the time and place named therein and was thereafter reduced to typewriting under my supervision; that this transcript contains a full, true and correct report of the proceedings which took place at the time and place set forth in the caption hereto as shown by my original stenographic notes.

I further certify that I have no interest in the event of the action.

EXECUTED this 3rd day of June, 1997.


Katherine Gale, CSR #9793