

MEETING  
STATE OF CALIFORNIA  
LANDS COMMISSION

CENTRAL LIBRARY GALLERIA  
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828 I STREET  
SACRAMENTO, CALIFORNIA

TUESDAY, APRIL 6, 2010  
9:30 A.M.

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

APPEARANCES

BOARD MEMBERS

Mr. John Chiang, State Controller, Chairperson,  
represented by Ms. Cindy Aronberg

Ms. Mona Pasquil, Acting Lieutenant Governor

Ms. Ana J. Matosantos, Director of Finance, represented by  
Ms. Cynthia Bryant

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Curtis Fossum, Chief Counsel

Mr. Colin Connor, Assistant Chief, Land Management  
Division

Mr. Mario De Bernardo, Legislative Liaison

Ms. Mary Hays, Public Land Manager

Ms. Kimberly Lunetta, Executive Assistant

ATTORNEY GENERAL'S OFFICE

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Mr. Martin Adams, Los Angeles Department of Water and  
Power

Mr. Cruz Bustamante, National City

Mr. Gary Baker, TAIT Environmental

Mr. John Osborn, River Landing Home Owners Association

Mr. Kip Skidmore, Riverbank Marina

Mr. Dave Walker,

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53. CITY OF LOS ANGELES, DEPARTMENT OF WATER AND POWER (LESSEE): Consider application for an amendment to Lease No. PRC 8079.9, General Lease - Public Agency Use, of sovereign lands located in Owens Lake, near Lone Pine, Inyo County; to construct and maintain 3.12 square miles of moat and row dust control measures on the bed of Owens Lake.	30
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55. CALIFORNIA STATE LANDS COMMISSION: Consider a resolution proposed by the Controller supporting the Lake Tahoe Restoration Act of 2010 (S. 2724 and H.R. 4001), which would authorize projects to combat invasive species, restore Lake Tahoe's water clarity, protect threatened wildlife, and reduce the risk of catastrophic wildfires.	54
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1 Chair and members of the Commission. I just have two  
2 things that I wanted to cover. The first is the usual  
3 reiteration of where we are on some of the enforcement  
4 actions that the Commission has authorized.

5           With respect to the Blue Whale Sailing School,  
6 which is led by John Asuncion, the court has found that  
7 the school is in default, and has not yet entered a  
8 judgment though. And once that happens, we'll be able to  
9 move to taking corrective action.

10           The Spirit of Sacramento, this has to do with a  
11 boat that is anchored, now sunk, on the Sacramento River  
12 just south of town here in Sacramento. We've been unable  
13 to reach or unable to get the defendant, Mr. Barker's  
14 attorney, to enter into discussions for resolution. And  
15 so, at this point, we've served the defendants with  
16 interrogatories and the Attorney General's office is  
17 preparing further discovery. And staff is preparing  
18 papers for a motion for partial summary judgment.

19           With respect to Lance Bishop and John Soto, this  
20 is the fallout from the Jeanne Taylor incident, where she  
21 had the floating home and sold it to Lance Bishop, who  
22 parked it next to John Soto's property in one of the  
23 sloughs in the Delta.

24           He informed staff that he would move the vessel  
25 last week from its present location to a marina, and

1 presumably hopefully a marina that's not on Public Trust  
2 Lands, because again it would not be an authorized use of  
3 Public Trust property.

4           However, he didn't tell us which marina he was  
5 going to. And he said the same thing to the Army Corps.  
6 And, as of last week, the vessel had not been moved. If  
7 it hasn't been moved by Friday, then the Attorney  
8 General's office will be filing trespass litigation.  
9 We'll see.

10           On the fence situation at Lake Tahoe, I'm not  
11 sure if we've discussed this with you before. This has to  
12 do with some of the harassment that some of the property  
13 owners clear on the north side of Lake Tahoe right next to  
14 the Nevada boundary had been inflicting on the public who  
15 were lawfully using the beach along Lake Tahoe there and  
16 in front of these properties.

17           The Commission authorized staff to seek a  
18 restraining order or some such thing to stop that  
19 activity. The staff has been working to obtain an  
20 enforceable settlement from the property owners, and has  
21 been successful with the DeSautels. And, in fact, the  
22 fence, which had been one of the issues -- a fence had  
23 gone up there without appropriate permits. It's now  
24 been -- staff arranged for the contractor to have that  
25 taken down.

1           And the DeSautels have entered into one of these  
2 agreements, which we think gives the Commission much  
3 better legal basis, should more harassment occur, to stop  
4 that. And we're now entering into negotiations with the  
5 other property owner that's similarly situated. So  
6 there's definitely good progress there.

7           And finally, another derelict vessel, the San  
8 Diego, which I believe is currently at Horseshoe Bend at  
9 Decker Island in the Delta. We're working with a number  
10 of different parties to get rid of that vessel. And the  
11 City of Antioch is a partner in this. And currently,  
12 we're exploring options to have that vessel salvaged.

13           And hopefully, the result will be the owner, who  
14 doesn't have any real use of it anymore, will be  
15 interested in doing this, because, if we can make the  
16 right arrangements, the salvager will take the value of  
17 the material that's taken off that in payment for doing  
18 the work. And again, we'll report back to you on whether  
19 that's successful or not.

20           So unless there are any questions, that's this  
21 meeting's enforcement discussion.

22           And then the only other item is to affirm that  
23 our intention is to have -- to schedule another hearing in  
24 June. The usual program of every two months having a  
25 meeting, and that Kim will be talking to your offices



1 starting tomorrow to try and set up something. And that  
2 concludes the Executive Officer's report, unless you have  
3 any questions.

4 ACTING CHAIRPERSON ARONBERG: Any questions?

5 Thank you so much, Paul.

6 The next item of business is the consent  
7 calendar. Paul, can you tell us what items have been  
8 removed from the consent calendar.

9 EXECUTIVE OFFICER THAYER. There are three items  
10 that will be removed. Number 15, which has to do with a  
11 rec pier, and we'll probably be bringing that back at the  
12 June meeting.

13 Number 28, this involves remediation of a former  
14 military site in Marin. The CEQA documentation hasn't  
15 been adopted yet by the Department of Toxic Substances  
16 Control, so we couldn't hear it yet. Once they take that  
17 action, we'll be able to hear it. And again, we hope to  
18 do that in June.

19 And finally, there's a boundary line agreement  
20 involving a property on Gallinas Creek in Marin, and  
21 there's some continuing discussions with some of the  
22 neighbors there that we want to resolve. We're also  
23 interested in having the county move forward with its  
24 approval of the agreement to settle some litigation,  
25 respecting which this boundary line agreement is one of

1 the elements of the settlement.

2 So those three items have been taken off.

3 ACTING CHAIRPERSON ARONBERG: Thank you. So 15,  
4 28, and 43 have been removed.

5 EXECUTIVE OFFICER THAYER: Yes.

6 CHAIRPERSON ARONBERG: Is there anyone in the  
7 audience who wishes to speak on a consent calendar item  
8 that still remains on that calendar?

9 Okay, seeing none. I actually have -- please.  
10 Cynthia is looking like she has a question.

11 ACTING COMMISSIONER BRYANT: No.

12 ACTING CHAIRPERSON ARONBERG: Okay. I actually  
13 have a question on one of the consent items, about Item  
14 C49. I'd like to ask the representative from the Attorney  
15 General's office about it.

16 My only question is, do we have any discretion or  
17 are we required to approve this item?

18 DEPUTY ATTORNEY GENERAL RUSCONI: The way the  
19 statutory scheme is set up, you're required to approve it.  
20 You have no discretion in this area.

21 ACTING CHAIRPERSON ARONBERG: Thank you so much.  
22 No questions?

23 The remaining group of consent items will be  
24 taken up for a single vote. Let's proceed with the vote.

25 May I have a motion?

1           ACTING COMMISSIONER BRYANT: I'll move approval  
2 of the consent calendar.

3           COMMISSIONER PASQUIL: Second.

4           ACTING CHAIRPERSON ARONBERG: All in favor?

5           (Ayes.)

6           ACTING CHAIRPERSON ARONBERG: The motion carries.

7           Moving on to the regular calendar. Under Item  
8 52, we'll consider a lease adjacent to the Garden Highway  
9 for a planned vessel fueling facility. May we have the  
10 staff presentation, please?

11           EXECUTIVE OFFICER THAYER: Thank you, Madam  
12 Chair. Mary Hays who is a Public Land Manager with our  
13 Land Management Division will give the staff presentation

14           PUBLIC LAND MANAGER HAYS: Good morning. I'm not  
15 sure if this is on.

16           Is it on?

17           Okay. Good morning, members of the Commission.  
18 My name is Mary Hays, and I'm with the Land Management  
19 Division. I'll be presenting the information on Calendar  
20 Item 52.

21           (Thereupon an overhead presentation was  
22 Presented as follows.)

23           PUBLIC LAND MANAGER HAYS: You have before you an  
24 application to amend a 25-year general lease, commercial  
25 use, issued to Riverbank Holding Company, LLC for the

1 Riverbank Marina. The lease was approved by the  
2 Commission in 2002 and expires in 2027. The marina is  
3 located on the Sacramento River just north of downtown  
4 Sacramento.

5 The lease premises includes covered and uncovered  
6 dock sections, with 159 berths, side-tie berthing for  
7 approximately 40 to 50 boats, a restaurant with an  
8 accommodation dock, two floating office units, a sewage  
9 pump-out dock, two speed signs, and a debris deflector.

10 And you'll see on the screen, this is an overhead  
11 of the Riverbank Marina.

12 Riverbank is now proposing to construct a marine  
13 fueling facility with the fuel dock portion of the project  
14 on the lease premises. The upland portion of the project  
15 includes the installation of a double walled 6,000 gallon,  
16 above-ground fuel storage tank, which is comprised of a  
17 4,000-gallon gasoline compartment and a 2,000-gallon  
18 diesel compartment.

19 The storage tank facility will be located on the  
20 top of the Riverbank parking structure at grade with the  
21 top of the levee.

22 --o0o--

23 PUBLIC LAND MANAGER HAYS: A fuel dispenser with  
24 two fuel dispensing lines, one diesel and one gas are  
25 proposed to be constructed on an existing floating dock on

1 the leased premises.

2 Two-inch welded steel fuel pipes will run under  
3 an existing walkway platform from the storage tank  
4 enclosure on the upland to the fuel dispenser on the  
5 floating dock.

6 --o0o--

7 PUBLIC LAND MANAGER HAYS: This is a photo of the  
8 walkway itself where the pipelines will come down. Both  
9 the fuel storage tank on the upland and the fuel dispenser  
10 are designed with several safety features.

11 --o0o--

12 PUBLIC LAND MANAGER HAYS: The store tank is  
13 built with an inner-steel tank and a secondary outer-steel  
14 tank, leak detection sensors, over-fill containment  
15 chamber, and an automatic shut off if problems are  
16 detected.

17 The tank will be installed in a six-foot high  
18 concrete structure that will in turn be surrounded by up  
19 to 16 four-inch concrete-filled steel crash posts.

20 --o0o--

21 PUBLIC LAND MANAGER HAYS: The storage tank will  
22 include a monitoring system located in the harbor master's  
23 office building. An OSHA approved safety protection  
24 system will be used to mount the fuel piping and  
25 electrical conduits to the underside of the walkway. The



1 final amended application was received in November of  
2 2009.

3 By that time, Riverbank had already obtained its  
4 required permits for the facilities. Those included the  
5 Central Valley Flood Protection Board, Reclamation  
6 District 1000, the City of Sacramento, the Sacramento Fire  
7 Department, the Corps, and the Sacramento Metropolitan Air  
8 Quality Management District.

9 During this timeframe, staff was contacted by  
10 residents of the River Landing Condominium Development,  
11 located next door, and City Council Member Ray Tretheway's  
12 office has some concerns about the safety aspects of the  
13 above-ground storage tank, which would be located  
14 approximately 90 feet from their homes.

15 --o0o--

16 PUBLIC LAND MANAGER HAYS: This is a photo of the  
17 homes. The residents reported that it was their  
18 understanding, based on prior communications with  
19 Riverbank and their consultant, that the storage tank  
20 would be relocated further from their homes than is now  
21 proposed.

22 Although the upland portion of the project is not  
23 part of the amendment application before you today, staff  
24 took steps to contact the agencies who permitted the  
25 project to determine if the location of the storage tank

1 was addressed in their review, and what, if any, safety  
2 concerns were addressed during their approval process.

3 Staff contacted Reclamation District 1000 and the  
4 Central Valley Flood Protection Board, the Corps, the  
5 City, and the air quality district as well as the fire  
6 department. It was reported to staff that the agencies  
7 reviewed the plans with the upland storage tank in its  
8 current proposed location, and approved the overall  
9 project.

10 RD 1000, Central Valley Flood Protection Board,  
11 and the Corps' concerns were centered primarily on the  
12 potential damage to the levee should the tank explode;  
13 water quality, if the tank failure occurred; constraints  
14 to future levee maintenance projects; and any impacts to  
15 flood fighting measures; and proper anchoring of the tank  
16 in high water periods.

17 The air quality management district dealt  
18 primarily with vapor recovery system and air emission  
19 requirements, maintenance, and monitoring.

20 The Sacramento Fire Department reported that the  
21 fuel storage tank, with secondary containment, complies  
22 with California Fire Code, and that the location has  
23 adequate access for the transfer vehicle to unload the  
24 fuel, and the fire department's access in case of a spill.

25 It was also reported that the tank had been



1 ballistic tested, and the main source of a spill would be  
2 operator error while refilling the tank.

3           The inner-tank is protected from heat and fire by  
4 a porous insulation between the inner and outer tank. The  
5 secondary containment would contain any spill from  
6 spreading and the walled containment building would add  
7 additional protection for a spreading spill.

8           Fire department approval is subject to an  
9 inspection and installation -- inspection of the  
10 installation and the operation of the storage tank and the  
11 dispensing system upon their completion.

12                           --o0o--

13           PUBLIC LAND MANAGER HAYS: In conclusion, staff  
14 is recommending the Commission authorize the amendment of  
15 lease PRC 6427.1 for the construction of a marine fuel  
16 dispenser with one diesel fuel pipe and one gas pipe, a  
17 containment sump at the dispenser base and hose reel, and  
18 additional provisions, which include rent based on fuel  
19 sales, revisions to the annual income report,  
20 construction, spill prevention control and regulatory  
21 compliance requirements, inclusion of marine best  
22 management practices, and to revise the map to include the  
23 location of the dispensing facilities.

24           Staff is available to answer any of your  
25 questions. And I believe we may have representatives from

1 Riverbank as well as their consultant here.

2 Thank you.

3 ACTING CHAIRPERSON ARONBERG: Thank you so much  
4 for the report. I see that we have three speaker cards  
5 here, which is reminding me to let everyone in the  
6 audience know that if you'd like to speak on any item  
7 today, you may find this card that looks like this outside  
8 the front door there. If you fill it out and return it to  
9 Kim, who's sitting at the far right of the staff table  
10 here, then we'll know that you want to speak and we'll  
11 call on you.

12 In this order, I'm going to call these three  
13 speakers. This is just the order that the cards were  
14 given to me. John Osborn, Dave Walker, and Kip Skidmore.

15 So, Mr. Osborn, would you please come to the  
16 podium and Dave Walker, you're on deck.

17 MR. OSBORN: Thank you. My name is John Osborn.  
18 I live in 1405 Garden Highway, which is the unit that will  
19 be the closest to where this field tank will be located.  
20 I paced it off as best I could, given that there's a fence  
21 and some shrubbery in the way, but it's about 20 paces  
22 from my front door, which is more on the order of 60 feet.  
23 I think I heard the number 90, but 60 feet give or take.

24 The unit that you saw pictured up there  
25 previously is mine, the one that's on the very -- the very

1 left end. And that there's that little drive, and then  
2 immediately to the left, you can't see it, but the very  
3 next thing you would see is where that facility is going  
4 to be located.

5           Obviously, my big concern is safety. I know that  
6 6,000 gallons, I know from my days as an airline pilot, is  
7 roughly 40,000 pounds of fuel. And you can fly a fully  
8 loaded 737 from the west coast to the east coast and  
9 probably half way back again on that amount of fuel, and  
10 it's going to be sitting 60 feet away from my front door.  
11 I don't know enough about what this fuel would do in this  
12 facility if it were ignited, but obviously, I'd be very  
13 concerned.

14           I also know from my airline experience that you  
15 never see fuel tank facilities at an airport located next  
16 to the terminal. So if this is so safe, why do they  
17 always put those facilities as far away from people as  
18 they possibly can.

19           Also, this is going to have a big impact, I would  
20 think, on our property values, if somebody coming to look  
21 at my house would see that facility sitting directly  
22 across the street.

23           The only other thing I would argue for is if  
24 we're going to be stuck with it, can we at least make it  
25 pleasingly appearance -- appearing or bury it, so that we

1 don't have it sitting there, this big monstrosity right  
2 next to our house.

3           And I guess the only other question I would ask  
4 is would you personally want to live next door to this  
5 thing. So those are my comments.

6           Thank you very much.

7           ACTING CHAIRPERSON ARONBERG: Thank you for your  
8 comments.

9           I think we'll raise those questions that you ask  
10 once we get to the end of the speakers.

11           MR. WALKER: Hi. Good morning to you.

12           ACTING CHAIRPERSON ARONBERG: Hi. Will you  
13 please --

14           MR. WALKER: I'm Dave Walker, and I'm also a  
15 resident of roughly the middle unit in this townhome  
16 project, so we can eyeball this proposed fuel tank storage  
17 facility as well. We're not opposed to the dispersal  
18 site, but we are opposed to the location of this, what we  
19 think is a, fairly sizable fuel tank.

20           And in spite of reassurances that it is safe and  
21 that it is ballistic proof and has containment walls  
22 should there be a spill, should that not work -- and the  
23 best laid plans, as we know, can go awry at times -- but  
24 should that occur, much of that fuel would flow underneath  
25 those townhomes to a parking facility that is beneath the

1 townhomes, and should that catch fire, you can see the  
2 possible disastrous consequences of that.

3           Well, you talk with the marina, and there was a  
4 suggestion, nothing ever formally written to move this  
5 facility to the east, to nearer some of the office  
6 buildings, which are east of those townhomes, and not so  
7 close to residential properties. There was sort of tacit  
8 agreement, but I think that was later abrogated when it  
9 was concluded that it would be too expensive, for some  
10 reason, to locate this fuel tank facility further to the  
11 east because of the fuel lines themselves, or whatever  
12 reasons there were.

13           And the other question I may have, if that's not  
14 possible, is to, if you could possibly, bury this somehow  
15 underneath -- so it weren't so ungainly looking. And we  
16 also have objections to if this were built, you have  
17 concrete walls surrounding it, something that would  
18 perhaps disguise it a little more so it would have a  
19 somewhat better appearance.

20           But our main objection is, of course, 90 feet  
21 away having a 6,000-gallon fuel tank, we're concerned  
22 about that, and we would like to, at optimal, see that  
23 located further east near some of the office buildings  
24 that are about 200 to 300 feet to the east of these  
25 properties here. They have the same consequences

1 providing fuel for the marina and all that, but it  
2 wouldn't be so close to our units.

3 Thank you very much.

4 ACTING CHAIRPERSON ARONBERG: Thank you.

5 Mr. Skidmore, please.

6 EXECUTIVE OFFICER THAYER: Mr. Skidmore is one of  
7 the owners of the facility where the fueling facility  
8 would be installed and perhaps he could respond to some of  
9 the points that earlier witnesses talked about.

10 MR. SKIDMORE: I can't respond to the technical  
11 points. Good morning. My name is Kip Skidmore. I'm the  
12 managing partner at Riverbank. This facility has actually  
13 been before you in 2007. We've had requests to have a  
14 fueling facility in the marina ever since we actually  
15 purchased -- or built the marina in 1986.

16 Because, as you well know, the boaters need to go  
17 three hours -- or three miles downstream or two miles  
18 upstream to fuel their boats in less than state-of-the-art  
19 facilities. So during this last three years and working  
20 with TAIT Environmental, our concerns were to be able to  
21 service the public, so they don't have to motor three  
22 miles down or upstream to get the fuel and waste the  
23 amount of fuel that's necessary to do that.

24 But more importantly, it was the safety concerns  
25 that we have that we all share. This facility is an

1 absolute state-of-the-art facility. It's been reviewed by  
2 every control agency that has a finger in the pie here and  
3 has been deemed to be safe.

4 I do sympathize with the residents next door in  
5 the sense that the location of the fuel tank is dictated  
6 by the engineering aspects of it and not by our desire to  
7 have it located there. I'm not sure exactly. It's not  
8 exactly unsightly. It's a double-walled fuel tank that's  
9 rather benign, surrounded by a concrete block wall that's  
10 surrounded by bollards. So it's not pretty, but I don't  
11 think it's actually ugly. Actually, 20 feet going the  
12 other way is the garbage facility, next to the road, which  
13 is a little more unsightly.

14 But I think this Commission probably is mostly  
15 concerned about the safety aspects of both the dispensing  
16 facility on the water, which is within your jurisdiction,  
17 and concern too about the safety of the tank itself.

18 We have Gary Baker from TAIT Environmental here  
19 that can address questions, technical questions, if you  
20 would like.

21 I commend the staff that has done a very  
22 exhaustive study and research and put together a very  
23 strong staff report on this, that I think answers most of  
24 the questions. But if you have questions concerning the  
25 technical aspects of it, we have Gary Baker from TAIT

1 Environmental, or you could ask me and I could defer to  
2 him.

3 Any questions?

4 COMMISSIONER PASQUIL: I have a question. Thank  
5 you, Madam Chair.

6 So you have been in discussions and you've  
7 exhausted all other possible locations for this facility?

8 MR. SKIDMORE: Yes. This is --

9 COMMISSIONER PASQUIL: This is the only place?

10 MR. SKIDMORE: Technically, yes. The issue here  
11 we have -- and we've been through this on levee -- working  
12 on the levee since 1986.

13 COMMISSIONER PASQUIL: I'm sorry. I wasn't here.  
14 I just want to be --

15 MR. SKIDMORE: Working on the levee is a very  
16 difficult issue. You have the RD 1000 and the other  
17 agencies that are concerned with anything that goes on the  
18 levee that will impact its ability to either, one,  
19 maintain the levee, or, in a situation like this case, if  
20 the tank blew up what it would do to the levee. So we  
21 have those constraints.

22 We also have the physical constraint of trying to  
23 move -- excuse me. What we're taking about is that this  
24 is the office building. To move this anywhere along here  
25 has the issues that are engineering issues to move the



1 fuel down there and to move the fuel across the -- that's  
2 a dot -- a raised parking lot all the way down there.

3           If we could do it, we would do it. It's simply  
4 not a situation -- and I'm not going to say if you didn't  
5 throw hundreds of thousands of dollars at it, you couldn't  
6 solve the problem, but this is already the most expensive  
7 fueling facility in California for the size it is, because  
8 it is absolutely state-of-the-art equipment. And we're  
9 willing to spend the money on that.

10           From our -- if you talk to Mr. Baker, we've  
11 looked at those and tried to move those down and tried to  
12 take into consideration of the RD 1000 and the Corps of  
13 Engineers everything else, it's not technically feasible  
14 to do it.

15           COMMISSIONER PASQUIL: Can it be buried?

16           MR. SKIDMORE: It's in the levee, I don't think  
17 you could bury anything.

18           MR. BAKER: I can answer that.

19           MR. SKIDMORE: What?

20           MR. BAKER: I can answer that.

21           MR. SKIDMORE: Okay.

22           COMMISSIONER PASQUIL: I ask because the  
23 people -- it's been mentioned twice, so I would have  
24 assumed you'd be able to answer that question.

25           MR. SKIDMORE: Mr. Baker could answer that. But

1 I think my answer is no, because we would have done that.

2 ACTING CHAIRPERSON ARONBERG: Can Mr. Baker come  
3 to the podium?

4 MR. SKIDMORE: Sure.

5 ACTING CHAIRPERSON ARONBERG: Because the burying  
6 and disguising have been two possible options, and we'd  
7 like to know about that.

8 MR. SKIDMORE: That's not a Bazooka he has  
9 either.

10 (Laughter.)

11 MR. BAKER: That's the piping that we're using.

12 Hi. My name is Gary Baker. I'm the national  
13 manager for TAIT & Associates and TAIT Environmental. We  
14 are a national-license-in-all-50-states engineering firm,  
15 architectural design firm. We're also an environmental  
16 management firm and a construction firm of fuel systems.

17 I'm currently building the Emeryville marina fuel  
18 system right now, and also Fort Gordon in Georgia, and  
19 another little spot we just designed up at Lake Berryessa,  
20 which has a lot of issues as well.

21 This system here, going to the RD 1000 meeting,  
22 the main concern was that crown of the levee. There isn't  
23 any other location in this area, based on the RD 1000's  
24 findings. It's not Riverbank. It's not TAIT. It is RD  
25 1000 and the levee. And this was brought up at the

1 meeting that everybody was able and public to attend.

2           They went through a very rigorous question and  
3 answering period before they approved it. And I had to  
4 prove documents of the tank itself and what it would do in  
5 an explosive manner. And this tank goes up. It doesn't  
6 go out, left, right, or down.

7           This tank is also being installed with block  
8 footings with a block wall enclosure around it. So you  
9 not only have double protections, you have triple  
10 protection.

11           Then you have a containment pad, an eight-inch  
12 containment pad, that goes underneath the tank as well for  
13 spills. Then you have an automatic shutoff system, where  
14 if there is a leak, it automatically detects it in the  
15 secondary system, and that is with a Veeder-Root sensor.  
16 Any liquid at all automatically shuts the system down  
17 completely. And a technician will have to go to the  
18 Veeder-Root to reinstall the sensing equipment to re --  
19 fix the problem, find out what the problem is, and turn it  
20 back on.

21           But it can't be turned back on until that  
22 happens. The TLS-300 or the TLS-350 monitoring system  
23 will control the annular space. There will be an annular  
24 space sensor, so you'll have an electronic sensor between  
25 the primary and the secondary. So no spills, unless

1 humans, you know, doing something malicious. But this is  
2 going to be a locked, enclosed, block iron gated, wrought  
3 iron, decorative on top, complete enclosure enclosing the  
4 tank.

5 Fuel systems throughout California are above  
6 ground, below ground, next to buildings, next to  
7 businesses, and they all have those types of safety -- you  
8 know, engineering aspects to them.

9 Kip Skidmore and Riverbank has gone way and  
10 beyond the existing State codes, and so is the other  
11 marina that I'm building in Emeryville. And the owners  
12 have decided we want the safest thing out there.

13 I've spent over a year and a half collecting  
14 eight permits. That is the largest permitting adventure  
15 I've ever been on. And I've been doing this for about a  
16 year and a half, and now we're here at State Lands. I've  
17 done everything possible to engineer this thing to the T.

18 There is every safety feature that's above and  
19 beyond the existing codes. And I can't do anything safer  
20 than what is existing right now in front of you.

21 ACTING CHAIRPERSON ARONBERG: I have a question.  
22 Mr. Osborn, the first nearby resident that spoke,  
23 mentioned that he's a pilot and it sounds like the amount  
24 of fuel in here is large --

25 MR. BAKER: The difference between the pilot's

1 recollection of the fuel system --

2           ACTING CHAIRPERSON ARONBERG: Excuse me, can I  
3 just finish my question.

4           So my question is, has there been any  
5 consideration given to having a smaller capacity tank?

6           MR. BAKER: That's not what was on my scope of  
7 work to engineer to begin with, but there's no difference  
8 between 4,000 and 2,000 and 2,500 or 5,000 gallons of fuel  
9 in a fire-guard fuel system. There's no difference. And  
10 there is a big difference between the thin layers of an  
11 airplane versus a triple-wall system. You couldn't get  
12 the plane off the ground with the amount of weight that  
13 this thing has, plus the block-wall enclosure as well.

14           ACTING CHAIRPERSON ARONBERG: Okay, so which  
15 leads me to another question. Both of the residents who  
16 spoke asked about possible disguise or at least making  
17 this esthetically more pleasing. Can you tell us about  
18 that?

19           MR. BAKER: When I met with the owners several  
20 months ago, as a courtesy, one of the owners asked me if  
21 it would be possible for me to meet with them to speak  
22 technical issues, only technical, where it turned a little  
23 bit more than technical, but I gave them the option of  
24 installing ivy on the backside of the wall. And that's  
25 what other owners have done as well with the latest

1 enhanced vapor recovery installations of these large Healy  
2 tanks that were an eyesore in a lot of the counties within  
3 California. So what people have done is they've put  
4 block-wall enclosures up, but then the regulators also  
5 stipulated that they install screening, so a type of  
6 landscape screening.

7           TAIT has agreed to that as well, which is  
8 another additional cost to Riverbank, because there's  
9 actual dirt area in the back once we build the containment  
10 pad, where we could leave that open to build ivy, so it  
11 would grow and mature around the block wall and then be  
12 maintained, so that -- everybody's seen block wall with  
13 ivy around it. It looks pretty nice. I mean, it's better  
14 than just a block wall. But, yes, we did discuss that.

15           ACTING CHAIRPERSON ARONBERG: Mr. Skidmore, did  
16 your company commit to this disguise -- this ivy disguise  
17 mechanism?

18           MR. SKIDMORE: I have no problem with that at  
19 all. I assumed we were going to do that.

20           EXECUTIVE OFFICER THAYER: It's not a requirement  
21 of the lease, but we could add it.

22           MR. BAKER: I can say one thing about RD 1000,  
23 they don't like you growing things on their levee.

24           MR. SKIDMORE: I guess it would be subject to  
25 that. I don't think it will be a problem.

1 MR. BAKER: It's not a tree.

2 MR. SKIDMORE: It's not the tree issue. You know  
3 how we all have the tree issues with the Corps of  
4 Engineers these days and any other kind of thing, but I  
5 don't think they're going to bother with ivy.

6 EXECUTIVE OFFICER THAYER: We could certainly  
7 design the condition so that it could be over-ridden if  
8 the RD 1000 had an issue. I would say though that the  
9 reason that RD 1000, or more properly the Corps, is  
10 concerned about vegetation is to make sure they can  
11 inspect the levee. And the levee is not visible here  
12 anyway, because it's covered with this parking structure,  
13 so I don't think they'll have an issue with it.

14 MR. BAKER: I would like to say one more thing on  
15 the record, this piping is Franklin Fueling APT Triple  
16 Walled Monitored Piping. This piping is not required  
17 right now by the State Fire. And Kip has asked for the  
18 best that's out there. It also has a metallic UV  
19 protectant for above ground. So that's also a requirement  
20 from the State Fire Marshal.

21 Then it gets monitored right here on the  
22 secondary space. This is what's required in gas stations  
23 throughout California right now, but not marinas. And I  
24 don't know why when the impact is greater on water than it  
25 is in the ground, the ground can be contained. So Kip has

1 asked me for the best that's out there that can be  
2 monitored and whatever is going to come up in the future.  
3 And Riverbank Marina has stepped up and they are going to  
4 have the most state-of-the-art marina fuel system in the  
5 State of California when this is completed.

6 ACTING CHAIRPERSON ARONBERG: Are there any other  
7 comments from Commissioners?

8 ACTING COMMISSIONER BRYANT: I just wanted to ask  
9 staff, the assertion here is that they explored the other  
10 locations, but this was the most solid spot on the levee  
11 in this general vicinity. Did you double check that?

12 EXECUTIVE OFFICER THAYER: We spoke with the  
13 other agencies that reviewed this project, and --  
14 especially over the fire issue, because we don't have any  
15 expertise in that, and we were relying on the Fire  
16 Department and Sacramento County to look at -- or the City  
17 of Sacramento to look at this.

18 We don't know whether this is the only spot. And  
19 in our discussions with RD 1000, we didn't get clear  
20 answers about that.

21 ACTING CHAIRPERSON ARONBERG: Paul, do you have  
22 any suggestions in light of the unclear answers and any  
23 other open issues?

24 EXECUTIVE OFFICER THAYER: I would say that  
25 again, there's not -- there's different ways that



1 applicants can be required to construct with certain  
2 features that are of importance to the Commission. The  
3 kinds of things, in terms of the presentation today, where  
4 they were indicating that their project would include  
5 certain features are part of the project description, and  
6 as such, when the Commission approves the lease, it's  
7 doing it for a particular project. And he would be -- Mr.  
8 Skidmore would be required to implement everything that  
9 he's presented as safety features today.

10 I don't think the project description includes  
11 the screening, so that would be something to add. The  
12 final point would be that the only part of this project,  
13 which is on State Lands, are the pipes leading from -- or  
14 down the bank and out to the dock, and the fuel dispensing  
15 pumps on the docks themselves.

16 The tank is not on property that's subject to  
17 State Lands Commission review. However, as you know, the  
18 Commission must find that any of the leases or all leases  
19 that it approves are in the best interests of the State.  
20 And from that perspective, we think it's appropriate for  
21 the Commission to at least consider the impacts of the  
22 tank as part of this project.

23 ACTING CHAIRPERSON ARONBERG: Okay.  
24 Commissioners, what's your pleasure?

25 ACTING COMMISSIONER BRYANT: I'll move approval

1 of the staff recommendation with the amendment on the  
2 aesthetics that Paul just described.

3 COMMISSIONER PASQUIL: Second.

4 ACTING CHAIRPERSON ARONBERG: All in favor?

5 (Ayes.)

6 ACTING CHAIRPERSON ARONBERG: The motion carries.

7 MR. SKIDMORE: Thank you.

8 ACTING CHAIRPERSON ARONBERG: So that would be a  
9 unanimous vote, I'm sorry?

10 ACTING CHAIRPERSON ARONBERG: (Nods head.)

11 EXECUTIVE OFFICER THAYER: Thank you.

12 ACTING CHAIRPERSON ARONBERG: The next item is  
13 Item 53. We will consider the L.A. Department of Water  
14 and Power's request regarding the former Owens Lake bed.

15 May we have the staff presentation, please.

16 EXECUTIVE OFFICER THAYER: The staff presentation  
17 will be made by Colin Connor, who's the Assistant Chief of  
18 our Land Management Division.

19 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

20 Good morning, Commissioners. As Paul said, my  
21 name is Colin Connor. I'm the Assistant Chief of the Land  
22 Management Division.

23 (Thereupon an overhead presentation was  
24 Presented as follows.)

25 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

1           Calendar Item 53 is a request by the City of Los  
2 Angeles, Department of Water and Power for a lease  
3 amendment to authorize the use of modified moat and row  
4 design in the Phase 7 dust control project on the dry bed  
5 of Owens Lake.

6           As you'll recall at the December 17th, 2009  
7 meeting, the Commission authorized a lease amendment to  
8 allow the city to construct sand fences and some other  
9 minor improvements in one cell of the Phase 7 project, but  
10 not moat and row.

11           This authorization allowed the city to commence  
12 construction by January 1st, 2010, and thereby avoid being  
13 fined by the Great Basin Unified Air Pollution Control  
14 District for not being in compliance.

15                           --o0o--

16           LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

17           At the February 1st Commission meeting, staff  
18 presented an informational calendar item to update the  
19 Commission on the status of the Phase 7 dust control  
20 project, and the proposed solar demonstration project.

21           Subsequently, on February 11th, staff met with  
22 city staff to discuss other dust control options for the  
23 remaining six cells in Phase 7. At this meeting, city  
24 staff presented a moat and row options analysis, which  
25 unveiled modified versions of the previous moat and row

1 design, as well as some other options, including shallow  
2 brine flooding, a seeps-and-springs-type vegetation  
3 habitat, a rock garden variation of gravel cover, and  
4 solar arrays.

5           There are limitations to each of these other  
6 options that would likely prevent them from being  
7 constructed prior to the current October 2010 compliance  
8 deadline set by Great Basin.

9           However, additional time -- with additional time,  
10 it may be possible to develop a well thought out dust  
11 control project that is acceptable to all parties. The  
12 modified moat and row design now proposed by the city, is  
13 similar to the moat and row project proposed last year,  
14 but incorporates a wider and shallower moat that is  
15 intended to reduce biological impacts caused by the  
16 previous design's deeper moats.

17           The wider shallower moat replaces the access road  
18 that was to be situated between the base of the row and  
19 the moat. One variation of the modified moat and row  
20 design does, however, include a narrow all-terrain vehicle  
21 track, again, situated between the base of the row and the  
22 moat. As with the previous design, sand fences would be  
23 placed on top of the rows in some areas.

24           While the modified moat and row design might  
25 lessen the impact for entrapment and mortality of birds

1 and animals, it would still impede the movement of  
2 wildlife. Additionally, the modified moat and row design  
3 would be constructed in an extensive grid pattern, much  
4 like the previous design, that would have an industrial  
5 appearance out of character with the surrounding natural  
6 environment.

7           It would also be aesthetically offensive as  
8 viewed from the lake bed and would further obstruct and  
9 degrade the public's view of the scenic Owens Valley due  
10 to the density, height, and length of the structures.  
11 Public access to and use of the 3.12 square miles of the  
12 lake bed covered by this design would also be lost.

13           For these reasons, and because alternatives with  
14 less impacts are also being explored, staff believes that  
15 the modified moat and row design, as proposed, is  
16 inconsistent with the Public Trust needs, resources, and  
17 values of Owens Lake, is not in the State's best  
18 interests, and therefore recommends denial of the  
19 amendment.

20           This concludes my presentation. Staff is  
21 available to answer your questions.

22           ACTING CHAIRPERSON ARONBERG: Thank you.

23           EXECUTIVE OFFICER THAYER: If I could just add a  
24 couple comments to those made by Colin Connor.

25           I wanted to make sure that the Commission and the

1 public was aware that the Commission staff has been  
2 following the direction that the Commission has expressed  
3 at the last two meetings to work closely with LADWP to try  
4 and come up with alternatives to the moat and row proposal  
5 that the Commission is considering today.

6           And I think there's been a lot of progress made  
7 on that. The most visible sign of that will be when the  
8 Commission has an opportunity to review a proposed  
9 amendment to their existing lease to authorize an 80-acre  
10 solar demonstration project to see if solar is feasible  
11 there, not only in terms of controlling the dust, but also  
12 in terms of generating electricity and being economically  
13 feasible.

14           Staff also believes that some of the other  
15 proposals that L.A. mentions in its recent options  
16 analysis may be another mechanism of controlling dust and  
17 avoiding the impacts from moat and row. And certainly  
18 we'll continue working with LADWP on those proposals.

19           And finally, I would note that -- and I think all  
20 the Commissioners are aware of this, but just to publicly  
21 state that both Mr. Freeman, who has been the acting or  
22 interim general manager for LADWP, and I went up to the  
23 last Great Basin Air District meeting. We understand that  
24 while the two actors in this room are the State Lands  
25 Commission and LADWP, that the air basin -- or the Great

1 Basin Air District is vitally concerned with the results  
2 of what we're doing here today, and with what's happening  
3 out in the lake. And we look at this as -- that there is  
4 a required partnership and cooperation between all three  
5 agencies to eventually resolve the dust issues up there,  
6 that those are very, very important.

7           And it's staff's intent to continue those  
8 discussions and to continue working with those two  
9 entities to try and make sure that dust issues are  
10 resolved as quickly as possible, but in a way that's  
11 consistent with the mission of this Commission.

12           Thank you.

13           ACTING CHAIRPERSON ARONBERG: All right, okay.  
14 We have one speaker card from Martin Adams from the DWP.

15           MR. ADAMS: Good morning. My name is Marty Adams  
16 with L.A. Department of Water and Power. And I appreciate  
17 the opportunity to address the Commission this morning.  
18 You see me again here to talk about moat and row and dust  
19 control at Owens Lake. You're hopefully not too tired of  
20 hearing about this every other month.

21           Again, I'd also like to thank Colin and Paul for  
22 both their comments today and also the work that they've  
23 done. We've been working quite closely the last two  
24 months since the last Commission meeting, and I think  
25 we're making a lot of progress.

1 I am here today because of our variance agreement  
2 and our compliance requirements and commitments to Great  
3 Basin that I'm here to ask for the moat and row lease, as  
4 it's listed on the agenda, the lease amendment with, what  
5 we call, the moatless row now, so that we can continue.

6 I'd like the Commission to understand that this  
7 is probably the last meeting opportunity we would have in  
8 order to construct the moat and row that would be done in  
9 time by October 1st, done according to the variance  
10 deadline. So a decision, at this point, either  
11 affirmative decision would let us be in compliance or  
12 decline, at this point, will tell us that we'll, you know,  
13 definitely have to do something different, but we won't be  
14 in compliance with our variance request.

15 I would like to let you know the progress that's  
16 been made. The first area that you had granted back in  
17 December, T1A-1 down in the corner at the sand fences, and  
18 a little bit of pipeline to get some native natural growth  
19 of plant material in the basin there, that's under  
20 construction and going very well.

21 We have completed other parts of Phase 7, which  
22 was a previous lease a couple years ago, and that's for  
23 the nine and a half square miles of shallow flooding.  
24 That is flooded at this time. Presently on the lake, we  
25 have about 35 to 36 square miles of lake bed flooded with



1 annual drinking water equivalent of the cities of Long  
2 Beach and Burbank. So that's what we have going on in the  
3 lake right now.

4           We did have the first meeting of the master plan  
5 committee. About 35 representatives were there from about  
6 12 plus agencies and environmental groups. It was a very  
7 good start. And we have another meeting coming up in  
8 about three weeks, actually, in Keeler at the edge of the  
9 lake. And so we do see a lot of hope for the master plan  
10 for the lake, that will allow us to address water  
11 conservation, dust control technologies, and a plan that's  
12 acceptable to hopefully all of the interests out there.

13           Lastly, if we are not granted the lease today, I  
14 would like to express that it's very important for us, at  
15 this point, that we have some methods to control dust in  
16 the lake that don't involve the use of water. Solar is  
17 one of them, but maybe there's some other methods that  
18 would be acceptable to the State. But we need some  
19 methods of control that the State would find able to be  
20 approved for another lease.

21           Last week, the Department of Water Resources came  
22 out with a report talking about the dire state of the  
23 State's water system, because of the change in climate,  
24 and the impacts on snow as a means of storing water versus  
25 rain. And so it's not just the amount of water that comes

1 down but what the form it takes and how it's stored and  
2 the dire situation that it expects to see the State in in  
3 the years ahead, in terms of water supply. And we think  
4 that the moat and row or the moat and row idea or at least  
5 waterless idea for dust control is critical to the State's  
6 future, and that what we do at Owens Lake is not detached  
7 from, you know, other problems in the State.

8           So thank you very much. If you have any  
9 questions, I'll be glad to answer them.

10           ACTING CHAIRPERSON ARONBERG: Thank you. Are  
11 there any other public commenters on this?

12           Comments from Commissioners?

13           COMMISSIONER PASQUIL: Mr. Thayer, I just wanted  
14 to make sure that when Marty talked about, you know,  
15 everyone is at the table and we're looking at options,  
16 that we're already talking about other possible waterless  
17 options, right?

18           So that's something that's on the table, because  
19 I believe we talked about this at the last meeting, but I  
20 just want to make it clear, that is something that's going  
21 on. We've heard from a lot of constituents, particularly  
22 our cattlemen and our farmers, who are really concerned.  
23 But I just want to make sure that --

24           EXECUTIVE OFFICER THAYER: Sure, and that's a  
25 good question, a good point. I think that obviously the

1 brass ring that we kind of hope to grab here will be the  
2 solar, which requires a very minimal amount of water to  
3 clean the dust off, and that would have some benefits with  
4 respects to the State's renewable energy -- or renewable  
5 energy portfolio requirements.

6           If that doesn't work, for whatever reason, then  
7 there are still other options, such as using some of the  
8 existing brine, things like that. And it may also be the  
9 case that the existing -- that L.A. may be able to work  
10 out more efficient ways to maintain their existing shallow  
11 flooding and managed vegetation aspects of the dust  
12 control that are already out there. And in doing so, may  
13 free up water that's presently being used there for  
14 other -- for similar sorts of mitigation projects.

15           So we're certainly looking at -- we understand  
16 the water limitations in California and in the Owens  
17 Valley, and that's driving a lot of the discussion.

18           COMMISSIONER PASQUIL: Okay. One more follow-up.

19           I'm trying to help L.A. How do we -- what kind  
20 of -- what can we do to help them or to help us to help  
21 everybody with Great Basin, because we're all trying to do  
22 the right thing here. We are all trying to make sure that  
23 they're able to be in compliance, but that, you know, we  
24 are doing our work for the Public Trust. So what can we  
25 do? What kind of message can we send to Great Basin that,

1 you know, we're not just bringing this up, because it's,  
2 you know -- you can't have a meeting without it, right?  
3 We're serious about this. But obviously we need to do  
4 something to help our friends out over here, and I'm just  
5 concerned. Do you have any suggestions?

6 EXECUTIVE OFFICER THAYER: Well, I think that we  
7 do have to keep the communications open. There's not  
8 going to be a silver bullet on this. What we're all  
9 struggling with, at this precise second, is actually not  
10 the need to control dust, but it's this deadline October  
11 1. And both the LADWP representatives, Mr. Freeman and I,  
12 made this point to the Board meeting that we went up to  
13 attend there, which was that that deadline is forcing  
14 consideration of methods, such as moat and row or moatless  
15 moat and row, that create problems for other entities,  
16 such as us, and therefore aren't practical.

17 Some of the Board members understood that. And  
18 there was no action taken at that time. It wasn't an  
19 action item on the agenda, but a number of them said that  
20 they were appreciative of the need to have the best or  
21 good project. And if there was a better way to do it than  
22 moat and row, then perhaps more time should be given.

23 At the recommendation of the executive officer  
24 there, they're not going to take that up at their May  
25 meeting, but I think provide direction to take up this

1 question of whether that deadline should be maintained in  
2 July.

3           So from our perspective, that technical aspect of  
4 the deadline is something that we want to be helpful to  
5 L.A. with, not because we don't want to see dust control  
6 occur as quickly as possible, but because that deadline is  
7 preventing us from getting that brass ring, which is a  
8 good project, which controls the dust and yet respects the  
9 Public Trust values of the lake.

10           COMMISSIONER PASQUIL: Right. What I hope is, is  
11 that we're all public servants. You know, Great Basin has  
12 to understand that we are -- we're moving in the direction  
13 that we want -- that we need to, and that we have -- we  
14 want to, that we voted on. And so I just want to be able  
15 to really keep the communication open with them, and do we  
16 bring more people to the table, do we -- what do we have  
17 to do to tell them -- that's great that, you know, you're  
18 in support and you see that we're working really hard.

19           But when we are all public servants and doing the  
20 work for the people, we cannot -- we cannot be fighting  
21 each other over this. We have to be able to work  
22 together. So whatever we need to do to show them, you  
23 know, we are moving forward, and our partners over here  
24 are, you know, doing the very best that they can. We just  
25 need a little bit more time. There are a lot of people

1 involved in this and there are a lot of other issues that  
2 are affected by this decision.

3 EXECUTIVE OFFICER THAYER: And I think with  
4 respect to the Great Basin Air District, one of the most  
5 important things we can do is continue to, as a staff,  
6 convey what we think the Commission believes, which is  
7 that dust control is very important, and that we do not  
8 want to be seen as some sort of unwitting or witting cause  
9 of delay, which in the suffering that the people up there  
10 have to endure the dust problems that are there. But that  
11 our intent is to try and get this wrapped up as soon as  
12 possible, but with a good project.

13 ACTING CHAIRPERSON ARONBERG: Okay. Any other  
14 comments?

15 Cynthia?

16 ACTING COMMISSIONER BRYANT: Yeah. I would just  
17 add just a couple points. I agree with what Ms. Pasquil  
18 just said. She sounds like me, what I say privately about  
19 all of this, that this is going to take everyone being at  
20 the table. And I actually had the opportunity to go back  
21 and review the transcript from the December meeting,  
22 because, as you know, I wasn't here then, and I was  
23 interested in what my predecessor said. And actually I  
24 could practically repeat all the exact same words he did,  
25 in terms of, you know, it's really important to us, to our

1 administration to have waterless dust control methods out  
2 there.

3           Adding more water to this lake bed is not really  
4 an option for the State of California. And so I just  
5 encourage everyone to keep working on all of these various  
6 methods. I think the best way to get everyone to the  
7 table and stay at the table right now for today is to  
8 reject this lease that's in front of us, which I'm  
9 prepared to do.

10           And I keep looking for that stick to make sure  
11 that we get a solution. And maybe it's a carrot, but I  
12 don't know what the carrot exactly is, other than we just  
13 have to do it. And so maybe this master planning  
14 project -- I think -- I feel confident that our staff is  
15 engaged fully in this process, and is doing everything  
16 possible to make this dust control problem work out out  
17 there. And I just encourage everyone to keep working on  
18 it, and look at short-term leases, look at experiments,  
19 look at, you know, various trials by error, and let's get  
20 this thing done. But for now, for today, I'm prepared to  
21 reject the lease that's in front of us.

22           ACTING CHAIRPERSON ARONBERG: Okay. Like Ms.  
23 Bryant, I'm prepared to reject the lease. I understand  
24 that that will be one way for the DWP to move ahead with  
25 the air district, so that they can explore other

1 alternatives. And I just encourage our staff to work with  
2 the DWP staff to find acceptable alternatives that are  
3 consistent with the Public Trust. And that sounds like  
4 that's all of our goals.

5 In the event -- unless there's anymore  
6 discussion, we're ready for a motion.

7 ACTING COMMISSIONER BRYANT: Do we actually need  
8 a motion to reject it?

9 ACTING CHAIRPERSON ARONBERG: I think we do. I  
10 think they really want to --

11 ACTING COMMISSIONER BRYANT: I'll move to reject  
12 the staff recommendation and not to do this lease.

13 EXECUTIVE OFFICER THAYER: That would be to  
14 accept the staff recommendation.

15 ACTING COMMISSIONER BRYANT: Oh, accept it. Oh,  
16 yeah, that's right. I'm sorry. I forgot we're on the  
17 same page. I apologize.

18 Yeah, I am moving to accept the staff  
19 recommendation.

20 COMMISSIONER PASQUIL: I second.

21 ACTING CHAIRPERSON ARONBERG: All in favor?

22 (Ayes.)

23 ACTING CHAIRPERSON ARONBERG: The motion carries.

24 Thank you.

25 The next item, Item 54, we will hear about and



1 consider taking positions on several bills now pending in  
2 the legislature. Mario, may we have your presentation.

3 EXECUTIVE OFFICER THAYER: Mario De Bernardo, our  
4 Legislative Liaison, will make the presentation. I think  
5 he's going to present for several different bills. But  
6 for Commission consideration, you may want to take them up  
7 one by one, because there will be potentially different  
8 results or different directions on the different bills.

9 ACTING CHAIRPERSON ARONBERG: Okay. And actually  
10 I would like to mention that SB 1039 --

11 EXECUTIVE OFFICER THAYER: Yes.

12 ACTING CHAIRPERSON ARONBERG: -- in discussions  
13 with the author's office, we understand that they will be,  
14 you know, gutting and -- amending and/or gutting this  
15 bill. And so if the other Commissioners don't object, I'd  
16 ask that it be removed from consideration today.

17 EXECUTIVE OFFICER THAYER: Sure. If I could just  
18 be clear for the record then. My understanding from  
19 this -- from discussions with the Commissioners' offices  
20 is that the Senator committed to amend the bill so that it  
21 would not harm the Public Trust Doctrine, and that the  
22 Commission is relying on that representation in taking  
23 this approach, because, of course, by not taking a  
24 position on the bill, the bill would move through the  
25 Legislature without input from us, or at least input

1 concerning our problems with some of the direction that's  
2 been in past versions of the bill.

3           ACTING CHAIRPERSON ARONBERG: That is precisely  
4 the Controller's and his staff's understanding as well.

5           EXECUTIVE OFFICER THAYER: Great.

6           (Thereupon an overhead presentation was  
7 Presented as follows.)

8           LEGISLATIVE LIAISON DE BERNARDO: All right.

9           Well, good morning, Ms. Chair and Commissioners.  
10 My name is Mario De Bernardo, Legislative Liaison for the  
11 State Lands Commission. And I'm here today on behalf of  
12 the staff to recommend that the Commission take positions  
13 on eight -- well now, seven legislative items.

14           Out of the interests of time, I will quickly go  
15 through each legislative item and respectfully request  
16 that you adopt staff's recommendation, either at the end  
17 or, if you'd like, after each one.

18           So there are three legislative items that staff  
19 recommends the Commission support.

20           They are AB 2598, which is sponsored by the  
21 Chair, State Controller's office, and it would require  
22 grantees of trust lands to prepare a sea level action plan  
23 by July 1st of next year. This is consistent with the  
24 goals of the Commission that it adopted at last December's  
25 Commission meeting, in response to sea level rise.

1           And I might add that the bill was just amended  
2 yesterday to include several things. One of which is to  
3 give some comfort to those trustees, such as there's a  
4 community college trustee that has filled lands mostly in  
5 Oakland, and there would be a great financial burden on  
6 them. We, I assume -- versus the benefit that a sea level  
7 rise action plan would have on those particular lands.

8           So that would -- the amendment that was  
9 proposed -- or adopted and introduced yesterday would  
10 allow the Commission to give those type of trustees the  
11 ability to be exempted from the sea level rise action  
12 plan.

13           AB 1998, which was also amended yesterday  
14 significantly from what is included in the staff report,  
15 instead of kind of doing this thing where they allow  
16 single-use paper bags, there is an all around ban on  
17 single-use carry out bags that will be implemented if this  
18 bill passes on January 1st, 2012. And there will be  
19 no -- so, basically, stores, such as supermarkets, will  
20 have to carry, distribute to their customers reusable  
21 shopping bags or customers would have to bring in their  
22 own reusable shopping bags by that date. And there's  
23 also, in this bill, a new report that would have to be  
24 submitted to the legislature, I think in 2015, reporting  
25 on the success of that program.

1 SB 1034 would allow agencies, like the State  
2 Lands Commission, to impose civil penalties on a person  
3 who tampers with archeological resources on Public Trust  
4 Lands. This was brought to my attention by some of our  
5 staff counsel. We've dealt with archeological resources  
6 in the State's waterways, including most recently the  
7 Brother Jonathan, which was a historical shipwreck from  
8 the 1800s.

9 Essentially, this would allow the Commission to  
10 administer penalties, through a Commission meeting, on  
11 anyone that tampers with these resources.

12 The other five legislative items that are up here  
13 are items that staff recommends the Commission oppose. I  
14 should say, there are four legislative items, because I  
15 won't mention SB 1039, since that was already addressed.

16 AB 2719 is a bill that devises an end run on the  
17 State Lands Commission's jurisdiction by creating the  
18 Interim Resources Management Board for the purpose of  
19 approving leases for the extraction of oil and gas in  
20 State waters from offshore and onshore facilities.

21 This bill, I might add, it's unclear whether or  
22 not it intends to expand the California Coastal Sanctuary  
23 Act -- or not expand it, but allow more oil drilling than  
24 is currently allowed in the California Coastal Sanctuary  
25 Act. It references offshore facilities in State waters,

1 as well as onshore leases. So it goes beyond the scope of  
2 the current exceptions within the California Coastal  
3 Sanctuary Act.

4 The third item is a budget proposal dealing with  
5 the Department of Justice's budget for legal services to  
6 its general fund clients. The intention of this proposal  
7 is to curb some abuse that is occurring in the Department  
8 of Corrections and Rehabilitation. About 48 million going  
9 on last year's figures was allocated to general fund  
10 clients in the Department of Justice. We are one of those  
11 clients. Department of Corrections and Rehabilitation  
12 used \$50 million worth of legal services, which is two  
13 million over what was allocated. State Lands only used  
14 roughly 1.5 million.

15 This proposal would allow the Director of Finance  
16 to set caps on each general fund client for legal  
17 services, based on previous use of legal services.  
18 Essentially, what that would do is show the State that the  
19 Commission has, you know, anywhere between 1.5 to two  
20 million dollars a year to litigate. We think that that  
21 would create less deterrence on violations on Public Trust  
22 Lands. Also, discourage settlements as opposing parties  
23 could exploit our budget and push for litigation and run  
24 us -- and force us to either stop litigating or settle in  
25 a way that is less favorable to the State.

1           And the last two items are regarding spending of  
2 revenues from an expected approval of the T-Ridge oil  
3 lease. The first proposal -- the first of the last two  
4 here is a budget proposal from the Governor. It proposes  
5 to spend money from the T-Ridge lease, and that money  
6 would be used to fund parks.

7           The last item here, AB 2601, the money made from  
8 T-Ridge would go to various fire fighting budget items.

9           This wraps up my presentation on State  
10 legislation. And, at this time, I respectfully request  
11 that you adopt staff's recommendations.

12           Thank you.

13           ACTING CHAIRPERSON ARONBERG: Thank you, Mario.

14           We have one speaker card here. Welcome to the  
15 former Lieutenant Governor, former State Lands  
16 Commissioner, Mr. Bustamante.

17           Do you want to speak?

18           MR. BUSTAMANTE: Only if the item had come up.

19           ACTING CHAIRPERSON ARONBERG: Okay, thank you  
20 very much.

21           Are there any other speakers on this matter?

22           I think we're going to need to take some of these  
23 up separately. And I will leave it to the Commissioners'  
24 pleasure on how to do that.

25           And any comments from the Commissioners are also

1 welcome.

2           ACTING COMMISSIONER BRYANT: Yeah, obviously, I  
3 support -- I'd like to respectfully disagree with you on  
4 the two budget proposals that are part of the Governor's  
5 budget. And I did just want to say on the legal services  
6 thing, I don't think it's to curb abuse at CDCR. It's  
7 really about allowing general fund agencies to manage  
8 their legal services better.

9           So I just respectfully need to disagree with  
10 Commission staff on that, but I'd like to vote no on both  
11 of those items, so if we could take those up two  
12 separately, I'd appreciate it.

13           ACTING CHAIRPERSON ARONBERG: Ms. Pasquil, are  
14 you okay with voting on those two separately and --

15           COMMISSIONER PASQUIL: Yes.

16           ACTING CHAIRPERSON ARONBERG: -- looking at  
17 staff's recommendation on the remaining, so that we don't  
18 have to have so many votes.

19           COMMISSIONER PASQUIL: Yes.

20           ACTING CHAIRPERSON ARONBERG: So why don't we  
21 right now take a vote on AB 2598, 1998, 1034, 2719, and  
22 2601, if that's correct, Ms. Bryant?

23           ACTING COMMISSIONER BRYANT: (Nods head.)

24           ACTING CHAIRPERSON ARONBERG: Thank you.

25           Okay. I'm open to a motion on the bills just

1 stated.

2 COMMISSIONER PASQUIL: I move to accept the staff  
3 recommendation on these bills.

4 ACTING COMMISSIONER BRYANT: And I'll provide a  
5 courtesy second.

6 ACTING CHAIRPERSON ARONBERG: All in favor?

7 (Ayes.)

8 ACTING CHAIRPERSON ARONBERG: The motion carries.

9 ACTING COMMISSIONER BRYANT: I abstained. Just  
10 FYI.

11 ACTING CHAIRPERSON ARONBERG: Okay. And now  
12 we're looking at the two budget proposals regarding legal  
13 services and regarding Tranquillon Ridge on the Parks'  
14 budget.

15 May I have a motion on those two.

16 COMMISSIONER PASQUIL: I move to proceed with the  
17 staff's recommendation.

18 ACTING CHAIRPERSON ARONBERG: I'll second.

19 All in favor?

20 (Ayes.)

21 ACTING CHAIRPERSON ARONBERG: Opposed?

22 (No.)

23 ACTING CHAIRPERSON ARONBERG: The motion carries  
24 two to one.

25 Curtis Fossum wants to speak.



1 CHIEF COUNSEL FOSSUM: Madam Chair, I need to  
2 correct something that was taken -- that took place on  
3 Item 52. The lease that was signed by the applicant in  
4 Riverbank had a date of September 29th, 2011 for  
5 completion of the project. The staff report and  
6 recommendation for approval by the Commission says 2010,  
7 so I think the Commission needs to make a motion to  
8 correct that typographical error on page six of Item 52.

9 EXECUTIVE OFFICER THAYER: So the lease itself is  
10 correct, but the staff report is in error. Do they need  
11 to take a new lease or do we just need to note --

12 CHIEF COUNSEL FOSSUM: No. I think it would  
13 behoove the Commission to simply make a motion to correct  
14 that in the authorization of that date.

15 EXECUTIVE OFFICER THAYER: Okay. So the motion  
16 would be that the Commission recognizes that the  
17 construction completion date in the lease amendment that  
18 it authorizes 2011 rather than 2010?

19 CHIEF COUNSEL FOSSUM: That's correct.

20 ACTING CHAIRPERSON ARONBERG: Okay. May we have  
21 such a motion?

22 ACTING COMMISSIONER BRYANT: I'll move to  
23 recognize it's 2011 not 2010.

24 COMMISSIONER PASQUIL: I second.

25 ACTING CHAIRPERSON ARONBERG: All in favor?

1 (Ayes.)

2 ACTING CHAIRPERSON ARONBERG: The motion carries  
3 unanimately.

4 EXECUTIVE OFFICER THAYER: Sorry for that  
5 confusion.

6 ACTING CHAIRPERSON ARONBERG: No, not all.

7 Okay. So that takes care of Item 54. And we've  
8 just got one regular calendar item left, it's the  
9 resolution the Controller proposed concerning federal  
10 legislation that would help protect and restore Lake  
11 Tahoe.

12 May we have a staff presentation.

13 EXECUTIVE OFFICER THAYER: And again, Mario De  
14 Bernardo will make that presentation.

15 LEGISLATIVE LIAISON DE BERNARDO: This resolution  
16 is in support of the bipartisan federal Lake Tahoe  
17 Restoration Act of 2010, which would authorize \$415  
18 million over eight years to combat invasive species,  
19 improve water quality, protect threatened wildlife, reduce  
20 the threat of catastrophic wildfires, and restore the  
21 environment in the Lake Tahoe basin.

22 This act would considerably protect and enhance  
23 the Public Trust Lands and easements in the Lake Tahoe  
24 basin for the benefit of the Public Trust and for the  
25 people of California.

1           As such, I respectfully request your support in  
2 this resolution.

3           Thank you.

4           ACTING CHAIRPERSON ARONBERG: Thank you.

5           Are there any comments from the public?

6           Any comments from Commissioners?

7           A motion is in order.

8           COMMISSIONER PASQUIL: I would move to approve --  
9 support the resolution. And, Mario, thank you for doing  
10 such great work.

11          ACTING COMMISSIONER BRYANT: Second it.

12          ACTING CHAIRPERSON ARONBERG: All in favor?

13          (Ayes.)

14          ACTING CHAIRPERSON ARONBERG: The motion carries  
15 unanimously. That concludes -- sorry, public comment?  
16 This is the time for general public comment. I don't have  
17 any speaker slips for general public comment. If someone  
18 would like to make public comment, this would be the time.  
19 You can raise your hand right now.

20          Seeing none, that concludes the regular calendar.

21          Can we please have the room cleared for closed  
22 session.

23          (Thereupon the California State Lands Commission  
24 meeting recessed into closed session and  
25 adjourned at 10:40 a.m.)

