

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

TSAKOPOULOS LIBRARY GALLERIA
EAST MEETING ROOM
828 I STREET
SACRAMENTO, CALIFORNIA 95814

FRIDAY, APRIL 26, 2013
10:00 A.M.

TIFFANY C. KRAFT
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

APPEARANCES

COMMISSION MEMBERS

Mr. Gavin Newsom, Chairperson and Lieutenant Governor,
also represented by Mr. Chris Garland

Mr. John Chiang, State Controller, represented by Mr. Alan
Gordon

Ms. Ana J. Matosantos, Director of Finance, represented by
Ms. Karen Finn

STAFF

Ms. Jennifer Lucchesi, Executive Officer

Mr. Mark Meier, Chief Counsel

Mr. Brian Bugsch, Chief, Land Management Division

Mr. Colin Conner, Assistant Chief, Land Management
Division

Ms. Jennifer DeLeon, Program Manager, Division of
Environmental Planning and Management

Ms. Grace Kato, Public Land Management

Ms. Ninette Lee, Public Land Manager, Land Management
Division

ATTORNEY GENERAL

Mr. Joseph Rusconi

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Martin Adams, LADWP

Ms. Maria Brown, NOAA Gulf of the Farallones National
Marine Sanctuary

Mr. Bruce Cline

Mr. Don Fouts

Mr. Jim Haussener, CM ANC

Mr. Gregg Lien, HOA

Mr. Eric Lopez, Tidelands Capital Projects

Ms. Alison Madden

Ms. Diana Reddy, Housing Leadership Council of San Mateo
County

Mr. Kent Smith, Barbara Carneille

Mr. Buckley Stone, Pete's Harbor

INDEX

	<u>PAGE</u>
ORDER OF BUSINESS	
I. 10:00 A.M. - OPEN SESSION	
II. CONFIRMATION OF MINUTES FOR THE MEETING OF FEBRUARY 22, 2013	2
III. EXECUTIVE OFFICER'S REPORT	2
IV. CONSENT CALENDAR C01 - C111	9
MOTION	10
VOTE	10

THE FOLLOWING ITEMS ARE CONSIDERED TO BE
NON-CONTROVERSIAL AND ARE SUBJECT TO CHANGE
AT ANY TIME UP TO THE DATE OF THE MEETING.

LAND MANAGEMENT DIVISION

NORTHERN REGION

C 01

SHANNON MLCOCH AND RICHARD M. HUNT (APPLICANTS): Consider
application for a General Lease - Recreational Use, of
sovereign land located in

Elk Slough, adjacent to 52265 Nishida Lane, near
Clarksburg, Yolo County; for an
existing uncovered floating boat dock, three pilings, and
ramp not previously
authorized by the Commission. (W 26597; RA# 22512) (A 4; S
3)
(Staff: G. Asimakopoulos)

INDEX (CONTINUED)

PAGE

C 02

WARREN FALLAT; DARCY BLESSING PORTER; KELLAE BLESSING; AND MARGARET D. BOYDEN, AS SOLE TRUSTEE OF THE NOLA DILLON BLESSING TESTAMENTARY TRUST C (ASSIGNORS); R. ALLEN ENNIS AND JILL N. ENNIS, TRUSTEES OF THE ALLEN AND JILL ENNIS FAMILY TRUST DATED AUGUST 2, 2011 (ASSIGNEES): Consider application for the assignment of Lease No. PRC 3676.9, a Recreational Pier Lease, of sovereign land located in Lake Tahoe, adjacent to 3965 Bellevue Avenue, near Homewood, Placer County; for an existing pier and two mooring buoys. (PRC 3676.9; RA# 18012) (A 1; S 1)

(Staff: G. Asimakopoulos)

C 03

MICHAEL MCCARTHY AND MARIE MCCARTHY (ASSIGNORS); VIRGINIA K. STOCK AND GEORGE JOHANNESSEN (ASSIGNEES): Consider application for the assignment of Lease No. PRC 7949.9, a Recreational Pier Lease, of sovereign land located in Lake Tahoe, adjacent to 5568 North Lake Boulevard, near Carnelian Bay, Placer County; for two existing mooring buoys. (PRC 7949.9; RA# 19112)

(A 1; S 1) (Staff: G. Asimakopoulos)

C 04

WILLIAM J. KUHNS AND MARGARET G. KUHNS (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Steamboat Slough, adjacent to 13972 Grand Island Road, near Walnut Grove, Sacramento County; for an existing uncovered floating boat dock, ramp, and six pilings. (PRC 7225.1; RA# 17512) (A 8; S 4) (Staff: R. Boggiano)

INDEX (CONTINUED)

PAGE

C 05

THE ISLAND CLUB, INC., A CALIFORNIA CORPORATION
(APPLICANT): Consider application for a General Lease -
Recreational Use, of sovereign land located in Montezuma
Slough, adjacent to 3372 Gum Tree Road, near Suisun City,
Solano County; for an existing uncovered floating boat
dock, two pilings, walkway, electric and water utility
outlet, security fence, and covered storage shed not
previously authorized by the Commission. (W 26652; RA#
18212) (A 7, 8; S 5, 2)
(Staff: R. Boggiano)

C 06

GRANT B. HIESHIMA AND DONNA M. HIESHIMA, TRUSTEES OF THE
1994 GRANT B. HIESHIMA AND DONNA M. HIESHIMA REVOCABLE
TRUST DATED JUNE 7, 1994 (ASSIGNOR); DOUGLAS F. BUSCH AND
JULIE M. BUSCH TRUSTEES OF THE BUSCH FAMILY LIVING TRUST
DATED APRIL 1, 2000 (ASSIGNEE): Consider application for
the assignment of Lease No. PRC 7513.9, a
Recreational Pier Lease, of sovereign land, located in
Lake Tahoe, adjacent to 8321
Meeks Bay Avenue, near Meeks Bay, El Dorado County; for an
existing pier, boat lift,
and two mooring buoys. (PRC 7513.9; RA# 17812) (A 5; S 1)
(Staff: R. Boggiano)

C 07

VENOCO, INC. (ASSIGNOR); VINTAGE PRODUCTION CALIFORNIA,
LLC (ASSIGNEE): Consider application for the assignment
and amendment of Lease No.
PRC 4270.1, a General Lease - Right-of-Way Use, of
sovereign land located in
Roaring River Slough and Grizzly Slough, near the town of
Collinsville, Solano County; for an existing two-inch
diameter steel condensate pipeline and a six-inch diameter
steel natural gas pipeline. (PRC 4270.1; RA# 19012) (A 8;
S 2)

(Staff: R. Boggiano)

INDEX (CONTINUED)

PAGE

C 08

EAST RIVER TERRACE PARTNERS, A MINNESOTA GENERAL PARTNERSHIP, DBA SKI RUN MARINA (LESSEES/ASSIGNORS); SKI RUN MARINA, LLC, A DELAWARE LIMITED LIABILITY COMPANY (ASSIGNEE): Consider application for the assignment of Lease No. PRC 8655.1, a General Lease - Commercial Use, and an Agreement and Consent to Encumbrancing of Lease of sovereign land located in Lake Tahoe, City of South Lake Tahoe, El Dorado County; for a commercial marina operation including three piers, 71 mooring buoys and eight marker buoys. (PRC 8655.1; RA# 22916) (A 5; S 1) (Staff: R. Boggiano)

C 09

DEMETRIUS BARMETTLER AND PAULA BARMETTLER (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use of sovereign land located in the Sacramento River, adjacent to 6057 Garden Highway, Sacramento County; for an existing covered single berth floating boat dock, two support pilings, strong arm, gangway, electric and water utility outlet, portion of a deck, and bank protection not previously authorized by the Commission. (W 26239; RA# 03907) (A 7; S 6) (Staff: V. Caldwell)

C 10

JAMES E. DUNN AND LAURA A. DUNN, TRUSTEES OF THE DUNN FAMILY LIVING TRUST DATED MARCH 14, 1995 (APPLICANTS): Consider termination of Lease No. PRC 8765.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 14065 River Road, Walnut Grove, Sacramento County; for an existing uncovered floating boat dock, two pilings, and gangway. (PRC 8765.1; RA# 16812) (A 11; S 3) (Staff: V. Caldwell)

INDEX (CONTINUED)

PAGE

C 11

YOLO SUTTER BOAT CLUB, LLC (LESSEE): Consider revision of rent for Lease No. PRC 5629.1, a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to Assessor's Parcel Number 056-291-002, near Knights Landing, Yolo County; for two existing uncovered accommodation docks, walkways, winches, cables, and a boat launching facility. (PRC 5629.1) (A 4; S 3)

(Staff: V. Caldwell)

C 12

MANUEL C. JARDIN AND GAIL A. JARDIN, TRUSTEES OF THE JARDIN FAMILY TRUST DATED MAY 13, 2005 (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 4233 Garden Highway, near the city of Sacramento, Sacramento County; for an existing uncovered floating boat dock, two steel pilings, gangway, electric and water utility outlet, and bank protection not previously authorized by the Commission. (W 21226; RA# 17012 (A 7; S 6)

(Staff: V. Caldwell)

C 13

BUFFER PROPERTIES, LLC (LESSEE): Consider revision of rent to Lease No. PRC 5167.1, a General Lease - Commercial Use, of sovereign land located in the Sacramento River, adjacent to 1577 Garden Highway, near the city of Sacramento, Sacramento County; for an existing commercial marina known as the Virgin Sturgeon. (PRC 5167.1) (A 7; S 6) (Staff: V. Caldwell)

C 14

ROBERT H. GLOBUS, JR. AND KIM M. BROADDUS (APPLICANTS): Consider rescission of approval for General Lease - Recreational and Protective Structure Use, Lease No. PRC 8689.9, of sovereign land located in the Sacramento River, adjacent to 37400 South River Road, near Clarksburg, Yolo County, for construction of an uncovered floating boat dock, pilings, gangway, and existing bank protection. (PRC 8689.9) (A 8; S 5) (Staff: V. Caldwell)

INDEX (CONTINUED)

PAGE

C 15

ROY L. WICKLAND AND JANET E. WICKLAND, TRUSTEES FOR THE ROY L. WICKLAND FAMILY TRUST DATED 9-16-91, AND R.L. WICKLAND, INC., A NEVADA CORPORATION (LESSEES): Consider revision of rent to Lease No. PRC 8555.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 9021 Lupine Lane, near Tahoma, El Dorado County; for two existing mooring buoys and a swim float. (PRC 8555.1) (A 5; S 1)

(Staff: M.J. Columbus)

C 16

CHERYL DALRYMPLE (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Donner Lake, adjacent to 13825 Donner Pass Road, near the town of Truckee, Nevada County; for a proposed reconstruction of an existing pier not previously authorized by the Commission.

(W 8670.123; RA# 07212) (A 1; S 1) (Staff: M.J. Columbus)

C 17

LOUIS STERVINO AND MARY STERVINO (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5306 North Lake Boulevard, near Carnelian Bay, Placer County; for two existing mooring buoys not previously authorized by the Commission. (W 22543; RA# 22811) (A 1; S 1) (Staff: M.J. Columbus)

C 18

KENT D. POWELL AND MARGARET JEAN POWELL, TRUSTEES OF THE KENT AND MARGARET POWELL FAMILY 1985 REVOCABLE TRUST, ESTABLISHED JAN. 8, 1985 (APPLICANTS): Consider application for a General Lease -

Recreational Use, of sovereign land located in Donner Lake, adjacent to 14210 South Shore Drive, near the town of Truckee, Nevada County; for an existing pier.

(PRC 7597.1; RA# 06011) (A 1; S 1) (Staff: M.J. Columbus)

INDEX (CONTINUED)

PAGE

C 19

LAWRENCE JOSEPH GANNON AND PATRICIA ANNE GANNON, TRUSTEES OF THE GANNON FAMILY TRUST DECLARATION OF LIVING TRUST DATED DECEMBER 9, 2005 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 8754 Brockway Vista Avenue, near Kings Beach, Placer County; for an existing pier and one existing mooring buoy previously authorized by the Commission and an existing boat lift not previously authorized by the Commission. (PRC 5624.1; RA# 32410)

(A 1; S 1) (Staff: M.J. Columbus)

C 20

ALAN H. MATTHEWS AND ELIZABETH E. MATTHEWS, TRUSTEES OF THE MATTHEWS FAMILY REVOCABLE TRUST DATED MARCH 26, 2009 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 4850 West Lake Boulevard, near Homewood, Placer County; for two existing mooring buoys. (PRC 8487.1;

RA# 20212) (A 1; S 1) (Staff: M.J. Columbus)

C 21

BARBARA I. MCCONNELL, TRUSTEE OF THE GEORGE R. AND BARBARA I. MCCONNELL REVOCABLE LIVING TRUST, DATED JUNE 12, 1992, AND MARILYN J. KENNEDY (LESSEES); MARILYN J. KENNEDY AND KYLE P. KENNEDY (APPLICANTS): Consider acceptance of a quitclaim deed and application for amendment to Lease No. PRC 3661.9, a Recreational Pier Lease, of sovereign land located in Lake Tahoe, adjacent to 5058 West Lake Boulevard, near Homewood, Placer County; for an existing pier and one mooring buoy.

(PRC 3661.9; RA# 21411) (A 1; S 1) (Staff: W. Hall)

INDEX (CONTINUED)

PAGE

C 22

PACIFIC UNION COLLEGE (LESSEE): Consider revision of rent to Lease No. PRC 8798.1, a General Lease - Recreational Use, of sovereign land located in the Albion River, adjacent to 34100 Albion Street, Albion, Mendocino County; for an existing T-shaped floating dock facility with electrical, water, and sewer conduit, 20 steel-cased cement pilings, and a pump out station. (PRC 8798.1) (A 2; S 2) (Staff: W. Hall)

C 23

SIERRA PACIFIC POWER COMPANY (LESSEE): Consider continuation of rent for Lease No. PRC 7902.1, a General Lease - Right-of-Way Use, of sovereign land located in the Pit River, adjacent to Assessor's Parcel Numbers 022-010-52 and 022-010-53, near the city of Alturas, Modoc County, for an existing electric transmission line. (PRC 7902.1) (A 3; S 1) (Staff: W. Hall)

C 24

DONALD J. COLVIN AND CHRISTINE COLVIN (LESSEES); JEAN M. GOMEZ (APPLICANT): Consider termination of Lease No. 8468.9, a General Lease - Recreational Use and an application for a General Lease - Recreational Use, of sovereign land located in Three Mile Slough at Sherman Island, adjacent to 17210 Sherman Island East Levee Road, near the city of Rio Vista, Sacramento County; for an existing uncovered floating boat dock, pilings, and ramp. (PRC 8468.1;

RA# 16312) (A 15; S 5) (Staff: W. Hall)

INDEX (CONTINUED)

PAGE

C 25

JOHN B. LOVEWELL AND CYNTHIA B. LOVEWELL, CO-TRUSTEES OF THE LOVEWELL 2006 IRREVOCABLE TRUST DATED JUNE 21, 2006 FBO JAMES BARRY LOVEWELL DATED JUNE 21, 2006, AND THE LOVEWELL 2006 IRREVOCABLE TRUST DATED JUNE 21, 2006 FBO JENNIFER HILARY LOVEWELL, DATED JUNE 21, 2006 (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 1406 West Lake Boulevard, near Tahoe City, Placer county, for an existing pier, boat lift, and one mooring buoy. (PRC 4141.1; RA# 08511) (A 1; S 1) (Staff: W. Hall)

C 26

CITY OF WEST SACRAMENTO (LESSEE): Consider application for an amendment to Lease No. PRC 6002.9, a General Lease - Public Agency Use, of sovereign land located in the Sacramento River, city of West Sacramento, Yolo County; to extend the deadline to submit a final dock rehabilitation plan design. (PRC 6002.9; RA# 17912) (A 8; S 4) (Staff: W. Hall)

C 27

ROBERT DEVALL MAY AND JUDITH THOMPSON MAY, TRUSTEES OF THE MAY FAMILY TRUST AS AMENDED AND RESTATED IN 2001, U/A DATED NOVEMEBER 5, 2001 (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 1406 West Lake Boulevard, near Tahoe City, Placer County; for an existing mooring buoy. (PRC 8332.1; RA# 08111) (A 1; S 1) (Staff: W. Hall)

INDEX (CONTINUED)

	<u>PAGE</u>
C 28	
BRYAN WATKINS AND TAWNA SCHLUETER-MURPHY (LESSEES); BRUCE C. CLINE AND JULIE D. CLINE, CO-TRUSTEES OF THE CLINE FAMILY TRUST DATED APRIL 11, 2012 (APPLICANTS): Consider termination of Lease No. PRC 4765.9, a Recreational Pier Lease, and an application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River at Long Island, adjacent to 17360 Grand Island Road, near Walnut Grove, Sacramento County; for the removal of an existing uncovered floating boat dock, two pilings, and fishing pier; the construction of an L-Shaped uncovered floating dock, three steel pilings, and gangway; and existing bank protection not previously authorized by the Commission. (PRC 4765.1; RA# 14612) (A 11; S 3) (Staff: W. Hall)	10
MOTION	26
VOTE	27
C 29	
RALEYS CORPORATION, A CALIFORNIA CORPORATION (LESSEE); AND CITY OF WEST SACRAMENTO (LESSEE/APPLICANT): Consider acceptance of a quitclaim deed of Permit No. PRC 7261.9, a General Permit - Protective Structure, and a quitclaim deed of Lease No. PRC 7983.9, a General Lease - Public Agency Use; and an application for a new General Lease - Public Agency Use, of filled and unfilled sovereign land located in the Sacramento River, City of West Sacramento, Yolo County; for existing riverfront improvements, open space, public access, riparian habitat, levee structure and bank protection. (PRC 7261.9 and PRC 7983.9; RA# 25012) (A 8; S 4) (Staff: W. Hall)	

INDEX (CONTINUED)

PAGE

C 30

SACRAMENTO VALLEY CONSERVANCY (LESSEE): Consider application for an amendment to Lease No. PRC 9033.1, a General Lease, of sovereign land known as Camp Pollock, located adjacent to the American River and the American River Parkway in the city of Sacramento, for recreation, conservation, education, and public access use; to authorize a sublease to the University of California Berkeley; to include provisions for reporting of annual income; and a provision for lease application at expiration. (PRC 9033.1) (A 8; S 4) (Staff: M. Hays)

C 31

DAN BEST II, IN TRUST, FOR THE BENEFIT OF BRENDA PAYNE COOLEY, WILLIAM ASHLEY PAYNE AND ROBERT BEST PAYNE UNDER THE BARBARA BEST PAYNE TESTAMENTARY TRUST; DAN G. BEST II, AS TRUSTEE UNDER THE BRENDA BEST WEAVER TESTAMENTARY TRUST; DAN G. BEST II, TRUSTEE OF THE DAN G. BEST II REVOCABLE LIVING TRUST UNDER DECLARATION OF TRUST DATED OCTOBER 7, 1993; DAN G. BEST II, AS SOLE TRUSTEE OF THE "BEST EXEMPT CREDIT TRUST"; AND DAN G. BEST II, AS SOLE TRUSTEE OF THE "BEST SURVIVOR'S TRUST" (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 4940, 4950, and 4960 West Lake Boulevard, near Homewood, Placer County; for four existing mooring buoys, not previously authorized by the Commission. (W 26656; RA# 27511) (A 1; S 1) (Staff: M. Hays)

C 32

MICHAEL T. ROSE AND LAUREL K. ROSE (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in Steamboat Slough, adjacent to 13914 Grand Island Road, near Walnut Grove, Sacramento County; for an existing uncovered floating boat dock with two boat lifts, gangway, six pilings, and bank protection previously authorized by the Commission and one existing boat lift not previously authorized by the Commission. (PRC 7023.1; RA# 08212) (A 11; S 3) (Staff: N. Lavoie)

INDEX (CONTINUED)

PAGE

C 33

LANG HASKINS MONTGOMERY AND MOLLY M. SORIA, AS SUCCESSOR CO-TRUSTEES OF THE STEFAN FAMILY TRUST DATED JULY 31, 1997 - TRUST A; AND VICTOR F. STEFAN, JR., ANDREW E. MONTGOMERY III, AND MOLLY MONTGOMERY SORIA, AS SUCCESSOR CO-TRUSTEES OF THE STEFAN FAMILY TRUST DATED JULY 31, 1997 - TRUST B (ASSIGNORS); ROSS OLIVEIRA AND IDA OLIVEIRA (ASSIGNEES): Consider application for the assignment of Lease No. PRC 6891.9, a General Lease - Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 4061 Garden Highway, near the city of Sacramento, Sacramento County; for existing bank protection. (PRC 6891.9; RA# 13012) (A 5, 9; S 6) (Staff: N Lavoie)

C 34

JAIME FAVILA JR. AND KATHRYN A. FAVILA (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 7140 Pocket Road, near the city of Sacramento, Sacramento County; for an existing uncovered floating boat dock and three pilings with metal bracing. (PRC 3590.1; RA# 17212) (A 9; S 6) (Staff: N. Lavoie)

C 35

KATHLEEN F. GALLO AND PATRICK T. BECKLEY (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Georgiana Slough, adjacent to 405 West Willow Tree Lane, near the city of Isleton, Sacramento County; for an existing uncovered floating single-berth boat dock, four pilings, ramp, and deck. (PRC 4726.1; RA# 21911) (A 15; S 5) (Staff: N. Lavoie)

C 36

PATRICK T. BECKLEY AND LYNN MARIE BECKLEY, TRUSTEES OF THE BECKLEY FAMILY TRUST (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Georgiana Slough, adjacent to 409 West Willow Tree Lane, near the city of Isleton, Sacramento County; for an existing uncovered floating single-berth boat dock, four pilings, ramp, and walkway.

(PRC 3365.1; RA# 30211) (A 11; S 3) (Staff: N. Lavoie)

INDEX (CONTINUED)

PAGE

C 37

WILLIAM HOWARD AND DIANE B. HOWARD (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 6622 Benham Way, city of Sacramento, Sacramento County; for an existing uncovered floating single-berth boat dock, ramp, two pilings, and bank protection. (PRC 7848.1; RA# 08712)

(A 9; S 6) (Staff: N. Lavoie)

C 38

DIXON BOAT AND FISHING CLUB, INC. (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Cache Slough, adjacent to 7504 Bartlett Road, near the city of Dixon, Solano County; for two existing floating boat docks, a boat ramp, walkway, and five pilings. (PRC 4913.1; RA# 16711) (A 4; S 3) (Staff: N. Lavoie)

C 39

GEORGE A. HEINER (APPLICANT): Consider application for a General Lease -

Commercial Use, of sovereign land located in the Sacramento River, in the town of Locke, Sacramento County; for an existing commercial marina known as The Boat House Marina. (PRC 6836.1) (A 11; S 3) (Staff: N. Lavoie)

INDEX (CONTINUED)

PAGE

C 40

HAWKINS INSULATION COMPANY, INC.; LYON INVESTMENTS, LP; MICHAEL P. LYON; LAURA LYON; AND KARINE S. LYON (LESSEES); HAWKINS INSULATION COMPANY, INC. AND LYON INVESTMENTS, LP, A CALIFORNIA LIMITED PARTNERSHIP (APPLICANTS): Consider termination of Lease No. PRC 5884.1, a General Lease - Recreational Use, and an application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 5620 and 5650 West Lake Boulevard, near Homewood, Placer County; for an existing joint-use pier, boat lift, and two mooring buoys previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission.

(PRC 5884.1; RA# 10909) (A 1; S 1) (Staff: N. Lee)

C 41

BARBARA B. CORNEILLE, TRUSTEE OF THE CORNEILLE LIVING TRUST DATED MARCH 19, 1990 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 135 Quiet Walk Road, near Tahoma, El Dorado County; for an existing pier not previously authorized by the Commission. (W 26453; RA# 13812) (A 5; S 1) (Staff: N. Lee)

27

MOTION

57

VOTE

57

C 42

TAHOE BOAT COMPANY OWNER'S ASSOCIATION (LESSEE): Consider application for an amendment to Lease No. PRC 7920.1, a General Lease -

Commercial Use, of sovereign land located in Lake Tahoe, adjacent to 700 North Lake Boulevard, Tahoe City, Placer County; to authorize maintenance dredging and rock removal. (PRC 7920.1; RA# 20912) (A 1; S 1) (Staff: N. Lee)

INDEX (CONTINUED)

PAGE

C 43

STECKLER-PACIFIC COMPANY, INC. (APPLICANT): Consider application for a General Lease - Dredging to dredge material from granted sovereign lands, minerals reserved; located in Richardson Bay at the Richardson Bay Marina, Marin County; disposal of dredged material at the U.S. Army Corps of Engineers' designated disposal site SF-11 (Alcatraz), and/or other U.S. Army Corps of Engineers' approved disposal sites. (PRC 6722.9; RA# 28311) (A 7; S 2) (Staff: D. Oetzel)

C 44

JEAN VILICICH, IN TRUST, AS TRUSTEE OF THE JOHN VILICICH AND JEAN VILICICH REVOCABLE INTER VIVOS TRUST DATED DECEMBER 1, 2004;

FRANCIS A. VILICICH AND GWENDOLYN M. VILICICH; AND EDWARD A. VILICICH AND BERNADETTE C. VILICICH, TRUSTEES OF THE E & B VILICICH FAMILY TRUST (LESSEE): Consider revision of rent for Lease No. PRC 5470.1, a General Lease - Recreational Use, of sovereign submerged land located in Tomales Bay, adjacent to 19145 State Route 1, near the town of Marshall, Marin County; for an existing walkway, three wood pilings, and pier. (PRC 5470.1) (A 10; S 2)

(Staff: S. Paschall)

C 45

ALVINA PATTERSON, AS TRUSTEE OF THE ALVINA PATTERSON FAMILY TRUST, DATED FEBRUARY 10, 1990 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 7276 North Lake Boulevard, Tahoe Vista, Placer County; for two existing mooring buoys. (PRC 5675.1; RA# 08611) (A 1; S 1) (Staff: S. Paschall)

INDEX (CONTINUED)

PAGE

C 46

KENT R. BOURQUIN AND MARY B. BOURQUIN, TRUSTEES OF THE BOURQUIN FAMILY TRUST DATED MAY 7, 1998 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Donner Lake, adjacent to 13930 South Shore Drive, near the town of Truckee, Nevada County; for an existing pier previously authorized by the Commission and portion of an existing boat lift not previously authorized by the Commission.

(PRC 7565.1; RA# 35810) (A 1; S 1) (Staff: S. Paschall)

C 47

DANIEL J. COCKRUM AND SUZANNE M. COCKRUM, AS TRUSTEES OF THE DANIEL J. COCKRUM AND SUZANNE M. COCKRUM REVOCABLE LIVING TRUST DATED JUNE 12, 2001 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 949 Lakeview Avenue, near city of South Lake Tahoe, El Dorado County; for an existing mooring buoy. (PRC 8418.1; RA# 17211) (A 1; S 1) (Staff: S. Paschall)

C 48

DAVID J. FERRARI (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 6259 North Lake Boulevard, near Tahoe Vista, Placer County; for two existing mooring buoys.

(PRC 8431.1; RA# 03812) (A 1; S 1) (Staff: S. Paschall)

C 49

WILLEM GEORGE C. PARSON OR NORMA MILDRED PARSON, CO-TRUSTEES UNDER REVOCABLE TRUST DATED AUGUST 21, 1986 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3560 West Lake Boulevard, near Tahoe City, Placer County; for an existing pier and two mooring buoys. (PRC 5631.1;

RA# 30711) (A 1; S 1) (Staff: S. Paschall)

INDEX (CONTINUED)

PAGE

C 50

JON K. FOLAN AND GAIL L. FOLAN, CO-TRUSTEES OR SUCCESSOR TRUSTEES OF THE FOLAN FAMILY 1991 REVOCABLE TRUST, DATED MAY 7, 1991 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 2570 West Lake Boulevard, near Tahoe City, Placer County; for an existing pier and one mooring buoy previously authorized by the Commission, and an existing mooring buoy not previously authorized by the Commission. (PRC 5125.1; RA# 01112) (A 1; S 1)
(Staff: S. Paschall)

C 51

DAVID L. MILLSPAUGH AND SANDRA S. MILLSPAUGH (LESSEES); SCOTT T. HANSON AND VALERIE A. HANSON, TRUSTEES OF THE SCOTT T. HANSON AND VALERIE A. HANSON REVOCABLE TRUST (APPLICANTS): Consider termination of Lease No. PRC 8692.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 8355 Meeks Bay Avenue, near Rubicon Bay, El Dorado County; for an existing pier previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission. (PRC 8692.1; RA# 21412)

(A 5; S 1) (Staff: M. Schroeder)

C 52

DAVID W. YANCEY AND MICHAEL H. YANCEY (LESSEES); 5490 WEST LAKE ASSOCIATES (APPLICANT): Consider termination of Lease No. PRC 8512.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5490 West Lake Boulevard, near Homewood, Placer County; for two existing mooring buoys. (PRC 8512.1;

RA# 08811) (A 1; S 1) (Staff: M. Schroeder)

INDEX (CONTINUED)

PAGE

C 53

DALE A. FROST, TRUSTEE OF THE SLT - 98 LAKEHOME TRUST (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 939 Lakeview Avenue, city of South Lake Tahoe, El Dorado County; for two existing mooring buoys. (PRC 8458.1; RA# 18112) (A 5; S 1) (Staff: M. Schroeder)

C 54

RICHARD A. COOMBS AND JENNIFER C. COOMBS (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Donner Lake, adjacent to 15336 South Shore Drive, near the town of Truckee, Nevada County; for an existing pier. (PRC 8201.1; RA# 09811) (A 1; S 1)

(Staff: M. Schroeder)

C 55

BREMBIL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 171 Paradise Flat Lane, near Rubicon Bay, El Dorado County; for an existing pier, boat lift, and four mooring buoys. (PRC 8402.1; RA# 16911) (A 5; S 1) (Staff: M. Schroeder)

C 56

TEACHERS BEACH ASSOCIATION (LESSEE): Consider continuation of rent for Lease No. PRC 4899.1, a General Lease - Recreational Use, of sovereign land located in Tomales Bay, Marin County; for an existing pier, boat hoist, float, boat shed, deck, groin, retaining wall, stairs, access road, grass area, stem, ramp, and three pilings. (PRC 4899.1) (A 10; S 2) (Staff: D. Simpkin)

INDEX (CONTINUED)

PAGE

C 57

HELIO A. FIALHO AND THERESE S. FIALHO, TRUSTEES OF THE FIALHO FAMILY TRUST; AND BRIAN J. METTLER (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 1610 and 1620 North Lake Boulevard, Tahoe City, Placer County; for an existing joint-use pier and one mooring buoy previously authorized by the Commission and an existing boat lift and three mooring buoys not previously authorized by the Commission. (PRC 5561.1; RA# 09512) (A 1; S 1) (Staff: B. Terry)

C 58

TAHOE MEADOWS, A CORPORATION (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to Assessor's Parcel Number 029-090-01, city of South Lake Tahoe, El Dorado County; for 22 existing mooring buoys, an enclosed swim area, swim float, and two marker buoys previously authorized by the Commission, and 17 existing mooring buoys not previously authorized by the Commission. (PRC 4268.1;

RA# 16811) (A 5; S 1) (Staff: B. Terry)

C 59

JONATHAN S. KITCHEN AND NINA HATVANY, TRUSTEES OF THE JONATHAN S. KITCHEN AND NINA HATVANY DECLARATION OF TRUST DATED APRIL 29, 1999 (LESSEES); RICHARD KENT LEDBETTER II AND JULIE RAE LEDBETTER, TRUSTEES OF THE LEDBETTER REVOCABLE TRUST DATED OCTOBER 8, 2007 (APPLICANTS): Consider acceptance of a quitclaim deed for Lease No. PRC 7937.9, a Recreational Pier Lease, and application for a General Lease -

Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 656 Olympic Drive, Tahoe City, Placer County; for two existing mooring buoys. (PRC 7937.1;

RA# 12312) (A 1; S 1) (Staff: B. Terry)

INDEX (CONTINUED)

PAGE

C 60

FOREXCO, INC. (ASSIGNOR); INNEX CALIFORNIA, INC. A TEXAS CORPORATION (ASSIGNEE): Consider application for the assignment of Lease No. PRC 8472.1, a General Lease - Right-of-Way Use, of sovereign land located in the Eel River, near Alton, Humboldt County; for an existing 6.625-inch diameter high pressure natural gas steel pipeline. (PRC 8472.1; RA# 22711) (A 1; S 2)

(Staff: B. Terry)

C 61

LORRAINE J. BRIGGS, TRUSTEE, BRIGGS FAMILY TRUST; BONNIE LYNN ANDERSON; COLEEN A. NELSON, AS CO-TRUSTEE FOR THE JAMES AND COLEEN NELSON TRUST DATED MARCH 19, 2004 (LESSEES); RAY MAYER AND ROBIN MAYER (APPLICANTS): Consider termination of Lease No. PRC 2336.9, a Recreational Pier Lease, and application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 6730 Powder Horn Lane, near Tahoma, Placer County; for an existing pier previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission. (PRC 2336.1; RA# 11012) (A 1; S 1) (Staff: B. Terry)

C 62

LAKE POINT PLANNED UNIT DEVELOPMENT HOMEOWNERS ASSOCIATION (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to Assessor's Parcel Number 117-140-017, Tahoe Vista, Placer County; for an existing pier, boat lift, rock jetty, and two mooring buoys. (PRC 4198.1; RA# 18411) (A 1; S 1) (Staff: B. Terry)

C 63

TAHOE PINES HOMEOWNERS ASSOCIATION (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, near Tahoe Pines, Placer County; for an existing pier. (PRC 5290.1; RA# 25809) (A 1; S 1) (Staff: B. Terry)

INDEX (CONTINUED)

PAGE

C 64

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION (APPLICANT): Consider application for a General Lease - Public Agency Use of sovereign land located on the Inglenook Fen-Ten Mile Dunes Natural Preserve, in MacKerricher State Park, near the city of Fort Bragg, Mendocino County; for temporary ingress and egress of State-owned sovereign land. (W 26660; RA# 21212) (A 2; S 2)

(Staff: B. Terry)

CENTRAL REGION

C 65

DELTA WETLAND PROPERTIES, AN ILLINOIS GENERAL PARTNERSHIP (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Mokelumne River adjacent to Assessor's Parcel Number 069-030-35, near the city of Isleton, San Joaquin County; for an existing uncovered floating boat dock, gangway, and five pilings. (PRC 5275.1; RA# 16712) (A 15; S 5)

(Staff: R. Boggiano)

C 66

MOKELUMNE VILLAGE HOMEOWNERS ASSOCIATION, A CALIFORNIA CORPORATION (APPLICANT): Consider application for a General Lease - Protective Structure Use, of sovereign land located in the Mokelumne River, adjacent to 305, 309, 317, and 401 Mokelumne River Drive, near the city of Lodi, San Joaquin County; for existing bank protection. (PRC 7981.9; RA# 17712) (A 10; S 5)

(Staff: R. Boggiano)

C 67

VENOCO, INC. (ASSIGNOR); VINTAGE PRODUCTION CALIFORNIA, LLC (ASSIGNEE): Consider application for the assignment of lease, amendment of lease, and revision of rent for Lease No. PRC 7493.1, a General Lease - Right-of-Way Use, of sovereign land located in Old River, at Union Island, near the city of Tracy, Contra Costa and San Joaquin counties; for an existing 12-inch diameter natural gas pipeline. (PRC 7493.1; RA# 18812) (A 31; S 16)
(Staff: R. Boggiano)

INDEX (CONTINUED)

PAGE

C 68

VENOCO, INC. (ASSIGNOR); VINTAGE PRODUCTION CALIFORNIA, LLC (ASSIGNEE): Consider application for the assignment of lease, amendment of lease for Lease No. PRC 3978.1, a General Lease - Right-of-Way Use, of sovereign land located in Suisun Bay, near the city of Pittsburg, Contra Costa and Solano counties; for one existing four-inch diameter condensate steel pipeline and one 12-inch diameter natural gas steel pipeline. (PRC 3978.1; RA# 18912) (A 8, 11; S 4, 7) (Staff: R. Boggiano)

C 69

VALERO REFINING COMPANY OF CALIFORNIA (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in the Carquinez Strait, adjacent to 3400 East 2nd Street, city of Benicia, Solano and Contra Costa counties; for an existing effluent discharge pipeline and two existing petroleum pipelines. (PRC 3811.1; RA# 32111) (A 11; S 7) (Staff: V. Caldwell)

C 70

CITY OF PACIFICA (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in the Pacific Ocean, adjacent to 528 to 572 Esplanade Avenue, City of Pacifica, San Mateo County; for an existing rock revetment. (PRC 8438.9; RA# 15612) (A 22; S 13) (Staff: R. Collins)

C 71

SUSAN M. GRAY, AS SUCCESSOR TRUSTEE OF THE SMITH 1990 LIVING TRUST (LESSEE): Consider revision of rent to Lease No. PRC 7971.1, a General Lease - Protective Structure Use, of sovereign land located in the Pacific Ocean adjacent to 4660 Opal Cliff Drive, near the city of Santa Cruz, Santa Cruz County; for an existing seawall and plugged seacave. (PRC 7971.1) (A 29; S 17)

(Staff: K. Foster)

INDEX (CONTINUED)

PAGE

C 72

CALIFORNIA HIGH SPEED RAIL AUTHORITY (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in the San Joaquin River, near the unincorporated community of Herndon, Madera and Fresno counties; for the construction of a new electric-powered high speed, steel-wheel-on-steel-rail train system and steel truss bridge crossing. (W 26378.1;

RA# 08012) (A 5, 23, 35; S 14) (Staff: C. Hudson)

C 73

INVESTORS OF KING ISLAND, INC. (APPLICANT): Consider termination of Lease No. PRC 6846.1, a General Lease - Commercial Use, and Lease No. PRC 6939.1, a General Lease - Right-of-Way Use, and application for a General Lease - Commercial Use, of filled and unfilled sovereign land located in Old River, adjacent to San Joaquin County's Assessor Parcel Number 129-190-02 and Contra Costa County's Assessor Parcel Number 001-101-007, near Byron; for seven existing floating boat docks, a bridge, and roadway right-of-way, fill, and bank protection previously authorized by the Commission and three existing floating boat docks, a removable water intake float, and bank protection not previously authorized by the Commission. (PRC 6846.1; RA# 11403) (A 13; S 5) (Staff: N. Lavoie)

C 74

CARQUINEZ REGIONAL ENVIRONMENTAL EDUCATION CENTER, INC. (APPLICANT): Consider application for a General Lease - Public Agency Use, of filled sovereign tidelands located along the southern shore of the Carquinez Straight, within the town of Crockett, Contra Costa County; for an existing Horticulture Center consisting of a 24' x 50' greenhouse with appurtenant utilities, two equipment storage sheds, material bins, shaded plant tables, and chain-link and barbed wire fence.

(PRC 7956.9; RA# 11912) (A 11; S 7) (Staff: S. Paschall)

INDEX (CONTINUED)

PAGE

C 75

U.S. BORAX, INC. (LESSEE): Consider revision of rent for Lease No. PRC 2976.1, a General Lease - Industrial Use, of sovereign land in the bed of Owens Lake, Inyo County; for a mineral processing site, water wells, an access road, solar evaporating ponds, and an electrical transmission facility. (PRC 2976.1) (A 26; S 18)

(Staff: D. Simpkin)

SOUTHERN REGION

C 76

CITY OF VENTURA (AKA, SAN BUENAVENTURA) (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in the Pacific Ocean, in Pierpont Bay, City of Ventura, Ventura County; for an existing groin and spur groin. (PRC 7350.9; RA# 12612) (A 37; S 19) (Staff: R. Collins)

C 77

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (LESSEE): Consider amendment to Lease No. PRC 8129.9, a General Lease - Public Agency Use, of sovereign land located in the Burton Mesa Ecological Reserve, near the City of Lompoc, Santa Barbara County; to add two parcels of land acquired by the California State Lands Commission subsequent to the authorization of this lease.

(PRC 8129.9) (A 35; S 19) (Staff: R. Collins)

INDEX (CONTINUED)

PAGE

C 78

MICHAEL SHUTT AND CHRISTINE D. SHUTT, AS TRUSTEES, OR ANY SUCCESSOR TRUSTEE, UNDER THAT CERTAIN DECLARATION OF TRUST NAMED MICHAEL SHUTT AND CHRISTINE D. SHUTT FAMILY TRUST, CREATED BY MICHAEL SHUTT AND CHRISTINE D. SHUTT, AS TRUSTORS, DATED SEPTEMBER 8, 2006 (APPLICANT): Consider rescission of approval of Lease No. PRC 9039.9 a General Lease - Recreational and Protective Structure Use and an application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Colorado River, adjacent to 1170 Beach Drive, City of Needles, San Bernardino County; for existing concrete stairs with railing and appurtenances, rock walls, concrete patios, landing, and riprap. (PRC 9039.9;

RA# 23411) (A 33; S 16) (Staff: R. Collins)

C 79

LARRY L. LARGE (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Colorado River, adjacent to 1126 Beach Drive, City of Needles, San Bernardino County; for existing riprap bankline, concrete stairs, rock walls, stacked block retaining wall, concrete patio with railing, and appurtenances. (W 26555; RA# 23411) (A 33; S 16)
(Staff: R. Collins)

C 80

MICHAEL V. HAMMILL AND KIM E. HAMMILL (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Colorado River, adjacent to 1130 Beach Drive, City of Needles, San Bernardino County; for existing riprap bankline, concrete stairs, rock walls, concrete patio, and a rock retaining wall. (W 26606; RA# 02212) (A 33; S 16)

(Staff: R. Collins)

INDEX (CONTINUED)

PAGE

C 81

JAMES HUNTER AND TYREE T. HUNTER, TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE J. AND T. HUNTER FAMILY TRUST, DATED JULY 12, 1990, AND ANY AMENDMENTS THERETO (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Colorado River, adjacent to 1162 Beach Drive, City of Needles, San Bernardino County; for existing riprap bankline, concrete stairs with railing and appurtenances, concrete patio, planter area, and rock retaining walls. (W 26626; RA# 09312) (A 33; S 16) (Staff: R. Collins)

C 82

RUSSELL JOSEPH CHIDLEY AND SUSAN ELIZABETH CHIDLEY (APPLICANT): Consider application for a General Lease - Protective Structure Use, of sovereign land located in the Colorado River, adjacent to 1190 Beach Drive, City of Needles, San Bernardino County; for existing riprap bankline. (W 26562; RA# 25311)

(A 33; S 16) (Staff: R. Collins)

C 83

GUIDED DISCOVERIES, INC. (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Pacific Ocean adjacent to Button Shell Beach, Santa Catalina Island, Los Angeles County; for an existing pier, ramp, floats, swim lines, wooden block tie-ups, and four moorings. (PRC 6440.1;

RA# 17412) (A 54; S 27) (Staff: A. Franzoia)

C 84

ARNOLD AND SHIRLEY OSTROW, TRUSTEES OF THE OSTROW FAMILY TRUST (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Huntington Harbour, Huntington Beach, Orange County; for an existing dock, access ramp, and cantilevered deck. (PRC 7693.9; RA# 21912) (A 67; S 35) (Staff: A. Franzoia)

INDEX (CONTINUED)

PAGE

C 85

DCOR LLC (LESSEE): Consider revision of rent to Lease No. PRC 4017.1, a General Lease - Right-of-Way Use, of sovereign land located in the Santa Barbara Channel from the unincorporated community of Sea Cliff to the oil drilling and production Platform A in the Outer Continental Shelf, Ventura and Santa Barbara counties; for existing oil and gas pipelines. (PRC 4017.1) (A 6; S 3)

(Staff: D. Oetzel)

C 86

LESTER ALTON WALKER, III AND MARIA ELENA WALKER, TRUSTEES OF THE WALKS ON WATER TRUST, DATED MARCH 8, 2011 (APPLICANTS): Consider application for a General Lease - Protective Structure Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent to 3322 Venture Drive, city of Huntington Beach, Orange County; for existing bulkhead protection. (PRC 8299.9; RA# 13311) (A 67; S 35) (Staff: S. Paschall)

C 87

ROBERT O. BURGGRAF AND MASAKO BURGGRAF, TRUSTEES OF THE BURGGRAF FAMILY TRUST DATED JULY 29, 1991 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent to 3522 Venture Drive, city of Huntington Beach, Orange County; for replacement of an existing boat dock and access ramp previously authorized by the Commission, and an existing cantilevered deck not previously authorized by the Commission. (PRC 7610.1; RA# 18011)

(A 67; S 35) (Staff: S. Paschall)

INDEX (CONTINUED)

PAGE

C 88

CITY OF HUNTINGTON BEACH (APPLICANT): Consider an Agreement for Abandonment of sewer pipelines, sewer manholes, and a sewer lift station; termination of Lease No. PRC 5769.9, a General Lease - Public Agency Use, rescission of approval for Lease No. PRC 8738.9, a General Lease - Public Agency Use, and application for a General Lease - Public Agency Use, of sovereign land, near the city of Huntington Beach, Orange County; for an existing bridge, 14-inch diameter water pipeline, the construction of two 6-inch diameter sewer laterals, and the replacement of an existing 8-inch diameter sewer force main with a new 12-inch sewer force main. (PRC 5769.9, PRC 8738.9, W 26638; RA# 09112) (A 72; S 34)
(Staff: D. Simpkin)

C 89

CALIFORNIA DEPARTMENT OF TRANSPORTATION (APPLICANT): Consider application for a right-of-way map pursuant to Section 101.5 of the Streets and Highways Code, of sovereign land located adjacent to Pacific Coast Highway at Las Tunas Beach, city of Malibu, Los Angeles County; for a right-of-way including the reconstruction and repair of existing rock slope protection. (W 26667; RA# 23512)

(A 50; S 27) (Staff: D. Simpkin)

SCHOOL LANDS

C 90

KARLO RANCH, LLC (LESSEE): Consider revision of rent to Lease No. PRC 6962.2, a General Lease - Grazing Use, of State school and lieu land located in portions of Sections 21, 28, 32, 33, and 34, Township 31 North, Range 14 East, MDM; and Section 36, Township 31 North, Range 14 East, MDM, near Honey Lake, Lassen County; for cattle grazing. (PRC 6962.2) (A 3; S 1)
(Staff: C. Hudson)

INDEX (CONTINUED)

PAGE

C 91

SOUTHERN CALIFORNIA EDISON COMPANY (LESSEE): Consider application for an amendment to Lease No. PRC 2679.2, a General Lease - Right-of-Way Use, of State indemnity school lands located southeast of Barstow, San Bernardino County; to add additional parcels to the land description, to revise the annual rent, and to revise the authorized improvements to reflect a previously unauthorized upgrade of an existing overhead electrical distribution line from 12 kV to 33 kV. (PRC 2679.2; RA# 24411) (A 34; S 18) (Staff: J. Porter)

C 92

UNITED STATES OF AMERICA, AND ITS ASSIGNS, ACTING BY AND THROUGH THE BUREAU OF LAND MANAGEMENT (APPLICANT): Consider application for a General Lease - Public Agency Use, of State school lands located in Section 16, Township 7 North, Range 3 East, SBM, south of Newberry Springs, San Bernardino County; for approximately 4,200 linear feet of four-strand barbed wire livestock fencing within a 20-foot wide corridor. (PRC 8410.2; RA# 32211)

(A 34; S 18) (Staff: J. Porter)

C 93

SOUTHERN CALIFORNIA EDISON COMPANY (LESSEE): Consider application for an amendment to Lease No. PRC 2701.2, a General Lease - Right-of-Way Use, of State school lands located northeast of Trona, Inyo County; to add additional parcels to the land description, to revise the annual rent, and to revise the authorized improvements to reflect a previously unauthorized upgrade of an existing overhead electrical distribution line from 12 kV to 33 kV. (PRC 2701.2; RA# 12812)

(A 34; S 18) (Staff: J. Porter)

INDEX (CONTINUED)

PAGE

ENVIRONMENTAL PLANNING AND MANAGEMENT

C 94

CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider authorizing the Executive Officer to sign the renewal of the Memorandum of Understanding/Conservation Agreement to ensure the conservation of a State endangered plant species, the Tahoe Yellow Cress, located exclusively at Lake Tahoe, Placer and El Dorado Counties. (W 30087) (A 4; S 1) (Staff: J. Ramos)

MINERAL RESOURCES MANAGEMENT

C 95

CITY OF LONG BEACH (APPLICANT): Consider prior approval of subsidence costs for vertical measurements and studies for the Fiscal Year 2013-2014, City of Long Beach, Los Angeles County. (W 10443) (A 54, 55; S 27, 28)

(Staff: R. B. Greenwood)

C 96

CITY OF LONG BEACH (APPLICANT): Consideration of the Long Beach Unit Program Plan (July 1, 2013 through June 30, 2018) and the Annual Plan (July 1, 2013 through June 30, 2014), Long Beach Unit, Wilmington Oil Field, Los Angeles County. (W 17168) (A 54; S 27) (Staff: H. Rassamdana, E. Tajer, A. Reid,

M. Steinhilber)

C 97

SCRIPPS INSTITUTION OF OCEANOGRAPHY (APPLICANT): Consider approval of a Non-Exclusive Geological Survey Permit on tide and submerged lands under the jurisdiction of the California State Lands Commission. (W 6005.138)

(A & S: Statewide) (Staff: R. B. Greenwood)

INDEX (CONTINUED)

PAGE

ADMINISTRATION

C 98

CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider authorizing the Executive Officer to execute agreements for Budget Fiscal Year 2013-2014.

(C2013-01, C2013-02, C2013-03, C2013-04) (A & S: Statewide) (Staff: D. Brown, A. Abeleda)

C 99

CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider authorizing the Executive Officer to execute agreements and authorize expenditures from Kapiloff Land Bank funds for the management of Bolsa Chica Lowlands Restoration Project for Budget Fiscal Year 2013-2014.

(C2013-04, C2013-05, C2013-06)

(A & S: Statewide) (Staff: J. Trout, D. Brown, A. Abeleda)

LEGAL

C 100

CALIFORNIA STATE LANDS COMMISSION: Consider amendment of the Current Delegation of Authority to California State Lands Commission Staff to expand the authority of the Executive Officer to approve continuation of rent actions if the annual rent or other consideration is being neither increased nor decreased and no other Commission action on the lease is being considered. (W 9301) (A & S: Statewide) (Staff: C. Connor, P. Griggs)

57

MOTION

61

VOTE

61

EXTERNAL AFFAIRS

GRANTED LANDS

C 101

CITY OF PITTSBURG (APPLICANT): Consider approval of the new General Lease - Industrial Use, of legislatively granted tide and submerged land located in the Pacific Ocean, in the Suisun Bay, City of Pittsburg, Contra Costa County; for port industrial facilities. (G 02-03) (A 14; S 7) (Staff: S. Guerrieri)

INDEX (CONTINUED)

PAGE

C 102

CITY OF LONG BEACH (APPLICANT): Consider approval of the proposed expenditure of tidelands oil revenue funds, in an amount not to exceed \$14,331,500 by the City of Long Beach for capital improvement projects located within legislatively-granted sovereign land in the City of Long Beach, Los Angeles County.

(G 05-03.10) (A 54; S 25, 27) (Staff: S. Guerrieri)

LEGISLATION AND RESOLUTIONS

C 103

CALIFORNIA STATE LANDS COMMISSION: Consider supporting federal legislation that would enact the Realize America's Maritime Promise Act, which would require the total budget resources for expenditures from the Harbor Maintenance Trust Fund for harbor maintenance programs to equal the level of receipts plus interest credited to such Fund for that fiscal year. (House Bill 335, Representative Boustany) (A & S: Federal) (Staff: S. Pemberton)

C 104

CALIFORNIA STATE LANDS COMMISSION: Consider supporting federal legislation that would enact the Federal Land Transaction Facilitation Act Reauthorization of 2013, which would reauthorize, until July 25, 2021, the program for the completion of appraisals and satisfaction of other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans under the Federal Land Policy and Management Act of 1976. (Senate Bill 368, Senator Heinrich, Martin) (A & S: Federal) (Staff: S. Pemberton)

INDEX (CONTINUED)

PAGE

C 105

CALIFORNIA STATE LANDS COMMISSION: Consider supporting federal legislation that would enact the Coastal State Climate Change Planning Act, which would amend the Coastal Zone Management Act to require the Secretary of Commerce to establish a coastal climate change adaptation planning and response program. This program would provide assistance to coastal states to voluntarily develop coastal climate change adaptation plans and provide financial and technical assistance and training to enable coastal states to implement plans through the States' enforceable policies. (House Bill 764, Representative Capps)

(A & S: Federal) (Staff: S. Pemberton)

C 106

CALIFORNIA STATE LANDS COMMISSION: Consider sponsoring state legislation that would require trustees of legislatively granted public trust lands to assess the impacts of sea level rise on natural and manmade resources and facilities located on trust lands. (AB 691, Muratsuchi) (A & S: Statewide) (Staff: S. Pemberton)

C 107

CALIFORNIA STATE LANDS COMMISSION: Consider sponsoring state legislation to eliminate, notwithstanding any other provision of law, the requirement of a lease from the State Lands Commission for dredging on granted public trust lands wherein minerals are reserved to the State, if the dredged material is disposed at an approved onshore or offshore site and not sold. (AB 727, Stone) (A & S: Statewide) (Staff: S. Pemberton)

INDEX (CONTINUED)

PAGE

C 108

CALIFORNIA STATE LANDS COMMISSION: Consider supporting state legislation that would increase the maximum annual assessment from \$0.065 to \$0.08 per barrel of crude oil or petroleum products and would allow the Administrator to adjust the maximum fee annually based on the percentage increase in the California Consumer Price Index, as well as capping the nontank vessel fee at \$3,500, and transferring \$0.003 of the per barrel of crude oil or petroleum products fee collected, and \$250 of the per nontank vessel fee collected, to fund the Oiled Wildlife Care Network. (AB 881, Chesbro) (A & S: Statewide) (Staff: S. Pemberton)

C 109

CALIFORNIA STATE LANDS COMMISSION: Consider supporting state legislation that would prohibit stores that have a specified amount of dollar sales or retail floor space from providing single-use carryout bags and would require these stores to make recycled paper, compostable, or reusable bags available for purchase by customers. The legislation also sets standards for the definition of "reusable," requires stores to provide plastic bag recycling collection bins, and creates a reusable bag certification program administered by the Department of Resources Recycling and Recovery. (AB 158, Levine) (A & S: Statewide) (Staff: S. Pemberton)

C 110

CALIFORNIA STATE LANDS COMMISSION: Consider supporting state legislation that would, as of January 1, 2015, prohibit stores that have a specified amount of dollar sales or retail floor space from providing a single-use carryout bag to a customer and would require these stores to meet other requirements regarding providing recycled paper bags, compostable bags, or reusable bags to customers. (SB 405, Padilla) (A & S: Statewide) (Staff: S. Pemberton)

INDEX (CONTINUED)

PAGE

C 111

CALIFORNIA STATE LANDS COMMISSION: Consider supporting state legislation that would remove the January 1, 2014 sunset date on the State's Voluntary Turn In Program, which allows recreational vessel owners to turn in their derelict and dilapidated vessels to a public agency for the purpose of disposal. (SB 122, Lieu)

(A & S: Statewide) (Staff: S. Pemberton)

V. INFORMATIONAL

112

THE FOLLOWING ITEM IS INFORMATIONAL ONLY AND WILL BE DISCUSSED AND ACTED UPON IN A CLOSED SESSION:

CALIFORNIA STATE LANDS COMMISSION: Notification that, in closed session, a discussion will take place and instruction will be given to staff regarding negotiations over amendments to and assignment of various oil and gas leases of state lands (PRCs 735, 3120, 3242 and 3314) currently held by Venoco, Inc. Negotiating parties: Venoco, Inc., State Lands Commission; Under negotiation: price and terms.

VI. REGULAR CALENDAR

113

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, 62
GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY,
STATE LANDS COMMISSION (PARTIES): Consider adoption
of a Negative Declaration, approval of the Tomales
Bay Vessel Management Plan, and authorization to
become a permittee of the National Oceanic and
Atmospheric Administration, Gulf of the Farallones
National Marine Sanctuary for leasing and managing
the mooring buoys in Tomales Bay,
Marin County. (W 26271) (A 1; S 2) (Staff: E. Gillies,
G. Kato)

MOTION 72
VOTE 72

INDEX (CONTINUED)

	<u>PAGE</u>
114	
CALIFORNIA STATE LANDS COMMISSION (INFORMATIONAL): Staff update on various activities involving sovereign lands located on the dry lakebed of Owens Lake, near Lone Pine, Inyo County, including the proposed Phase 7a dust control project, proposed solar demonstration project, groundwater evaluation project, and the Owens Lake Master Plan process. (A 34; S 17) (Staff: C. Connor, J. Deleon)	72
VII. PUBLIC COMMENT	112
VIII. COMMISSIONERS' COMMENTS	
IX. CLOSED SESSION: AT ANY TIME DURING THE MEETING THE COMMISSION MAY MEET IN A SESSION CLOSED TO THE PUBLIC TO CONSIDER THE FOLLOWING PURSUANT TO GOVERNMENT CODE SECTION 11126:	
A. LITIGATION.	
THE COMMISSION MAY CONSIDER PENDING AND POSSIBLE LITIGATION PURSUANT TO THE CONFIDENTIALITY OF ATTORNEY-CLIENT COMMUNICATIONS AND PRIVILEGES PROVIDED FOR IN GOVERNMENT CODE SECTION 11126(e).	
1. THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER GOVERNMENT CODE SECTION 11126(e)(2)(A):	
State of California, acting by and through the State Lands Commission v. Venoco, Inc.	
Seacliff Beach Colony Homeowners Association v. State of California, et al.	
State of California, acting by and through the State Lands Commission v. Singer	
State of California, acting by and through the State Lands Commission v. Crockett Marine Services, et al.	

INDEX (CONTINUED)

PAGE

Defend Our Waterfront v. California State Lands
Commission, et al.

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

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

San Francisco Baykeeper v. State Lands Commission

City of Los Angeles v. Great Basin Unified Air Pollution
Control District et. al.

City of Los Angeles v. California Air Resources Board et.
Al

Keith Goddard v. State of California

California State Lands Commission v. Edward L. Clark Jr
Everardo Acevedo, et al. v. Jorge A. Diaz, et al.

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

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS.

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

1. Consider and provide instructions to negotiators
regarding negotiations over amendments to and assignment
of various oil and gas leases of state lands
(PRCs 735, 3120, 3242 and 3314) currently held by Venoco,
Inc. Negotiating parties: Venoco, Inc., State Lands
Commission; Under negotiation: price and terms.

PROCEEDINGS

1
2
3 ACTING CHAIRPERSON GARLAND: I call this meeting
4 of the State Lands Commission to order. All the
5 representatives of the Commission are present. I'm Chris
6 Garland, the Lieutenant Governor's Chief of Staff. And
7 I'm joined today by the State Controller's designee, Alan
8 Gordon, and Karen Finn representing the Department of
9 Finance.

10 For the benefit of those in the audience, the
11 State Lands Commission managers state property interests
12 in over five million acres of land, including mineral
13 interests. Specifically, the Commission has jurisdiction
14 in filled and unfilled tide and submerged lands, navigable
15 waterways, and the state's school lands.

16 The Commission also has responsibility for the
17 prevention of oil spills at marine oil terminals and
18 off-shore oil platforms and for prevention of the
19 introduction of marine invasive species into California's
20 marine waters.

21 Today we will hear requests and presentations
22 concerning the leasing, management, and regulation of
23 these public, sovereign, and school land property
24 interests and the activities occurring or proposed
25 thereon.

1 The first order of business will be the adoption
2 of the minutes from the Commission's February 22nd, 2013,
3 meeting.

4 May I have a motion to approve the minutes.

5 ACTING COMMISSION MEMBER GORDON: Move adoption.

6 ACTING COMMISSION MEMBER FINN: Second.

7 ACTING CHAIRPERSON GARLAND: And this is where we
8 remind us, because we're all designees, we can only, two
9 of us, vote.

10 EXECUTIVE OFFICER LUCCHESI: Yes. Between the
11 Lieutenant Governor's office and the Controller's officer,
12 only one of you may vote pursuant to the Government Code.

13 ACTING CHAIRPERSON GARLAND: Excellent. Thank
14 you, Ms. Lucchesi.

15 And so we've got a motion and a second. All
16 those in favor?

17 ACTING COMMISSION MEMBER FINN: Aye.

18 ACTING CHAIRPERSON GARLAND: Aye.

19 It's 2 and 0.

20 The next order of business is the Executive
21 Officer's report.

22 Ms. Lucchesi, may we have your report.

23 EXECUTIVE OFFICER LUCCHESI: Yes. First I want
24 to just acknowledge and welcome Karen Finn from the
25 Department of Finance and sitting on our Commission today;

1 and also acknowledge that this is Mark Meier's first
2 meeting as the State Lands Commission new chief counsel.
3 So I want to acknowledge that.

4 (Applause)

5 EXECUTIVE OFFICER LUCCHESI: Next I wanted to
6 report that our school lands are experiencing an increase
7 in revenue received on behalf of the State Teachers
8 Retirement Fund.

9 The first increase in revenue involves the
10 Western Mesquite Mine. In July 1997 the Commission
11 accepted title to 658 acres of lands adjacent to the
12 Mesquite Gold Mine in Imperial County as part of the
13 California Desert Protection Act land exchange. Following
14 mineral exploration, Western Mesquite Mines was issued a
15 preferential lease for the State Lands to expand their
16 gold mine complex to the north. The mine resumed full
17 operations in 2007. Ore production began on state
18 property in December of 2012.

19 For the current fiscal year, royalty to STRS will
20 amount to nearly \$3.5 million. School land mineral
21 royalties in prior years had been averaging a little over
22 \$100,000.

23 Oil royalties from school lands also continued to
24 increase. Sustained prices for oil have resulted in
25 increased drilling activities on the Commission's school

1 land holdings near Bakersfield. Current year revenues are
2 expected to exceed \$2 million.

3 So overall, total deposits of net revenues to the
4 State Teachers Retirement Fund this year will approach \$9
5 million, which is a 60 percent increase over that of
6 recent years.

7 Next, pursuant to and consistent with direction
8 from the lieutenant governor, work on upgrading the lease
9 database is progressing well. A consultant is assisting
10 staff in preparing a comprehensive needs assessment and
11 Scope of Work for the procurement, which we expect to be
12 on the street in early May. We expect a contract to be
13 awarded in June.

14 Next I want to mention the Long Beach Unit
15 program plan, annual plan, and safety audit, which is
16 Consent Item 96. The city of Long Beach as the operator
17 of the Long Beach unit is required by statute to submit an
18 annual plan to the Commission each year for its
19 consideration. Furthermore, every two years in addition
20 to the annual plan the city must also submit a separate
21 program plan, which is a description of the development
22 and operational activities for the next five years.

23 These two plans are on today's consent calendar,
24 Item 96, and have been reviewed by State lands staff, who
25 have found the plans meet the consistency requirements and

1 also meet the safety and environmental criteria relating
2 to significant risk.

3 The adequacy of the safety and environment
4 condition of the unit is in part an outcome resulting from
5 the Commission's direction at its April 2011 meeting that
6 an updated safety and spill prevention audit be performed
7 by Commission staff. The Commission felt that the safety
8 and environmental adequacy of the Long Beach unit had not
9 been validated since 2002, and the Commission ordered the
10 follow-up audit to be completed in 15 months.

11 Staff began the audit in January 2012 and it was
12 completed in March 2013. Staff found overall that the
13 unit safety and environmental condition was significantly
14 better than that found in 2002. Actionable items dropped
15 from 3,197 in 2002 to 1,506 in 2013, a 53 percent
16 reduction.

17 The high risk incidences had dropped even
18 greater, from nearly 200 in 2002 to only two in 2013, both
19 which were rectified immediately.

20 Though a large number of items were still found,
21 most were of lower priority and lower risk, such as
22 missing instructions or labels or errors in the
23 documentation of systems on engineering plans and drawings
24 that pose little immediate risk.

25 These lower priority items are currently being

1 addressed, with many already remedied; and all items are
2 required to be completely corrected within 180 days.

3 The substantial decrease in action items
4 demonstrates the value of performing these
5 Commission-conducted safety audits, as well as the THUMS
6 field contractor, and the city's continuing commitment to
7 heighten the safety condition of the Long Beach unit.

8 Finally, I want to acknowledge and thank our
9 staff members who worked tirelessly on this audit. The
10 Long Beach unit is the equivalent of seven facilities, and
11 to complete the safety and environmental audit within 15
12 months is not an easy task. Specifically, our staff in
13 our Long Beach offices: Mark Steinhilber, David
14 Rodriguez, Patrick Lowery, Steve Staker, Darryl Hutchins,
15 David Calderon, and the late Craig Webster, who passed
16 away during the audit. They all worked very, very hard to
17 complete that audit, and I want to acknowledge and thank
18 them.

19 Next I want to report to the Commission that the
20 Joint Legislative Audit Committee has scheduled an
21 oversight hearing on promoting efficiencies in state
22 government implementation of state auditors
23 recommendations next week on May 1st. The Committee has
24 requested staff's attendance at the hearing to discuss the
25 status of the Commission's implementation of the Bureau of

1 State Audits' recommendations. And we will be attending
2 and prepared to report the status of our implementation.
3 And I will report back to the Commission members on the
4 outcome of that Committee hearing.

5 Next I want to report that -- as I mentioned at
6 the last Commission meeting, Commission staff is in the
7 middle of a rulemaking process to update and amend three
8 sections of our code of regulations. These sections
9 pertain to definitions, categories of leases or permits,
10 and rental. This regulatory update is being done in
11 response to a number of factors including legislative
12 changes and the BSA audit recommendations.

13 The public comment period for the proposed
14 regulations ended April 15th. Staff received more than
15 300 written comments, and staff also responded to numerous
16 telephone calls. The vast majority of comments came from
17 residents at Lake Tahoe.

18 Staff held a public hearing on April 16th at the
19 Commission's offices here in Sacramento. And while there
20 were approximately 25 people in attendance, 11 testified.

21 Based on the written comments received and the
22 oral testimony heard at the public hearing, the public's
23 primary concerns of the proposed regulations appear to be
24 related around definitions, rent being charged, the use of
25 administration fee, and the use of the 9 percent of

1 appraised land value method for setting rent for private
2 piers and buoys. Staff is currently in the process of
3 preparing responses to the comments received pursuant to
4 the regulatory rulemaking process.

5 Next, two more items. I promise I'll make them
6 quick. The next item I just want to call to the
7 Commission's attention is Consent Item 39. This is a
8 lease application that staff has been working on since
9 2009. And we finally finalized negotiations with the
10 commercial marina representative recently. And I really
11 want to acknowledge and thank Nick Lavoie, our staff
12 member who worked on this tirelessly for the last year to
13 bring this application to the Commission for its
14 consideration without any controversy today. So we
15 finalized negotiations and we're ready to move on with
16 that.

17 And, lastly, I want to acknowledge that recently
18 Marina Voskanian, our chief of our Mineral Resources and
19 Management Division, received an award from the Society of
20 Petroleum Engineers. The award was the 2013 Regional
21 Health, Safety, Security, Environment and Social
22 Responsibility Award. I want to acknowledge and
23 congratulate her on all of her hard work in receiving that
24 award. It's well deserved.

25 And that concludes my Executive Officer's report.

1 ACTING CHAIRPERSON GARLAND: Excellent.

2 The next order of business would be the adoption
3 of the consent calendar. But before we get there, are
4 there any items that have been removed?

5 EXECUTIVE OFFICER LUCCHESI: Yes.

6 Thank you.

7 The following items are removed from the agenda
8 to be heard at a later time: Consent Item 17, Consent
9 Item 54, and Consent items 103 through 111.

10 Items 100, 28, and 41 are moved to the regular
11 agenda.

12 ACTING COMMISSION MEMBER FINN: I'm sorry. Which
13 ones?

14 EXECUTIVE OFFICER LUCCHESI: So the following
15 items --

16 ACTING COMMISSION MEMBER FINN: Just moved to the
17 regular.

18 EXECUTIVE OFFICER LUCCHESI: -- moved to the
19 regular is Item 100, 28, and 41.

20 ACTING CHAIRPERSON GARLAND: Excellent.

21 Is there anyone in the audience who wishes to
22 speak on an item on the consent calendar?

23 If not, we'll take them as a group. C1 through
24 102 with the noted removals will be taken up as a group
25 for a single vote. We'll now proceed with the vote.

1 Do I have a motion?

2 ACTING COMMISSION MEMBER GORDON: Motion to pass
3 the consent calendar.

4 ACTING COMMISSION MEMBER FINN: Second.

5 ACTING CHAIRPERSON GARLAND: Excellent.

6 All those in favor?

7 ACTING COMMISSION MEMBER FINN: Aye.

8 ACTING COMMISSION MEMBER GORDON: Aye.

9 Oops. Scratch my vote.

10 Okay. Aye.

11 ACTING COMMISSION MEMBER FINN: And Aye.

12 ACTING CHAIRPERSON GARLAND: We have the
13 Controller and Finance voting Aye.

14 The consent calendar is approved.

15 All right. The next item of business would be
16 the items on the regular calendar. Why don't we start
17 with the lowest number and move up from there. So by my
18 accounting, that would be the original C28.

19 May we have the presentation.

20 EXECUTIVE OFFICER LUCCHESI: Yes. Colin Conner,
21 our Assistant Chief of our Land Management Division will
22 give a brief introduction to Item 28.

23 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
24 Can we call up the PowerPoint for that, please.

25 (Thereupon an overhead presentation was

1 presented as follows.)

2 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

3 I'm just going to provide some introductory
4 background basically on this, then let the applicant
5 address his concerns to the Commission.

6 First of all, for the record, my name is Colin
7 Connor. I'm the Assistant Chief of the Land Management
8 Division.

9 Good morning, commissioners, and welcome, Ms.
10 Finn.

11 Here's what we've got. This is Calendar Item No.
12 28. It's a general lease recreational use down in the
13 Delta.

14 --o0o--

15 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

16 This is a proposed -- right now there's an
17 existing dock. The action -- recommended action is
18 replacement of that with a proposed dock. This diagram
19 represents the proposed dock and the impact area. And
20 this is down near Isleton, Sacramento River.

21 --o0o--

22 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

23 This is an aerial photograph of it. It's 4765.
24 You can see it right there. I don't know if this has a
25 pointer on it, but it's the one with the large green yard

1 there.

2 --o0o--

3 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

4 And this is the existing dock which will be
5 replaced by the dock that was shown in the diagram right
6 there.

7 I'm now going to turn this over to Mr. Bruce
8 Cline, who is the applicant, who would like to address the
9 Commission.

10 ACTING CHAIRPERSON GARLAND: Thank you, Mr.
11 Cline.

12 MR. CLINE: Good morning, members of the
13 Commission. My name is Bruce Cline. I'm the homeowner at
14 17360 Grand Island Road.

15 First let me commend staff. Colin, Kim, and
16 Vicki have all been extremely helpful in their comments.
17 I appreciate their quick response so all my questions.

18 My issue is the impact area portion of the lease.
19 Ultimately I want my lease approved. It seems like a
20 relatively minor matter in terms of the lease that's --
21 the impact area that's being charged. It's my position
22 that in 2011, 2012 when leases were first applied to -- or
23 rental charges were first applied to leases of my type,
24 that when the Statute 6503.5 went forward, it authorized
25 lease -- or rental for the fixed area of the dock. It did

1 not authorize a rental charge for the impact area.

2 So what has occurred on our dock and others on
3 our island -- and I'm the president of the homeowners
4 association and have submitted comments to staff in the
5 comment period that your Executive Officer just referred
6 to. And ultimately the Commission may adopt this impact
7 area applicable to docks like mine. And if that were the
8 case, then I would have less of an objection.

9 But my concern is, at this time there is no
10 regulation in place that calls for an impact area on
11 private docks. And when the legislation went forward with
12 AB -- or SB 152, I've looked at the legislative history, I
13 see nothing in the legislative history that speaks to an
14 impact area. And when you look at the specific language
15 of the legislation, it says, "A recreational pier is a
16 fixed facility for the docking or mooring of boats. It
17 doesn't talk about impact area.

18 So it may --

19 ACTING COMMISSION MEMBER GORDON: Can I stop you
20 there for one second, if you'll address this as you go
21 forward.

22 As I look -- proposed -- oh, this is a proposed
23 amendment to regs. This has not been adopted yet --

24 EXECUTIVE OFFICER LUCCHESI: No.

25 ACTING COMMISSION MEMBER GORDON: -- 203?

1 MR. CLINE: That's correct.

2 EXECUTIVE OFFICER LUCCHESI: That's correct.

3 ACTING COMMISSION MEMBER GORDON: All right.

4 MR. CLINE: So the existing regs have provisions
5 for use but applicable to other types of leases. My
6 position is that we have a new animal here in terms of the
7 legislation that went forward to apply rental charges to
8 docks like mine and others on our island. And when the
9 Commission ultimately adopts regulations allowing impact
10 area, then I think -- and my lease has a provision that
11 says I will comply with regulations when they're
12 adopted -- then I'm okay.

13 But at this point, I'm not okay. And I do
14 disagree that there should be an impact charge on docks
15 like ours. Ultimately we'll be preparing before the
16 Commission, like we have on our comment period, and we'll
17 be asserting our position, and then ultimately the
18 Commission will make that decision.

19 It may seem like a really minor matter. I mean
20 I'm -- what my request is is that the Commission approve
21 my lease, that the Commission approve the lease, instead
22 of the amount of \$96, approve it in the matter of \$64. So
23 I mean it's almost funny to argue over \$30. However, when
24 you look at our island and the impact there, and other
25 people who may have some similar -- when I talked to

1 Conner about the issue, it's really about, well, does the
2 legislation allow it? I don't think it does.

3 So what I'm asking the Commission to do is
4 approve my lease and include the provision that it's \$64
5 until such time as the regulations are adopted allowing an
6 impact area charge. And in that case, to increase it to
7 the \$96.

8 ACTING CHAIRPERSON GARLAND: If I might.

9 EXECUTIVE OFFICER LUCCHESI: Go ahead.

10 ACTING CHAIRMAN GARLAND: While I appreciate your
11 point that the legislation is silent on impact area, and I
12 also appreciate your understanding of the reg process,
13 this is not something that is new for the Lands
14 Commission. The inclusion of impact areas has been kind
15 of a standard practice for this Commission in the past.
16 And while I appreciate that the regs are still in process
17 and we're likely to officially kind of codify that
18 inclusion of the impact area, this is a standard
19 procedure. Am I not correct?

20 EXECUTIVE OFFICER LUCCHESI: That's correct. If
21 I may just supplement what you're saying.

22 Pursuant to the Public Resources Code and then
23 our current regulations, the Commission has broad
24 discretion when issuing leases for the use of the state's
25 property. And so for the past 20 to 30 to 40 years, the

1 Commission's practice has been to include an impact area
2 as part of the lease premises when issuing leases. The
3 difference now is with the recent enact -- the recent
4 legislation of SB 152. And what that results in is a
5 number of persons, entities that previously had a
6 rent-free lease, that where those lease premises not only
7 include the physical structure but the impact area where
8 they could park their vessels and where the public would
9 be excluded from - that was not charged before SB 152 -
10 now it is being charged.

11 Our regulations process that is currently
12 ongoing, the main purpose of that is to update and clarify
13 and make more transparent our practices. It's not
14 changing -- with relation to the impact area, it is not
15 changing our practices.

16 And, again, I want to stress that current law and
17 our current regulations give the Commission broad
18 discretion in leasing its property and under what terms.

19 ACTING CHAIRPERSON GARLAND: And if I could add
20 that, to the speaker, the reg process as I understand it
21 should be completed by -- likely completed by when, Ms.
22 Lucchesi?

23 EXECUTIVE OFFICER LUCCHESI: Well, we are in the
24 middle of responding to comments now. We hope to bring
25 the proposed regulations package to the Commission for its

1 consideration and adoption by the end of the year.

2 ACTING CHAIRPERSON GARLAND: So what we're really
3 talking about here is -- and you've already acknowledged
4 that once the regulations are in place, you would feel
5 like you had to comply with those regulations and that --

6 MR. CLINE: Yes. Once it's adopted, I think that
7 that's fair. But, you know, I'll be back before the
8 Commission relative to private docks.

9 ACTING CHAIRPERSON GARLAND: Right.

10 MR. CLINE: And ultimately the Commission's going
11 to decide what it's going to decide to do. But let's not
12 get the cart before the horse is what I'm saying.

13 I think that -- I do disagree with staff's
14 position that the broad coverage under 2000 of the
15 regulations or other provisions of the regulations when it
16 talks about the broad discretion that the Commission has
17 relative to rents, I don't think that trumps the fact that
18 6305.5 specifically talks about a fixed area.

19 So let's take it step by step here and not just
20 apply existing regulations that were in place relative to
21 commercial projects to a new piece of legislation on
22 private residential docks.

23 ACTING CHAIRPERSON GARLAND: Would staff like to
24 respond to that? Or somebody? Anybody?

25 ASSISTANT CHIEF COUNSEL MEIER: Well, 6503.5 --

1 ACTING CHAIRPERSON GARLAND: Your mike.

2 ACTING COMMISSION MEMBER GORDON: I'd be
3 interested in hearing what the statute this gentleman just
4 referred to states.

5 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

6 I've got the Public Resources Code section here.
7 This is the broad discretion. This is the current -- and
8 this will not be changed as part of the regulatory package
9 that has been submitted to the Office of Administrative
10 Law. And this is what we're referring to and what the
11 Executive Officer was referring to.

12 We think that the current Public Resources Code
13 is very general with respect to here's what you can do.
14 And then, you know, obviously the regulations are intended
15 to implement that -- to clarify and implement. And that's
16 what we think we're doing.

17 Back when this last regulations were done, I
18 believe that the intent was that to identify or to
19 recognize the fact that the real estate market for
20 sovereign lands, and school lands, for that matter, is
21 different from the normal real estate market, and that
22 this provision was put in there to recognize the fact that
23 things could change there. I mean it's a totally
24 different thing.

25 I think Mr. Cline, I don't mean to put words in

1 his mouth, but he's -- you know, he's specifically saying
2 that the current regulations do not allow for us to
3 address an impact area. We think this provision, Section
4 2000, does.

5 ACTING COMMISSION MEMBER GORDON: I'm interested
6 in the statute. This is the regulation. Do we have the
7 underlying statute in front of us?

8 EXECUTIVE OFFICER LUCCHESI: Yes. Section -- the
9 applicable part of Public Resources Code 6503.5 says,
10 "Consistent with Section 6503, the Commission shall charge
11 rent for a private recreational pier constructed on state
12 lands." I want to -- and it further goes on to state that
13 rents shall be based on local conditions and local fair
14 annual rental values. I want to highlight the fact that
15 it does not say the Commission shall only charge rent for
16 a private recreational pier constructed on state lands.
17 It's basically directing the Commission that it needs to
18 start charging rent for recreational piers. And our
19 practice has been to include in the leased premises an
20 impact area that -- where the applicant, where the lessee
21 will in inevitably park their vessels and use that area
22 surrounding their pier as part of the use of their
23 structure.

24 ACTING COMMISSION MEMBER GORDON: Mr. Rusconi,
25 can you --

1 MR. RUSCONI: Any court that would be examining
2 the Commission's power, specifically as affected by the
3 new section, would seek to harmonize all of the sections
4 of the Public Resource Code. And because the new section
5 does not state that it will only be charged for the
6 physical portion of the dock, the court would look to the
7 other sections, the broad discretion, the fact that we're
8 not a regulatory agency but a land-owning agency which has
9 this huge discretion about whether to lease at all and
10 what portion. And I think that the Commission's practice
11 in the past would be upheld by a reviewing court.

12 MR. CLINE: With all due respect to staff, 6503.5
13 specifically has a definition for a private dock. And so
14 your Executive Officer read the section of A, which says
15 you shall charge rent for a private residential pier.
16 Then the statute under B -- B2 -- or, excuse me -- C
17 defines recreational pier.

18 "Recreational pier includes the fixed facility
19 for the docking or mooring of boats," not an impact area.
20 And so -- and I think the Legislature knows what it's
21 talking about when it drafts legislation and then gives
22 the power to the -- well, we hope. And since we have a
23 finance director or a finance person here, that may not be
24 true.

25 But with respect to this particular legislation,

1 when it talks about a fix -- I mean we have specific
2 language. It says they fix. That's the hard portion --
3 the hardscape associated with it.

4 EXECUTIVE OFFICER LUCCHESI: I would just want to
5 add that does not say only for the fixed facility. And it
6 is silent on any impact area surrounding that. And so
7 that then falls under the broad discretion of the
8 Commission.

9 And, again, I want to stress that this has been
10 the past practice of the Commission, both before the new
11 legislative changes and after.

12 ACTING CHAIRPERSON GARLAND: Well, before we wrap
13 this up, I just want to --

14 ACTING COMMISSION MEMBER FINN: Can I ask another
15 question? Sorry.

16 ACTING CHAIRPERSON GARLAND: Sure.

17 ACTING COMMISSION MEMBER FINN: Somebody
18 mentioned, I don't know if it was staff or the speaker,
19 that currently it is our practice or it's clear for
20 commercial piers or for --

21 EXECUTIVE OFFICER LUCCHESI: For both

22 ACTING COMMISSION MEMBER FINN: For both. Okay,
23 okay.

24 EXECUTIVE OFFICER LUCCHESI: Primarily for
25 residential or recreational piers.

1 ACTING COMMISSION MEMBER FINN: Okay. Thanks.

2 ACTING CHAIRPERSON GARLAND: I think I can speak
3 for several of us when I say that this legislation that
4 we're dealing with here has been a colossal pain for the
5 Commission and for the residents and folks who are having
6 to deal with it. And I appreciate and I feel for you.
7 We've dealt with this at almost every meeting in some form
8 or fashion, Mr. Cline, and I appreciate you being here. I
9 also appreciate you recognizing that, you know, that at
10 least in your situation you feel like once the regulations
11 are in place, you would be subject to that additional
12 area.

13 I would just say from my thinking, you know,
14 while wastewater trying to be more transparent and open
15 about how the Commission does business, and which my boss
16 is very happy about, we can't ignore the past practices of
17 the Commission and we have to take the situation in total.
18 Which leads me to I believe take staff recommendation,
19 which is the higher of the amounts.

20 Do we have a staff recommendation?

21 EXECUTIVE OFFICER LUCCHESI: Yes. The staff
22 recommendation is as outlined in the staff report, which
23 is to authorize a lease in the amount of \$96, which
24 includes the physical structure as well as the impact
25 area.

1 ACTING CHAIRPERSON GARLAND: Okay. If you
2 wouldn't mind me -- yeah, I was going to ask you a
3 question. If you wouldn't mind giving us a second.

4 (short pause)

5 ACTING COMMISSION MEMBER GORDON: Okay. I
6 understand the past practices, the statutory
7 interpretation that gives us a definition of a
8 recreational pier as fixed. Normal statutory construction
9 would not say anything that's not included in that
10 definition is then okay. It doesn't say that a statutory
11 pier allows us -- that we can charge Upland rent. I mean
12 it gives us a very specific definition. It strikes me
13 that the interpretation of that statute, that we can
14 then charge -- I mean -- let me put it this way. Logic
15 would say we should be able to charge for the impact area.
16 Clearly, the public can't use the area where the boat's
17 docked. Clearly the public is not going to use the area
18 between the T-shaped dock and the shore.

19 However, the statute to me is pretty clear about
20 fixed areas. And for that reason, I'm going to abstain on
21 this vote until we clarify -- and I mean if the
22 regulations go through, I suspect they could be challenged
23 in court. And it strikes me what we might need is a
24 legislative fix here on the definition of what a
25 recreational pier is to include the impact. Do it by

1 regulation. I'm not comfortable with it this time.

2 Also, the fact that this was a consent item and
3 we are hearing this for the first time and I haven't had a
4 chance to talk to my boss about it makes me a little
5 uncomfortable. The 30 bucks is really not it. It's the
6 precedent and the fact that I have some worries about
7 legally where this could end up if it were to be
8 challenged. If we're going forward with an entire
9 regulatory scheme on the impact areas and the definition
10 in the statute is not clear, I have some concerns about
11 where that will end up. So I'm going to abstain from this
12 vote.

13 EXECUTIVE OFFICER LUCCHESI: And if I may, a
14 couple of matters. If we want to get into discussing any
15 strength or weaknesses associated with any court
16 challenges, I suggest we break into closed session or we
17 talk about it in closed session at the end of the public
18 meeting.

19 Second, I want to also acknowledge that we are
20 looking at one section of the Public Resources Code that
21 grants the Commission its authority to manage the state's
22 lands. And that the other sections of the Public
23 Resources Code, Section 6301 and others, grant the broad
24 discretion to the Commission for managing its land. And
25 this particular legislation -- this particular section

1 that was amended recently was really geared towards those
2 recreational pier structures that were previously rent
3 free.

4 So with that said, I would like to -- with the
5 concerns and the comments that you made, Commissioner
6 Gordon, I will endeavor to provide more information, more
7 background on the Commission's practices along with the
8 authority -- statutory authority that backs that up in the
9 future.

10 ACTING CHAIRPERSON GARLAND: Well, as we have
11 done in the past, as a courtesy when Alan and I have been
12 in this situation where only one of us can vote, and we
13 both have -- and I'm comfortable with the staff
14 recommendation. Alan would like to -- would like more
15 information and would like to discuss it with his boss.

16 Mr. Cline, I hate to do this to you, although
17 this is probably going to come out in your favor in the
18 short term. I'd like to pull this item and not consider
19 it at this time.

20 EXECUTIVE OFFICER LUCCHESI: Will do.

21 ACTING CHAIRPERSON GARLAND: Thank you.

22 EXECUTIVE OFFICER LUCCHESI: Done.

23 MR. CLINE: So, you know, that --

24 EXECUTIVE OFFICER LUCCHESI: What that means is
25 that there's no vote being taken and that your lease

1 application will be considered at a future meeting.

2 MR. CLINE: Fabulous. That's the unfortunate
3 part about speaking on an item that's \$30. When the
4 reality is the Commission could approve it and then let me
5 make a determination as to what I wanted to do in the
6 future. I have a limited window relative to time on to
7 build this dock because of my fish and game permit that
8 only allows me to go from August 1st to November 15th. I
9 would ask the Commission to reconsider that and actually
10 vote on the lease as it's applied presently as to the
11 staff recommendation, because you've put me into a
12 situation over my coming before the Commission for this
13 \$30 item that I could lose a construction window
14 completely. I need to contract with a contractor and a
15 piling contractor. I have my -- I have my Fish and Game
16 permit, I have my Central Valley permits in hand and ready
17 to go.

18 ACTING COMMISSION MEMBER GORDON: In that case I
19 will move the staff recommendation.

20 ACTING COMMISSION MEMBER FINN: And I will
21 second.

22 ACTING CHAIRPERSON GARLAND: We have a motion and
23 a second.

24 All those in favor?

25 ACTING COMMISSION MEMBER FINN: Aye.

1 ACTING CHAIRPERSON GARLAND: Aye.

2 That passes two, nil.

3 MR. CLINE: Thank you, Commissioners.

4 ACTING CHAIRPERSON GARLAND: Thank you, Mr.
5 Cline.

6 MR. CLINE: I appreciate it.

7 ACTING CHAIRPERSON GARLAND: Next item on the
8 agenda would be -- actually what was once C41 is now on
9 the regular agenda.

10 May we have a staff presentation.

11 EXECUTIVE OFFICER LUCCHESI: Ninette Lee of our
12 staff will be making the staff's presentation on Item 41.

13 PUBLIC LAND MANAGER LEE: Good morning, members
14 of the Commission. As Jennifer said, my name is Ninette
15 Lee and I'm a Public Land Manager with the Commission's
16 Land Management Division. I'm here to present information
17 on calendar Item 41.

18 This item recommends authorization of a lease
19 between the Commission and Barbara Corneille, Trustee, for
20 the use of state lands for an existing pier at Lake Tahoe
21 adjacent to her to her lakefront parcel.

22 --o0o--

23 PUBLIC LAND MANAGER LEE: This is an aerial. The
24 shorter pier is what we are discussing today. This pier
25 has not been previously authorized by the Commission but

1 was built over 60 years ago.

2 Mrs. Corneille also maintains another pier and
3 two mooring buoys, which is the longer pier shown in the
4 aerial, adjacent to the same lakefront parcel, which is
5 currently authorized under a separate lease.

6 Commission staff became aware of the second pier
7 when she contacted staff and brought it to our attention
8 in 2009. At the time we were unaware if it encroached
9 onto state land.

10 In November 2010, a lease application was
11 submitted by several backshore owners known as Quiet Walk
12 Homeowners Association. Upon review of this application,
13 we became aware that this was the same second pier owned
14 by Mrs. Corneille. The application also requested
15 approval for three mooring buoys located offshore
16 Mrs. Corneille's parcel. The application included deeds
17 for the non-littoral lots owned by Quiet Walk owners that
18 included a deeded pedestrian easement across
19 Mrs. Corneille's property to the high water mark and
20 included boat docking privileges.

21 So here's a photo of both piers.

22 --o0o--

23 PUBLIC LAND MANAGER LEE: And the one we are
24 discussing today.

25 --o0o--

1 PUBLIC LAND MANAGER LEE: And this is a parcel
2 map with a rough sketch of the pier locations and the
3 easement. The yellow highlighted parcels are the parcels
4 owned by Mrs. Corneille and the blue highlighted parcels
5 are those owned by the backshore owners. And the easement
6 goes around the back of her two lakefront parcels there
7 and along the side right down to the beginning of the
8 pier.

9 Staff requested Quiet Walk owners provide a pier
10 use and management agreement with Mrs. Corneille.
11 Mrs. Corneille was listed as one of the members of the
12 homeowners association.

13 In addition, staff requested the Quiet Walk
14 owners remove the three buoys offshore of Mrs. Corneille's
15 property because the buoys were owned by non-littoral
16 owners and therefore could not qualify for mooring buoys
17 under the Tahoe Regional Planning Agency ordinances.

18 The Commission had previously authorized two
19 buoys to Mrs. Corneille, which are under her other lease.

20 In October of 2012, Kent Smith submitted a
21 separate lease application for the second pier on behalf
22 of his mother, Mrs. Corneille. All of the parties have
23 acknowledged the Quiet Walk owners have been using the
24 pier for many years and will continue to do so. However,
25 Mrs. Corneille is requesting a lease in her name as owner

1 of the pier.

2 The Commission has included backshore owners as
3 lessees along with the littoral owners in the past if
4 there is a formal use and management agreement between the
5 parties. To date, the parties do not have a formal
6 agreement, and the Quiet Walk owners have requested a
7 postponement of the lease approval.

8 Mrs. Corneille requests approval of the lease
9 before you.

10 Because the pier has been unauthorized for
11 decades, staff is recommending a lease to Mrs. Corneille
12 at this time. The lease before you today includes a
13 provision acknowledging the pedestrian easement. And if
14 the parties agree in a formal agreement regarding the use
15 and management of the pier, the parties can submit an
16 application to amend the lease as a joint-use pier with
17 the inclusion of the Quiet Walk owners as a co-lessee.

18 The staff is available to answer any questions
19 the commissioners may have.

20 A representative for the Quiet Walk owners is
21 present as well as Mr. Kent Smith, representing his
22 mother, Mrs. Corneille. They would like to address the
23 Commission.

24 And that concludes my presentation. Thank you.

25 ACTING CHAIRPERSON GARLAND: Thank you.

1 EXECUTIVE OFFICER LUCCHESI: We have three
2 requests to speak on this item.

3 ACTING CHAIRPERSON GARLAND: Yeah. And normally
4 the commissioners would give comment at this time, but I'm
5 going to reserve until after the --

6 ACTING COMMISSION MEMBER FINN: I'm sorry. I'd
7 like to just ask one more clarifying question before we
8 listen.

9 The Quiet Walk owners -- or the Quiet Walk
10 easement is to the second pier; correct?

11 PUBLIC LAND MANAGER LEE: Right, the shorter pier
12 shown on the aerial -- or on the site parcel map.

13 ACTING COMMISSION MEMBER FINN: Okay. I'm sorry.
14 I see Quiet Walk Road leads to the second pier, the longer
15 pier, built in 1966, the one on the bottom.

16 PUBLIC LAND MANAGER LEE: Right. Yeah, that --
17 that pier built in 1966 is under a lease to Mrs. Corneille
18 and --

19 ACTING COMMISSION MEMBER FINN: Okay.

20 PUBLIC LAND MANAGER LEE: Yeah.

21 ACTING COMMISSION MEMBER FINN: But the easement
22 that we're talking about leads to the first pier, the
23 shorter pier?

24 PUBLIC LAND MANAGER LEE: It does.

25 ACTING COMMISSION MEMBER FINN: Okay. Which is

1 up on top there?

2 PUBLIC LAND MANAGER LEE: Yeah.

3 ACTING COMMISSION MEMBER FINN: Okay. It was
4 just confusing when I saw Quiet Walk down -- the road is
5 named Quiet Walk on the bottom. But the easement that
6 we're talking about is along the top there to the first
7 pier.

8 PUBLIC LAND MANAGER LEE: Yeah.

9 ACTING COMMISSION MEMBER FINN: Okay. Thanks.

10 PUBLIC LAND MANAGER LEE: That's right.

11 EXECUTIVE OFFICER LUCCHESI: Ninnette, just for
12 clarification, is it in the dark black -- the thicker
13 black line, is that the easement area?

14 PUBLIC LAND MANAGER LEE: Yeah.

15 EXECUTIVE OFFICER LUCCHESI: Okay.

16 ACTING CHAIRPERSON GARLAND: Okay. We've got
17 three speakers at a time: Gregg Lien, Kent Smith, and Don
18 Fouts. Is that correct?

19 If we can take the mike at this time. One of
20 you, any of you.

21 Mr. Lien.

22 I'll just take them in the order I have them.

23 Mr. Lien, you're first.

24 MR. LIEN: Good morning, Mr. Chairman, members of
25 the Commission, distinguished staff. My name is Gregg

1 Lien. I'm an attorney from Tahoe City and I represent the
2 Quiet Walk Homeowners Association.

3 We're here today to ask for a continuance of this
4 matter. In view of the facts as a whole, as we'll discuss
5 them in a few minutes, it's very clear that my clients are
6 the predominant and almost exclusive users of that small
7 pier, and that the parties have behaved as if there was an
8 association, that was the association pier, and that the
9 association had its end of the beach and that the
10 Corneille family had their end. We don't dispute that fee
11 ownership is involved.

12 But I want to just very, very briefly, because I
13 know I'm going to run out of time here in no time, that at
14 the time -- and I know the room is full of lawyers here so
15 I want to get this in -- you know, the intent of the
16 subdivider is pretty doggone important.

17 When Barbara Corneille, your applicant, bought
18 the property, she bought it on a deed that reserved to the
19 grantor, who was the subdivider who created this scheme
20 and development, he reserved to himself an easement to
21 that pier, that black line you saw going up there. That's
22 a 12-foot easement that leads right down to the pier. So
23 he had that easement. Then as he sold off properties, he
24 represented to those who purchased -- and I'm reading from
25 one of his sales brochures. I wrote you a letter

1 yesterday. I'm not sure you had a chance to read it. But
2 it says that its other facilities and advantages, that it
3 includes a private pier and a small beach with recorded
4 easement over access footpath shared with other owners of
5 the ten parcels of property as shown on the enclosed map.
6 Mooring buoys may be set off the pier, stuff like -- blah,
7 blah, blah.

8 So when she bought the property, the Corneille
9 family bought the property, she stepped into the shoes of
10 the subdivider here. And the rights that my clients have,
11 and as an association, we're already there. They're
12 already there.

13 The conduct of the parties has been that
14 continually since 1966 they have had regular association
15 meetings, they have a portion of costs. It's always been
16 understood that the homeowners took care of their costs
17 for the repair of the pier and that it was more or less
18 their pier. For example, they did a shoreline protective
19 structure and they said, you know, the 50 feet down on the
20 association end, they'd pay for that cost. The rest of
21 the costs we'd billed to others.

22 And the family, again, your applicant, has their
23 own pier -- their own pier. Why should they have two?
24 This is really the one that was reserved in the original
25 subdivider's intent for the use of all.

1 The real misjustice here that would occur if you
2 approved this today is that everybody at Tahoe that does
3 what I do, and I do due diligence on behalf of prospective
4 buyers for lakefront properties all the time, your lease
5 is in effect the pink slip. And the first thing I want to
6 see when I evaluate a property is show me the pink sheet,
7 you know, show me the State Lands lease. Does the land
8 that's for sale have a pink slip to this very, very
9 valuable asset?

10 If this lease is approved, their names will
11 not -- my clients names will not show up on the pink slip.
12 This will result in hundreds of thousands of dollars of
13 loss in value, individually and collectively, I'm sure
14 well over seven figures. So this is not a small thing to
15 us.

16 ACTING CHAIRPERSON GARLAND: Please start to wrap
17 up.

18 MR. LIEN: Okay. Then I'll just point you. I
19 mean I was appreciative of the fact that both Jennifer and
20 Colin pointed out to Section 2000 of your regs that says
21 that you've got broad discretion to do the right thing
22 here. And if you go down to Section C of that, it says
23 provided however that such leases or permits may be
24 granted to the best qualified applicant. And, again, my
25 clients make the vast majority of the use of this pier.

1 They pay for its expenses. They are the real parties in
2 interest here. And on that basis, we'd like an
3 opportunity to work things out with the applicant. We
4 think we can. We've got a new president, Don Fouts, who
5 will maybe speak in a moment. We're fired up and ready to
6 work this out and bring a proper lease before you that is
7 truly reflective of the rights of the parties.

8 We ask for a continuance. Thank you.

9 ACTING COMMISSION MEMBER GORDON: Staff --
10 Ninnette, could you come back up for a second.

11 Is there any question as to the ongoing easement
12 and the fact that upon purchase of the property that that
13 easement was known to the applicant?

14 PUBLIC LAND MANAGER LEE: Yeah, they -- yeah,
15 they have allowed the backshore owners to use the pier all
16 along and they -- so they don't deny that.

17 ACTING COMMISSION MEMBER GORDON: They have
18 acknowledge that these --

19 EXECUTIVE OFFICER LUCCHESI: So there's no
20 question.

21 ACTING COMMISSION MEMBER GORDON: Yeah. So the
22 applicants acknowledge this easement is legally binding?

23 PUBLIC LAND MANAGER LEE: Right. And in their
24 lease, we actually added a provision in there stating that
25 the lessee, Barbara Corneille, acknowledges the easement

1 and that all the lots have boat docking privileges.

2 ACTING COMMISSION MEMBER GORDON: All right. So
3 I guess I missed. What is the staff recommendation here?

4 PUBLIC LAND MANAGER LEE: To approve the lease to
5 Mrs. Corneille at this time.

6 ACTING COMMISSION MEMBER GORDON: All right.
7 Thank you.

8 ACTING CHAIRPERSON GARLAND: Mr. Lien, if you
9 wouldn't mind answering my question for me.

10 Do you dispute that characterization that your
11 clients have, and are legally protected in this lease,
12 access to that pier and the easement area?

13 MR. LIEN: Absolutely. I mean their names appear
14 nowhere as a lessee. They are not a lessee. There's
15 nothing here that -- you have several tiers of how you can
16 handle this. You would either be, you know, a direct
17 lessee or you would be noted as a user. We are neither.
18 And there's nothing here -- again, is if I'm doing due
19 diligence, I'd have to say, you know, there's nothing
20 here. So I vigorously dispute that characterization. We
21 are not protected.

22 ACTING COMMISSION MEMBER FINN: You don't dispute
23 the easement is recorded though?

24 MR. LIEN: The easement's recorded there.
25 Several easement that recognize this right. But, again, a

1 private right that someone says they have or you have to
2 look back in the record, nobody cares. It's got to be
3 right on the pink slip. You know, if you go to DMV and
4 you're trying to sell your car and you say, "Gee, you
5 know, I know I don't have the pink slip but I've got this
6 storage lien against the car," you know, they're not going
7 to listen to you. And people at lake Tahoe don't listen
8 either. It's got to be in the lease.

9 ACTING COMMISSION MEMBER GORDON: But wouldn't
10 the title search on a sale of the property show the lease?

11 ACTING COMMISSION MEMBER FINN: It would be
12 recorded.

13 ACTING CHAIRPERSON GARLAND: Yeah.

14 MR. LIEN: Of course it would. Of course it
15 would.

16 ACTING COMMISSION MEMBER GORDON: Now, I'm trying
17 to go the issue of the value of the property.

18 MR. LIEN: Exactly.

19 ACTING COMMISSION MEMBER GORDON: And if you did
20 your due diligence in your title search that showed that
21 there was an easement for the Upland owners, then the
22 value of the property would represent the easement. What
23 does it matter if there's is a -- what you're calling a
24 pink slip?

25 MR. LIEN: A couple of things are critically

1 important here. First of all, if you go ahead and say
2 she's the only -- and Mary used the word "owner" and it
3 always makes me cringe, because ownership of something
4 that's on someone else's land is a fuzzy little concept.
5 Really it comes back to who has the State Lands lease. Is
6 there anything to prevent the Corneille family from
7 saying, "Well, it's our pier. We're just going to remove
8 it"? What's to prevent them from doing that?

9 We got a very, very tough -- just let me finish.
10 We got a very, very tough letter from their attorney
11 essentially shaking his fist at us and saying, "If you
12 continue with your efforts along these lines to abuse the
13 easement, we're going to start revoking your use rights."
14 We don't take those things lightly. We are very, very
15 nervous. We need something from you that nails this down.
16 And we'd like to work with them to make sure their rights
17 are protected and ours are too. We think we can do that.

18 ACTING CHAIRPERSON GARLAND: Thank you, Mr. Lien.

19 We've got two more speakers. You'll remain available
20 for questions?

21 PUBLIC LAND MANAGER LEE: Absolutely.

22 ACTING CHAIRPERSON GARLAND: Thank you.

23 Next up is Kent Smith.

24 MR. SMITH: Good morning. My name's Kent Smith.

25 I am representing my mother, Barbara Corneille. And I'm

1 not much of a speaker here, so I just prepared something
2 here to read. And I'd also -- if I can get through this
3 quick enough, I'd like to make a couple of comments about
4 what Mr. Lien said.

5 I'm not an attorney and I'm not used to giving
6 these speeches, so I just want to point out some of these
7 points.

8 Most important is that I don't need any theories
9 about my family, because I lived in that house every
10 summer full time since 1965. So I hope you can understand
11 that I find it offensive hearing claims of the status quo
12 in the 1960s, when there wasn't anyone at the lake other
13 than my family in the 1960s. In fact, the first house
14 that was ever even completed on that street was in 1973.
15 So his claims in 1960s, I don't know where that comes
16 from.

17 Additionally, Mr. Lien claims that he's
18 representing an HOA. But the fact of the matter is the
19 HOA he created for the purpose of their lease application
20 is not recognized under the Steltzner and Damos (phonetic)
21 CC&Rs that do govern properties on our road, and has no
22 valid CC&Rs. It has no authority over the properties on
23 Quiet Walk Road and has absolutely no legal authority over
24 the easement my mother granted that provides for the boat
25 docking privileges on the pier.

1 More importantly, four of the six individuals
2 that are represented by Mr. Lien here, and request that
3 our lease be delayed, are currently in violation of State
4 Lands orders to remove their unauthorized buoys. The
5 first requesting -- let's see here. The first letter
6 requesting their unpermitted buoys to be removed is sent
7 by -- sent to Mr. Lien on November of 2010. And the
8 second letter was sent to the homeowners in March of this
9 year. And the buoys are still there.

10 Furthermore, the sales brochure the HOA
11 submitted, and dated 1965, claiming proof of three buoys
12 is in reality a brochure that was written in 1977. The
13 only dated page was inexplicably removed. I can't explain
14 that really. But I do have -- I have supplied the
15 Commission with that dated page.

16 Unbeknownst to my family, Mr. Lien submitted an
17 application for my mother's pier nearly -- almost 40 years
18 ago. And to date that application remains incomplete.

19 We will not be a part of any proposed Davis
20 Sterling HOA, and no extension of time is going to really
21 change our mind. It would be to my mother's detriment,
22 you know, because she could lose part of her other pier
23 rights.

24 When my mother discovered that our pier was in
25 trespass, we submitted our application, which is before

1 you today for approval, and request that the Commission
2 acknowledge the 1972 pedestrian easement that provides the
3 homeowners on our street with boat docking privileges.
4 I'm not out to take any privileges or previous uses away
5 from anybody.

6 We provided the Commission with proof of
7 ownership, including the notarized bill of sale for our
8 pier and a buoy dated 1965, among other tangible -- among
9 other tangible documents. My mother holds the only two
10 legally permitted buoys that the Commission and TRPA will
11 allow.

12 We feel that the provisions of our lease that the
13 Commission has laid out are more than fair and fully
14 acknowledge the homeowners pedestrian easement with boat
15 docking privileges as well as their individual APNs.

16 If we're able to come to a formal recorded
17 agreement to use the pier, we have agreed to notify the
18 Commission for further review and determination if such
19 agreement requires a joint lease.

20 In closing, considering this extensive
21 three-and-a-half-year period of time the homeowners have
22 been pending incomplete as well as the Commission's recent
23 ruling on the Vanderbeek case, which we understand was
24 very similar to ours for the exception that we have no
25 pier use agreement in our CC&Rs, and I'm respectfully

1 asking the Commission to grant that lease today.

2 ACTING CHAIRPERSON GARLAND: Thank you, Mr.
3 Smith.

4 MR. SMITH: Okay. One quick little comment on
5 that brochure. That was not Mr. Steltzner's work and it
6 was dated far after, like I said, in 1977. There's been
7 some other pictures that have been removed from it, which
8 actually are photographs, that include our pier -- our
9 other pier. And that wasn't built till 1966. It has a
10 photo of a boat we had, and that wasn't even manufactured
11 till 1967. So I really don't think that, you know, his
12 argument holds a whole lot of water on that.

13 So --

14 ACTING CHAIRPERSON GARLAND: Thank you.

15 MR. SMITH: -- thank you very much.

16 ACTING COMMISSION MEMBER FINN: Quick question.
17 I'm sorry.

18 You mentioned Mr. Lien started an application for
19 the lease for the --

20 MR. SMITH: Well, yeah, on behalf of the
21 homeowners association, which technically doesn't even
22 exist. They don't have legal authority to be conducting
23 any kind of business.

24 ACTING COMMISSION MEMBER FINN: Okay.

25 PUBLIC LAND MANAGER LEE: They're not a fully

1 formed association.

2 ACTING COMMISSION MEMBER FINN: With the
3 understanding they believe they had lease rights, is that
4 the -- that was the reason for the initiation of the
5 lease?

6 MR. SMITH: Well, I think -- this whole thing I
7 believe --

8 ACTING COMMISSION MEMBER FINN: I'm confusing --

9 MR. SMITH: -- was started for the purposes of
10 ultimately trying to grandfather some buoys that they had
11 put out there illegally. And that's why they're trying to
12 date this back to 1965, when in fact it was 1977.

13 ACTING COMMISSION MEMBER FINN: Okay.

14 ACTING COMMISSION MEMBER GORDON: I'm not a
15 property lawyer. And I'd like to have either Mr. Meier or
16 Mr. Rusconi give me some understanding -- I mean my -- I
17 went to law school a long time ago. And my memory of
18 property law is that a recorded easement stays with the
19 property and that the land owner would have no ability to
20 unilaterally cancel that. It that's the case, if my
21 understanding of the law is correct, then acknowledging
22 that lease -- that easement in the proposed lease to the
23 applicant would protect the rights of the Upland easement
24 holders. Am I wrong?

25 MR. RUSCONI: Okay. I have not seen the property

1 documents in this case. But what I think the situation is
2 is that your regulations require that the lessee be the
3 property owner. That's Mrs. Corneille.

4 EXECUTIVE OFFICER LUCCHESI: Yes, that's Mrs.
5 Corneille.

6 MR. RUSCONI: They have a recognized right of
7 access easement to get down to the beach. It sounds like
8 they also have a recognized right of access to the pier
9 but not a property right that would justify a lease. That
10 would need a homeowners association, which is not --

11 EXECUTIVE OFFICER LUCCHESI: For some other
12 agreement with the littoral owner.

13 And just to be clear, our regulations do not
14 require that the applicant be littoral owner. But that is
15 how -- one of the elements that we use to identify the
16 best qualified applicant.

17 ACTING COMMISSION MEMBER GORDON: But there's
18 nothing in this lease that is proposed before us today
19 that would deny the Upland owners the right to use the
20 pier or anything that would allow the leaseholder, the
21 applicant, to unilaterally cancel that right of access
22 since the lease will acknowledge the right.

23 CHIEF COUNSEL MEIER: I would say that if the
24 lease were not granted, that would diminish the back
25 owners' rights. If the lease were granted, the lease

1 would be granted to the littoral owner subject to all the
2 obligations that the littoral owner has. And that would
3 include the easement -- obligations toward the easement
4 holders.

5 ACTING COMMISSION MEMBER GORDON: Thank you.

6 ASSISTANT CHIEF COUNSEL MEIER: So in effect by
7 granting the lease, you're also granting the lease, you're
8 also granting the rights to the back owners.

9 ACTING COMMISSION MEMBER GORDON: Okay. Thank
10 you.

11 MR. SMITH: I've also furnished the Commission
12 with a bill of sale from Mr. Steltzner as a private
13 property for --

14 ACTING CHAIRPERSON GARLAND: Thank you, Mr.
15 Smith.

16 MR. SMITH: Okay. Thank you.

17 ACTING CHAIRPERSON GARLAND: If you'll remain
18 available for further questions.

19 And then our final speaker is Don Fouts.

20 Mr. Fouts.

21 MR. FOUTS: Good morning, commissioners. My name
22 is Don Fouts. I am the newly appointed president of the
23 Quiet Walk Homeowners Association.

24 We've had a president that has had some personal
25 issues in his life that has not allowed him to put the

1 energies and efforts and time required to address these
2 important issues. That's why he's just recently resigned
3 and I've stepped in with the energies, efforts, and
4 capabilities to forge forward with hopefully the applicant
5 to work out our differences to be able to get our
6 joint-use pier agreement in place so that we can have this
7 lease issued to us in a co-lease situation.

8 First off, we have had an association in
9 formation, I don't have the exact dates in front of me,
10 but I believe it was about 1966. It was called the Tahoe
11 Lakeside Association or some close facsimile to that. It
12 was actually formed by Mrs. Corneille. She has been in
13 active participation in all of our annual meetings. We
14 have in a packet that Gregg has provided you shown minutes
15 of meetings with Barbara involved. Actually the meetings
16 predominantly take place on her back deck looking out at
17 beautiful Lake Tahoe and these piers we're talking about.

18 That, for whatever reason -- I've only been
19 involved for about 12, 13 years as a property owner, so I
20 do not know for reasons why this association -- homeowners
21 association that was formed -- there were actually two
22 associations, one formed for the water pump -- mutual
23 water uses that -- the pump is on her property that serves
24 some of the Upland owners. Those were shut down for
25 whatever reason, terminated some years ago.

1 When Davis Sterling came into place, in order to
2 have an association with potential pier rights, as I
3 understand it, we needed -- our CC&Rs were written on the
4 back of a napkin back in 1964 and '65, obviously were very
5 antiquated. So we've been struggling to try to get those
6 up to date and modified.

7 So I believe that -- again, Barbara -- and we've
8 all been cumbaya. We've got along wonderful up to just
9 about the last two years. And our goal is to get back to
10 making Quiet Walk the fun place that it's always been.
11 But she's always been involved in the formation -- in the
12 meetings of and, up till just recently, I'd say in about
13 the last two years, been understanding and working
14 cooperatively to get together and updating our CC&Rs in
15 our homeowners association. We were informed that the
16 existing homeowners association had expired and was not
17 functioning. That's why we formed a new homeowners
18 association.

19 She was at the time that we -- my recollection is
20 at the time that we did submit the original pier lease
21 application, she was in agreement to that. Now, that can
22 be a matter of debate and discussion. But she was on
23 board with the initial filing.

24 I have before us, and it was in one of your
25 brochures -- or letter, excuse me, from Gregg. This

1 actually is a real estate advertisement for one of the
2 Upland lots that actually Kent owned, and this was four or
3 five years ago, stating deeded access to a shared pier.
4 Now, this isn't something that came back 1966, 1967. This
5 was actually a representation made by his realtor at the
6 time for the sale of his Upland lot.

7 So all's we're asking for today is a continuation
8 of not -- keeping the pier in a nonconforming situation
9 that's been demonstrated 40, 50 years. We're asking for
10 two or three months continuation so that we can work out
11 our differences with Kent. Jamie, our prior president,
12 had the joint-use agreement that Kent actually provided.
13 It was a reasonably good first draft. He never took any
14 action on that. I'm taking an aggressive path towards our
15 homeowners - and a decision by committee is always a
16 challenge - but to say, "Look, we need to act on this.
17 Jamie didn't push this forward for us in the past. It's
18 time to act on this because the time is now."

19 So what we don't want to do is get in a position
20 where the lease has been granted to Barbara and we don't
21 have any leverage, there's nothing compelling for Kent to
22 come and talk with us and let's work out our differences
23 how to work out the joint-use agreement. And we would
24 like to, you know, be named -- something that I just
25 learned today that Mary informed me -- it's a week, I

1 understand -- that we can as individual owners of the
2 property be listed on the deed -- on the lease. That's a
3 fall-back position.

4 But I would not like to see the lease granted
5 today in Barbara's name without us having protected rights
6 as co-lessees.

7 But to the point that Gregg made - if I can make
8 one last one - our true fear is times change. Barbara,
9 she might sell her property. Someone comes in and says,
10 "Yeah, you have rights, Quiet Walk Homeowners, to this
11 pier. But I don't have any obligation to not pull that --
12 keep the pier there. I can pull it out. You still can go
13 use it. Knock yourself out. There's no pier there
14 anymore."

15 That seems like a radical case. But in this day
16 and age, you know, someone that can come in and buy a six,
17 seven million dollar piece of property. They've already
18 got one pier. If they see us as a nuisance that we've
19 been doing this for 40 years walking down our undisputed
20 easement to the dock, "we can pull the dock out. You come
21 on down. But you can't use the dock because it's not
22 there anymore."

23 We want to be put on as a co-lessee, and our
24 lease agreement -- some language in the lease agreement
25 that will be documented, recorded to Barbara's property

1 and all of ours, that states that any future owner or the
2 current owner cannot remove that pier without
3 authorization from the co-lessees.

4 ACTING CHAIRPERSON GARLAND: Thank you

5 MR. FOUTS: You betcha [sic].

6 ACTING CHAIRPERSON GARLAND: Anything from the
7 Commissioners?

8 ACTING COMMISSION MEMBER GORDON: Sir, can you
9 come back up?

10 MR. SMITH: Yes, sir.

11 ACTING COMMISSION MEMBER GORDON: All right. I
12 have a slightly different issue then. So we recognize
13 that the easement is legally recorded.

14 MR. SMITH: Yes, sir.

15 ACTING COMMISSION MEMBER GORDON: The new issue
16 would be that a future land owner, should your family
17 decide to sell, could remove the dock. Is there anything
18 in that easement that would prevent someone from removing
19 the dock? There is a --

20 MR. SMITH: Well, originally the -- the easement
21 that was granted originally through this property was
22 strictly the pedestrian footpath. And it was -- its
23 purpose was to allow the -- I guess the backland owners,
24 if I'm saying that correctly, is to access down to the
25 lake. There was never any mention of dock use in anything

1 until my mother through negotiation with the first buyer
2 of any of those lots that decided to build -- his name is
3 Mr. Neblett. And he completed his in 1973. At that time
4 they were negotiating, he was worried about wanting to use
5 the pier. And somehow they -- my mother allowed him to I
6 guess talk her into or -- you know, they came to an
7 agreement and he -- my mother granted a further easement
8 of docking privileges. But that was mostly done through
9 Mr. Neblett. But of course my mother granted that and
10 we're -- you know, we're willing to live with that.

11 ACTING CHAIRPERSON GARLAND: Is that further
12 easement recorded?

13 MR. SMITH: Yes. It actually became part of the
14 easement.

15 ACTING COMMISSION MEMBER GORDON: So there is a
16 recorded easement to use the dock?

17 MR. SMITH: Yeah, docking privileges, yes, sir.

18 ACTING COMMISSION MEMBER GORDON: Would you
19 object to an amendment to the lease that would prohibit
20 the teardown of the dock by a future land owner?

21 MR. SMITH: I don't think I -- I wouldn't have
22 much problem with that. I don't see any reason why
23 somebody would want to take out something that -- you
24 know, I mean to try to build a dock on Lake Tahoe could
25 easily cost you a million dollars, you know. I don't know

1 why they would want to -- I mean I heard and understand
2 his effort of, you know, if somebody had all the money in
3 the world and they just wanted to get rid of a nuisance.
4 But it's an historical -- I mean it's a -- I believe it's
5 an historical landmark. It's been there since 1945. I
6 don't even know if anybody could ever get a permit to
7 remove it. I don't know.

8 MR. RUSCONI: I want to just jump in at this
9 point.

10 I would be very hesitant to have such a clause in
11 the lease, because it could be construed as granting some
12 kind of a perpetual right to that use.

13 ACTING CHAIRPERSON GARLAND: Thank you, Mr.
14 Smith.

15 MR. SMITH: Okay.

16 ACTING CHAIRPERSON GARLAND: Any further comment
17 from staff? Anything that you'd like to respond to or
18 anything -- any information you feel we need before we
19 move this item?

20 EXECUTIVE OFFICER LUCCHESI: I think two things:
21 Mark wants TO say something. And then we just want to
22 read one provision that we have included in the proposed
23 lease that acknowledges the easement.

24 So, Mark, why don't you go first. And then,
25 Mary, if you could just...

1 ASSISTANT CHIEF COUNSEL MEIER: I'd just like to
2 say that I don't believe staff is in a position to judge
3 the relative merits of the rights between these -- among
4 these property owners. Whatever the lease is, the
5 lease is grant -- the lease, we know -- we've got an
6 application for a lease. The lease is granted to the
7 littoral Upland property owner. That littoral property
8 owner has obligation rights and obligations relative to
9 the back-lot owners. Whatever those are, I don't think
10 staff at least is in a position to judge the relative
11 merits. So if a lease is issued, it would be issued
12 subject to whatever those are. And I don't believe that
13 we are in a position to judge that.

14 ACTING COMMISSION MEMBER GORDON: Let me ask one
15 final question before I reach a decision here.

16 The non-applicants, the homeowners, are
17 requesting a three-month delay before we issue the lease.
18 What is the negative consequences to the Commission if we
19 were to grant just a -- simply to -- I wouldn't even
20 say -- I wouldn't go three months -- our next Commission
21 meeting would be in June.

22 EXECUTIVE OFFICER LUCCHESI: June 21st.

23 ACTING COMMISSION MEMBER GORDON: What would be
24 the negative consequences to the Commission of giving
25 these folks two months to negotiate this, with the

1 understanding that we're going to reach a decision in
2 June? And believe me, don't interpret that as me making a
3 decision as to how I'm going to vote. I just want to know
4 what the downside to the state of California would be
5 under that.

6 EXECUTIVE OFFICER LUCCHESI: I don't believe
7 there is a downside to the Commission or staff. But I
8 would pose that question to the applicant. I'm not sure
9 if there's any consequences that would result from that
10 delay.

11 ACTING COMMISSION MEMBER GORDON: Sir, can you --
12 I'm sorry. Can you answer that question, please? What
13 would be the negative consequences to you and your family
14 if we were to wait two months and give you two months to
15 try to negotiate a solution to this?

16 MR. SMITH: Well, I don't think it's really going
17 to accomplish much. They -- we have no real desire to
18 become part of this association. So I don't really think
19 there's really any amount of time that's going to change
20 that.

21 The lease, the way that it's written up, is fair.
22 It recognizes the APNs. And they have use of the pier.
23 If we bring it under lease today, you know, I'm fully
24 prepared. I paid the lease. I've indemnified the state.
25 We can get it out of trespass. And I think it will put a

1 lot of separate issues kind of to rest and it will allow
2 us to get together with the other homeowners and sit down
3 and just give us a reason to just concentrate on making a
4 pier use agreement.

5 You know, if we don't have this lease, there's a
6 myriad of other situations that are going on that I don't
7 think we'll ever see eye to eye on. And I think the
8 finality of granting this lease today will help us really
9 move forward, because it will allow us to focus more
10 closely on bringing that pier use agreement. And at that
11 time, I have no problem with negotiating with these folks
12 and getting a fair agreement. But I think it's just a
13 waste of the Commission time. This is going to turn into
14 a Vanderbeek thing real fast, you know.

15 ACTING CHAIRPERSON GARLAND: Thank you.

16 Ms. Lucchesi.

17 EXECUTIVE OFFICER LUCCHESI: If I may just
18 correct my last statement. This is a pier that has not
19 been previously under lease with the Commission. It has
20 been trespassing. So in terms of consequences to the
21 Commission of not acting today on this is it continues to
22 be in trespass. The Commission and the state continue to
23 not receive rent for the occupation of this pier.

24 ACTING COMMISSION MEMBER GORDON: And how much is
25 that rent?

1 EXECUTIVE OFFICER LUCCHESI: 727.

2 ACTING COMMISSION MEMBER FINN: 727.

3 ACTING CHAIRPERSON GARLAND: All right. We've
4 got a staff recommendation to approve.

5 Do I have a motion on the staff recommendation?

6 ACTING COMMISSION MEMBER FINN: I move.

7 ACTING CHAIRPERSON GARLAND: I'll second.

8 All those in favor?

9 ACTING COMMISSION MEMBER FINN: Aye.

10 ACTING CHAIRPERSON GARLAND: Aye.

11 Motion carries.

12 MR. SMITH: Thank you very much.

13 ACTING CHAIRPERSON GARLAND: Thank you.

14 That brings us to our next item that was removed
15 from consent, which was Item 100.

16 Another quick staff presentation on this, please.

17 EXECUTIVE OFFICER LUCCHESI: Brian Bugsch is our
18 Chief of our Land Management Division. And this item is a
19 delegation of authority relating to the Commission's
20 delegation of authority to staff.

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

23 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Good
24 morning, commissioners. I'll try to keep this real short.

25 The delegation of authority already exists. This

1 action item would just amend that to allow continuations
2 of rent to go through the Executive Officer instead of
3 coming to the Commission.

4 As you know right now, most of our leases have a
5 five-year rent review. And there's really two components
6 to that. One doing the rent review, which would either
7 result in a revision of rent or a continuation of the
8 existing rent.

9 Then after that, it would be -- the second half
10 of that process is to prepare the calendar -- prepare and
11 review the calendar item and bring it to the Commission
12 for your approval.

13 --o0o--

14 LAND MANAGEMENT DIVISION CHIEF BUGSCH: This
15 action item would just go ahead and eliminate that portion
16 of bringing it to the Commission. It would still be
17 brought to L and D Management for review and then it would
18 go to the Executive Officer for approval.

19 --o0o--

20 LAND MANAGEMENT DIVISION CHIEF BUGSCH: So that's
21 the basis change and that's what we're asking today.

22 So far over the past five years there's been 74
23 continuation of rents items that have been brought to the
24 Commission. So about 15 -- or two every meeting.

25 The time spent on that in preparation or review

1 of the calendar item and that aspect that would be
2 eliminated is about four to six hours. So in total that's
3 about 60 to 90 hours a year of staff time that could
4 reallocate to other items. So that would be of
5 significant benefit to the staff to be allocated that
6 time.

7 I'm not aware of any continuation of rent
8 calendar items that have been pulled from the consent item
9 and brought, in my years both sitting on the Commission
10 and as a staff member.

11 And we will bring this back to you in one year to
12 report on this as well. And if at any time there is a
13 continuation of rent item that somebody would want to
14 bring to a third party or the lessee, then we would bring
15 that and we would take it to Commission and bring it to
16 you.

17 So that's it.

18 ACTING CHAIRPERSON GARLAND: Thank you for your
19 presentation.

20 I will admit, I'm the one who pulled this from
21 consent, I'm the one who prolonged the meeting today. And
22 the reason I did so is because I wanted to, one, ask a
23 question of the AG's office on the record.

24 You don't see any issue with the commissioners
25 delegating these powers to the Executive Director?

1 MR. RUSCONI: No, I don't. I think that the --
2 because the action will be -- the proposed action will be
3 published to the general public, any third party or the
4 applicant who might have a problem will have full due
5 process rights in front of the Commission.

6 ACTING CHAIRPERSON GARLAND: Excellent.

7 And the second thing I wanted to do was just heap
8 a little praise on our staff. The focus on streamlining
9 and bringing openness and streamline process for our
10 lessees and for the state and the efficiencies that we
11 gain out of that is something that the Lieutenant Governor
12 is very happy to see happening. And while this is not
13 meant to disparage anybody, the amount of progress we've
14 made since you've taken over, Jennifer, has been
15 extraordinary, and I wanted to thank you personally for
16 that.

17 EXECUTIVE OFFICER LUCCHESI: Thank you.

18 ACTING CHAIRPERSON GARLAND: Any other
19 Commissioner comments?

20 ACTING COMMISSION MEMBER FINN: Yeah, I was going
21 to add, consistent with the Lieutenant Governor's goals,
22 the Governor is also very interested in streamlining too,
23 which is why he's in favor of this.

24 Just one more comment. The statistics that you
25 quote, they actually will go higher as we've been bringing

1 more leases into the Commission, right? I mean so --

2 EXECUTIVE OFFICER LUCCHESI: That's correct,
3 especially with the passage of SB 152, where now we are
4 required to charge rent for the recreational pier leases.
5 Those leases will inevitably have five-year rent reviews.
6 And so those that will stay the same will be approved by
7 the Executive Officer.

8 ACTING COMMISSION MEMBER FINN: Good. Thank you.

9 ACTING CHAIRPERSON GARLAND: That concludes my
10 comments and Finance here.

11 Do I have a motion on this?

12 ACTING COMMISSION MEMBER GORDON: So move.

13 ACTING COMMISSION MEMBER FINN: I'll second.

14 ACTING CHAIRPERSON GARLAND: I have a motion and
15 a second.

16 All those in favor?

17 ACTING COMMISSION MEMBER GORDON: Aye.

18 ACTING COMMISSION MEMBER FINN: Aye.

19 ACTING CHAIRPERSON GARLAND: And Item 100 is
20 adopted.

21 EXECUTIVE OFFICER LUCCHESI: Thank you.

22 ACTING CHAIRPERSON GARLAND: That takes us out of
23 the consent items that were pulled and moves us into the
24 regular session.

25 Do we actually I'm going to call for a

1 five-minute break since we just -- we've got some folks
2 antsy.

3 So let's call for a five minute. We're back here
4 at 11:20.

5 (Recess)

6 ACTING CHAIRPERSON GARLAND: We're going to bring
7 the Commission back into session. If everybody can take
8 your seats. Or if you need, take conversations out into
9 the hallway. Appreciate that.

10 Last we were together, we finished off those
11 items that were pulled from the consent calendar and are
12 moving on to the regular items. That would mean Item 113,
13 I believe.

14 EXECUTIVE OFFICER LUCCHESI: Correct. And Grace
15 Kato of our Land Management staff will be giving a brief
16 introduction to this item.

17 MS. KATO: A very brief introduction actually.

18 I'm just here to introduce to you Maria Brown
19 with the NOAA Gulf of the Farallones National Marine
20 Sanctuary, who will give a presentation on the Tomales Bay
21 Vessel Management Plan.

22 ACTING CHAIRPERSON GARLAND: Actually before we
23 get there, we had two speakers who had put in requests for
24 items that were not heard in open session. I just want to
25 thank those people for coming to the Commission today and

1 wanting to participate.

2 (Thereupon an overhead presentation was presented
3 as follows.)

4 ACTING CHAIRPERSON GARLAND: How are you?

5 MS. BROWN: I'm well.

6 ACTING CHAIRPERSON GARLAND: Good to see you
7 again.

8 MS. BROWN: And I want to thank the Commission
9 staff for collaborating with NOAA's Gulf of the Farallones
10 National Marine Sanctuary on Tomales Bay.

11 I'm going to give a very brief presentation. If
12 you'd like me to slow down or answer any questions, let me
13 know. Otherwise I'm going to just quickly go through the
14 slides.

15 So I'll start.

16 --o0o--

17 MS. BROWN: The Gulf of the Farallones is part of
18 the National Marine Sanctuary System. We have 14
19 sanctuaries throughout the country.

20 --o0o--

21 MS. BROWN: We have a suite of tools available to
22 us to manage in the sanctuary. These are the six tools we
23 use. And the management plan includes five of these six
24 tools.

25 --o0o--

1 MS. BROWN: Tomales Bay is located in Marin
2 county.

3 --o0o--

4 MS. BROWN: Here's a nice picture of it.

5 --o0o--

6 MS. BROWN: And what's so special about Tomales
7 Bay is it has state, national, and international
8 protections and designations as a significant water body.
9 There's extensive recreational use. And it has the
10 state's third largest commercial shellfish fishery.

11 --o0o--

12 MS. BROWN: So the issues of concern within
13 Tomales Bay are pathogen impairment; sewage discharge;
14 discharges of fuel, oil, and toxic materials; boat
15 groundings and sinkings; wildlife disturbance; evasive
16 species; and vessel mooring and anchoring impacts. So
17 this plan addresses all these issues.

18 --o0o--

19 MS. BROWN: Our management challenge has been -
20 it's taken us 11 years to get here - is that there are 11
21 agencies - we've got a year per agency - with numerous
22 jurisdictions, numerous levels of regulations, and need
23 for coordination among these agencies and that there are
24 many stakeholders that are very engaged that are affected.

25 --o0o--

1 MS. BROWN: So here is -- this is just basically
2 to show you the process. I'm not going to walk through
3 this slide. But we started in 2002.

4 ACTING CHAIRPERSON GARLAND: Any favorite slide.

5 MS. BROWN: And we started -- well, that's when
6 it really got going. And that was because State Water
7 Quality Control Board requested that the Gulf of
8 Farallones and State Lands Commission address water
9 quality issues in Tomales Bay, in particular related to
10 vessels. And so that's really got us off the ground.

11 So through this entire 11-year period, we have
12 been fully engaged with the stakeholders in the community,
13 starting in 2007 releasing a scoping document and having
14 public meetings. Then having a working group with
15 stakeholders involved, helping us go through the different
16 issues and make recommendations. In which we accepted
17 over 90 percent of the recommendations they gave us.
18 Produced a plan, which then we released for public comment
19 this past September. And we've revised the plan. Had
20 another stakeholder meeting to address their comments
21 received. We received 50 comments. We were able to
22 address about 98 percent of those comments we received.
23 And had another stakeholder meeting in which everyone
24 seems to be on the same page, which is wonderful. And
25 that brings us here today with the revised plan.

1 authorities or regulations within Tomales Bay.

2 --o0o--

3 MS. BROWN: The scope of the plan covers five
4 categories: Sewage services, oil and bilge services,
5 vessel mooring program, voter education and outreach, and
6 preventing the introduction of non-native species.

7 --o0o--

8 MS. BROWN: The mooring program has been the one
9 that had the most interest. And basically it's a program
10 that outlines where it would be appropriate to moor in
11 Tomales Bay.

12 --o0o--

13 MS. BROWN: So this is a little outline of it.
14 The administrative exclusion, Duck Cove to Tomales Point
15 out to a quarter mile offshore. This is outside both the
16 Gulf of the Farallones and State Lands Commission
17 jurisdiction, so it is not an allowed mooring area.

18 Protecting wilderness, open space and wildlife.
19 No moorings are allowed within 300 feet of a seal haul-out
20 area. That is a no recommendation, is that all people
21 should stay 300 feet away from seal haul-outs. Areas
22 within a thousand feet of state park lands. That's a
23 state park policy.

24 Another one is protecting habitat biota. There
25 is a -- moorings will not be allowed in sea grass beds.

1 This is consistent with the California Department of Fish
2 and Wildlife as well as the sanctuary.

3 And then protecting human health and safety. No
4 moorings in aqua-culture lease areas, areas within 100
5 feet of swimming beaches and navigation channels.

6 So other than this, pretty much the bay is open
7 to mooring.

8 --o0o--

9 MS. BROWN: Public comments received. We
10 received numerous public comments, approximately 50 in
11 writing and verbally. As I said, we were able to address
12 the majority of those comments. And they fell under --
13 there's some major themes. There's mooring tackle and
14 inspection requirements. That's been updated to reflect
15 the input we received from the stakeholders.

16 And financial cost to boaters. We did an
17 analysis that's well within the standard costs for boating
18 within the state of California and in the Bay Area.

19 Location of sewage services. There's an area
20 they wanted sewage services to be located that's outside
21 of both the Gulf of Farallones and State Lands
22 jurisdiction. We forward that request to the appropriate
23 agency.

24 And the public actually implementation processes,
25 how we're going to move forward and implement this. And

1 we are working with the stakeholders on that process right
2 now and providing an interactive PDF map so that the
3 public can go right to the map, see if their mooring's in
4 a zone. And it outlines a process for them to apply for a
5 lease.

6 --o0o--

7 MS. BROWN: So with that, if you have any
8 questions, I'm happy to answer them.

9 ACTING CHAIRPERSON GARLAND: Couple of things and
10 not a question.

11 One, I want to thank you for all the hard work.
12 This is -- it's rare that we have something of this scope
13 come to the Commission that doesn't have significant
14 opposition. So having spoken to you earlier. And it's a
15 testament to the process that you went through and the
16 cooperation between the 11 agencies. So thank you very
17 much for that, to the staff and to Maria.

18 As far as the community engagement goes, and I
19 think we can -- you know, this Commission and its staff
20 has tried very hard in the last couple years to really
21 make that a part of what we do on a standard operating
22 basis. And this is the kind of outcomes we get when we do
23 that. So, again, thank you for that as well.

24 And then I'll kick it to -- I believe both
25 commissioners have questions. But Alan's light is on.

1 So Alan.

2 ACTING COMMISSION MEMBER GORDON: I would just
3 like to express my extreme disappointment. It was my --
4 in my theory that the federal government can never
5 actually accomplish anything. The fact that you were able
6 to pull this off I think is remarkable. It only did take
7 11 years, but still, yeah, fantastic work. I can't
8 imagine working in that particular community and reaching
9 consensus. I mean I've worked on things where I don't
10 think 90 percent of the people in Marin would agree that
11 the Golden Gate Bridge attaches them to San Francisco.
12 And the fact that you have managed to do this I think is
13 fantastic.

14 Thank you for your work, and your staff.

15 MS. BROWN: Thank you.

16 ACTING COMMISSION MEMBER FINN: Just, again,
17 congratulations. And maybe they can all come help with
18 the Delta issues.

19 Thank you.

20 MS. BROWN: And as I said, I want to thank the
21 Commission. It's been wonderful working with the staff.

22 ACTING COMMISSION MEMBER FINN: Thanks.

23 ACTING CHAIRPERSON GARLAND: All right. Do we
24 have a motion on this item?

25 ACTING COMMISSION MEMBER GORDON: So moved.

1 ACTING COMMISSION MEMBER FINN: Is there any
2 public comment?

3 ACTING CHAIRPERSON GARLAND: Oh, I'm sorry.
4 Is there any public comment.

5 EXECUTIVE OFFICER LUCCHESI: No.

6 ACTING CHAIRPERSON GARLAND: I don't believe
7 there -- there were no cards put in.

8 ACTING COMMISSION MEMBER FINN: Okay. Sorry.

9 ACTING CHAIRPERSON GARLAND: Ms. Lucchesi, was
10 there anything that you wanted to add?

11 EXECUTIVE OFFICER LUCCHESI: No, no.

12 ACTING CHAIRPERSON GARLAND: Excellent.

13 So do we have a motion and a second?

14 ACTING COMMISSION MEMBER GORDON: Moved.

15 ACTING COMMISSION MEMBER FINN: I'll second.

16 ACTING CHAIRPERSON GARLAND: We have a motion and
17 a second.

18 All those in favor?

19 ACTING COMMISSION MEMBER FINN: Aye

20 ACTING CHAIRPERSON GARLAND: Aye.

21 Motion carries. It's adopted.

22 Thank you to everyone again for all your hard
23 work on this.

24 The next item of business is Item 114, which is a
25 staff update on Owens Lake. May we have the staff

1 presentation.

2 EXECUTIVE OFFICER LUCCHESI: Yes. Colin Conner,
3 our Assistant Chief of our Land Management Division, will
4 be giving the informational presentation.

5 ACTING CHAIRPERSON GARLAND: Thank you, Colin.
6 You may proceed.

7 (Thereupon an overhead presentation was presented
8 as follows.)

9 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
10 All right. Thank you.

11 Commissioner Garland, did I hear you say you
12 wanted a longer Commission meeting?

13 ACTING CHAIRPERSON GARLAND: Of course. That's
14 why I pulled those consent items.

15 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
16 I've got a lot of slides here for you then.

17 ACTING COMMISSION MEMBER GORDON: Can we have a
18 full history of Owens Lake and how it was actually a lake.

19 ACTING CHAIRPERSON GARLAND: I do have plans this
20 weekend.

21 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
22 As Jennifer said, I'm the Assistant Chief of the
23 Land Management Division. And I'm here to present an
24 informational item -- an informational update on Calendar
25 Item 114.

1 Also with me is Jennifer DeLeon, who is right
2 there. She's a Program Manager with our Division of
3 Environmental Planning and Management. We're the
4 Commission's representatives on the master plan.

5 Also I understand -- I saw him earlier -- Marty
6 Adams is here from L.A. DWP. And I believe he'll be
7 addressing the Commission after I'm done.

8 So a bunch of things to talk about. Let's jump
9 into it.

10 --o0o--

11 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

12 This is where Owens Lake is, Inyo County. I
13 think we all know that.

14 This is a before and after, 1891. There was
15 water. Today, not so much.

16 --o0o--

17 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

18 Fun facts. It's a large lake, approximately 110
19 square miles in size. Aqueduct was completed in 1913.
20 Lake was essentially dry by 1930, which led to dust coming
21 off the lake and becoming emissive. Owens Lake is the
22 largest single source of PM₁₀ in the United States. PM₁₀,
23 particulate matter. Ten microns, mean aerodynamic
24 diameter.

25 I guess more importantly or more interesting is

1 the dust season. It's pretty long, October 1 to June 30.
2 There's a little bit of a lull, I think it's right around
3 February, March, April.

4 In June 1999 the State Lands Commission issued a
5 20-year lease to DWP for dust control purposes. And DWP
6 has controlled approximately 90 percent of the emissions
7 on the lake -- coming off the lake, I should say.

8 --o0o--

9 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

10 A lot of acronyms. The ones I would ask you to
11 focus on are DCM, dust control measures, and BACM, which
12 is best available control measures. There is a slight
13 difference there. BACM are approved by the Great Basin
14 Unified Air Pollution Control District. There's three of
15 those. Those are gravel, shallow flooding, and managed
16 vegetation. Or you can use them in a hybrid-type fashion.

17 Another one that you'll see is the habitat
18 suitability model, which is a new development coming out
19 of the master plan process. And we'll talk about that a
20 little bit further into the presentation.

21 --o0o--

22 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

23 These are the key government agencies. Great
24 Basin tasked with air quality in the Inyo County area.

25 Los Angeles Department of Water. And we know

1 what role they play in their, you know, tasks with
2 controlling the emissions.

3 The State Lands Commission is the owner of the
4 majority of the lake bed.

5 And then there's the California Department of
6 Fish and Wildlife. And they also have to issue a permit.
7 It's a lake bed alteration agreement 1600 permit.

8 --o0o--

9 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

10 Right now since 1999 -- we issued a lease in
11 1999. There have been 12 amendments kind of incrementally
12 adding to the lease area for various dust control
13 projects.

14 There's best available control measures on 41
15 square miles. But actually there's more than that under
16 lease right now, because there's -- as I'll talk about it
17 here in just a moment, there's three square miles, a
18 little over that, that are under lease. And that's --
19 they're under lease for tillage, but DWP is going to be
20 proposing a large scale project on that.

21 This is a breakdown of the BACM and the areas
22 that are currently under lease. As you can see, shallow
23 flooding is the majority. And approximately 95,000
24 acre/feet of water are used for shallow flooding purposes
25 on the lake bed every year.

1 --o0o--

2 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

3 Let's see. Phase 7A is what I was just alluding
4 to. It's the 3.07 square miles. It's currently under a
5 lease but for tillage. And tillage isn't a BACM. It's
6 kind of a test project. And they have actually -- DWP has
7 actually done a little bit small-scale experimentation
8 with tillage.

9 But this project here is, you know, to bring it
10 into compliance using BACM. And it's kind of interesting,
11 because it involves not only the 3.07 square miles that
12 are emissive, but it also is going to involve
13 transitioning an additional 3.4 square miles of other BACM
14 to other things. And what that means, and I didn't
15 explain that very well, but in order to bring the 3.07
16 square miles of Phase 7A into compliance, some of those
17 areas are going to require water. And what DWP wants to
18 do is conserve water by reengineering existing shallow
19 flood and spreading some of that water over to the new
20 Phase 7A property.

21 In order to do that, they're using this habitat
22 suitability model, which is -- it analyzes habitat in
23 certain areas. The types of guilds, water fowl, things
24 like that. I'm not a biologist, which is Jennifer's
25 bailiwick. The intent is to seek to preserved and enhance

1 those areas where you can -- where the water fowl, where
2 the birds actually congregate. And in of those areas to
3 also preserve water. Some of the things are so deep that
4 they don't make any sense to be as deep as they are. The
5 water fowl might come if it was shallower, for instance,
6 different guilds.

7 So the habitat suitability model has been
8 developed as part of the master plan. It's being applied
9 to this phase 7A and the transitional areas. And they're
10 also using hybrids. Up till now most of what they've done
11 is just shallow flood, just gravel, or just managed
12 vegetation. What they're trying to do is make it into a
13 more natural setting by having some areas of shallow flood
14 maybe surrounded by gravel areas with managed vegetation
15 on the sides, rather than having these large expanses of
16 just one thing. They think they'll be better for the
17 habitat on the lake now.

18 The EIR is probably going to be certified I
19 believe in May or June. Marty can address that. One of
20 the issues coming out of this particular EIR is they did
21 identify some areas of cultural artifacts -- cultural
22 resources, I should say. Some of them had artifacts. But
23 approximately 350 acres. The EIR is recommending those
24 350 acres to be avoided, left alone. The issue with
25 that -- and I have a note here, you know, in parentheses

1 "compliance." We don't know how Great Basin is going to
2 treat that, because they're supposed to be, you know,
3 bringing that area under compliance. But then you have
4 the local tribes who are concerned about, you know,
5 damaging a cultural resource site. So that's kind of left
6 out there right now.

7 Yet another lease amendment will be needed to
8 address these proposed activities and resulting in a 13th
9 amendment. There is an application that Commission staff
10 is processing. We're waiting for kind of the final
11 iteration of the Environmental Impact Report to match up
12 the project descriptions with the application. So I would
13 be looking for that. I mean I don't know a timing, but
14 it's going to be some time this year. And I believe that
15 this particular phase 7A they need to start work on it by
16 October 1st, the start of the dust season.

17 --o0o--

18 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

19 Potential future projects. Phase 9. And there's
20 kind of a -- there's a little bit of a disconnect. We
21 talked about lease amendments. There's a bunch of those.
22 For dust control purposes it's in phases. Okay. That's
23 Great Basin and DWP's terminology.

24 What we've got here, the red areas are the --
25 they're called Loan Areas. They're emissive. And then

1 you have yellow areas where it's your Watch Areas. Watch
2 Areas, if Great Basin, continues to watch them and they
3 find that they become emissive, then they transition to
4 Loan Areas.

5 What happens here is every year Great Basin after
6 watching these areas designates certain areas as emissive
7 areas, the loan areas, and can issue an order to DWP to
8 mitigate, you know, to control the dust in those areas.
9 This is -- the red areas here are phase 9. They're
10 scattered all over. This is the area that DWP appealed to
11 CARB, and there was a hearing last year. And my
12 understanding is it's now in litigation.

13 --o0o--

14 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

15 Moving on to the master plan. This was the
16 process that was kicked off in January 2010. It was
17 intended to be a collaborative process involving a lot of
18 stakeholders. State Lands Commission is clearly one of
19 those. But you can see the intentions there to a
20 framework to manage and diverse resources of the lake
21 while continuing to control dust. Collaborative process.
22 And I want to emphasize that because it does come into
23 play a little bit later.

24 The collaborative process was intended to be --
25 this isn't going to be binding on any one agency or group.

1 No one was going to be advocating their authority, as
2 trying to reach a collective and, you know, collaborative
3 process, you know, develop a plan through that process.

4 The organization's Planning Committee, they're
5 the decision-making body. Jennifer and I sit on that.

6 There's a coordinating committee which just
7 basically helps schedule stuff.

8 The work groups have done invaluable work.
9 They're the ones who developed the habitat suitability
10 model. We had work groups for various things: Dust
11 control measures, habitat, water conservation, public
12 access. There's just several of them.

13 And then the agency form would happen
14 periodically, and that's when just the agencies --
15 primarily the executives of the agencies got together for
16 updates: "Where are we," things like that.

17 --o0o--

18 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

19 This is the Planning Committee, the
20 decision-making body. Again, you can see all the people
21 that are on it. It makes it very -- a lot of different
22 interests.

23 --o0o--

24 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

25 And these are the key elements. These were

1 generally represented by the sub -- you know, the
2 subgroups, the work groups. We tried to identify what the
3 elements of the master plan, what we wanted to, you know,
4 focus on. Those stakeholders that had interest would be
5 part of those work groups. State Lands Commission was
6 involved in a number of these.

7 --o0o--

8 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

9 Moving to the habitat suitability model. It was
10 again developed by the Habitat Work Group, value acres.

11 And I should probably let Jennifer -- do you mind
12 giving a brief explanation of that, Jennifer?

13 Do you want a brief explanation of that?

14 ACTING CHAIRPERSON GARLAND: Sure.

15 ACTING COMMISSION MEMBER FINN: Sure.

16 MS. DE LEON: Hi. Thank You. Jennifer DeLeon.
17 I'm with the Division of Environmental Planning and
18 Management.

19 So the habitat suitability model is basically an
20 index. It's created as a way to provide some objective
21 inputs for optimizing habitat needs, salinity needs, water
22 depth. So what it does is it takes -- rather than having
23 just people out there saying, yeah, there's birds there,
24 yeah, there's not birds there, it's a way of providing a
25 more objective input into how the habitat is functioning.

1 Because there are so many different sort of wild cards at
2 play when you're looking at usage. It could be things
3 happening with bird populations anywhere from their
4 migration from, you know, up north to their wintering
5 grounds down south. And so that can be so unpredictable
6 and stochastic that we wanted to bring a sense of
7 objectivity to it.

8 So a bunch of the scientists got together and
9 they determined what were the most important things
10 habitat-wise for the set of different guilds, from
11 meadow-living species to dabbling ducks to diving to shore
12 birds. And so, again, they determine the important inputs
13 for prey base, for salinity, for water depth, for
14 vegetation. And they rolled that into everything was
15 measured on a scale of zero to one. So the one would be
16 when the water depth is the most optimal, when other
17 factors are most optimal.

18 So what that comes out is they look at each cells
19 and they measure each of those on that zero to one scale.
20 And they said, "What is the value of this now as is
21 currently managed?" And then what the effort will be is
22 then to try to bring each of those into something that's
23 closer to that optimal.

24 And so what it does is it allows us to look at
25 these different cells as, okay, if we need to take one

1 area and make it less optimal, how can we take an
2 under-utilized area and bring it closer to one. And then
3 that way it evens out.

4 So you may have at the end of the day fewer acres
5 of shallow flood. But that acreage that's left is
6 utilized more by the guild or guilds that it's targeted
7 for because it contains a more optimal measurement of
8 those needs. And so sometimes they can be for multiple
9 guilds. Sometimes it's targeted at one guild. Sometimes
10 it's pond size, sometimes it's depth. And by bringing the
11 mosaic concept that they're doing, the hyper-BACM, then
12 that also feeds into the index of suitability for those
13 species.

14 So that's basically what it was. It was to bring
15 something fair and objective into the science of it rather
16 than trying to depend on something that -- you know, these
17 living animals that are somewhat unpredictable.

18 ACTING COMMISSION MEMBER FINN: Just a quick
19 question. Is that something unique to just Owens Lake or
20 is that a model that's used in other restoration?

21 MS. DE LEON: You know, Jeff Norden and some
22 other folks that -- you know, I believe it's that a
23 habitat suitability index or that type of model is fairly
24 established. So I don't think they created a new model --
25 a new model concept. But the model itself for Owens Lake

1 is specific to Owens Lake.

2 ACTING COMMISSION MEMBER FINN: That's what I
3 meant. It was more of a model. Interesting. Thank you.

4 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

5 All right. Master plan progress, as I mentioned,
6 it commenced in January 2010. We actually had a draft
7 master plan released for public comment in December 2011.
8 We, the State Lands Commission staff, and other agencies
9 provided their comments. I believe they were due in
10 February 2012.

11 We're going to use that draft master plan for the
12 EIR. And the State Lands Commission was going to be the
13 lead agency on that.

14 The last Planning Committee meeting we had was
15 January. Notable about that was that DWP presented a list
16 of must haves. Then after that, in March DWP informed
17 stakeholders of the master plan of its intent to develop
18 its own plan, which is known as the master project. And
19 that was subsequently unveiled April 17th to the Inyo
20 County Board of Supervisors.

21 And now let's talk a little bit about L.A. DWP's
22 master project.

23 --o0o--

24 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

25 The broad goals are similar to the master plan.

1 Here, they need similar things. And here they're
2 called, you know, assurances that they would have to do no
3 more dust control on anything greater than the 45 square
4 miles that they've already committed to. So basically no
5 further -- you know, Great Basin can't ping them with more
6 orders.

7 Again, the BACM DCM thing. Transition -- they
8 want to transition two times as much land as currently
9 allowed under the State Implementation Plan. And that is
10 1.5 square miles every 18 months. So they'd basically,
11 you know, double that obviously. The concern there from I
12 believe it's Great Basin's viewpoint is that these areas
13 might become emissive again during the transitional
14 period.

15 And the last one that I've listed here is a
16 permanent right to implement and maintain the project on
17 state-owned land. Right now they've got a 20-year lease.
18 That lease expires in 2019. As you know, the longest we
19 can go out by our code of regulations is a 49-year lease.
20 So at that point in 2019 we could -- you know, if the
21 Commission wanted to do so, they could, you know,
22 authorize a lease for 49 years.

23 So these are again some of the assurances that
24 they're looking to get.

25 Here's a comparison. Master plan collaborative,

1 front of you.

2 I think that staff's in agreement that the major
3 issues or the major thing going on out at Owens Lake is
4 the master plan, master project. And so it's really up to
5 the Commission. But you are -- in your written material
6 in front of you you have all this information.

7 ACTING CHAIRPERSON GARLAND: Unless somebody has
8 an objection, I'd like to say thank you and actually bring
9 the DWP up next. Though I suspect we may have more
10 discussion points.

11 So, Martin -- oh, here you come. Take your time.
12 No, really, take your time.

13 MR. ADAMS: Thank you very much. My name is
14 Marty Adams. I'm the Director of Water Operations with
15 the L.A. Department of Water and Power. And about
16 three-and-a-half years ago I adopted the act as part of
17 our responsibilities and with it, surprise, came the Owens
18 Lake and all the associated projects and ongoing issues we
19 have out there.

20 Collin did a great job of putting about twelve
21 years' worth of work into a short time, as it is. There's
22 a lot of details, as you can imagine, that go behind that.
23 And Jennifer's description of the habitat suitability
24 model was right on target. And that is a special effort
25 for the lake that a lot of the environmental groups that

1 were involved have identified as a good process to use at
2 other locations throughout the state, because it does get
3 to the question of providing the habitat that brings
4 wildlife as opposed to just doing counts and trying to
5 look at all the different impacts.

6 Real briefly, I'm not going to try to take too
7 long. I just want to hit some of the highlights and bring
8 it up to speed with where we are right now. I did speak
9 to one gentleman who in 1981 when he started with State
10 Lands his first project was to look at Owens Lake. And
11 that was at a time when it was believed that State Lands
12 was going to be ordered by Great Basin to do dust control
13 there. And there was a lot of studies that the state was
14 concerned about.

15 As it happened, there's the dust control order
16 for the Department of Water and Power under Health &
17 Safety Code 42316, which is actually written about Mono
18 Lake. And so if you look at the legislative record, it's
19 all about Mono Lake. But at a time that there's some
20 permitting issues over a geothermal project, there was a
21 way to hook Owens Lake in because of the fact that it was
22 dried up as part of the diverting of Owens River and that
23 contributed to the drying of the lake.

24 And so back in 2000 we began our first dust
25 control projects. And there's been a number of

1 implementation plans, SIPs, that have been written. And
2 at each time we found more and more areas of the lake
3 being directed to be controlled to control the dust
4 emissions. And basically at this point we've -- the
5 department has ramped its way up to where we've now
6 committed to do 45 square miles of dust controls on Owens
7 Lake. And so Collin was off by a mile. We're at 42
8 square miles were constructed currently. Thirty-nine of
9 those square miles were shallow flooding. And some looks
10 like ponds. Some looks like mud flats, because shallow
11 flooding is defined as a 75 percent moisture level over
12 the area.

13 And with that we've had a lot of wildlife return
14 to the lake. And so there's actually -- there's actually
15 probably at least seven times the amount of shore line
16 area at the lake than there was historically because of
17 the ponds and the way it's divided up. And shore birds
18 are one of the leading species at the lakes. And we've
19 actually been able to create some meadow habitat that
20 probably did not exist before in the historic lake.

21 But with the project at 45 square miles, which we
22 are trying to complete the last three miles, and that's
23 the phase 7A project that Collin mentioned, it's the last
24 three square miles of an order written 2006 that we're
25 trying to complete. And I'll get back to that in just a

1 moment. But a 45 square miles, that represents what the
2 city has done by agreement. Now, so the law has been
3 applied and we've received dust control orders. But the
4 city's agreed with those orders. We felt that those
5 orders reflected the impact of the city on Owens Lake.

6 Two things. On the very first slide you saw a
7 picture of the lake when it was wet and the lake when it
8 was dry. And the lake was not always wet. The lake has
9 been dry a number of times in history on its own. And so
10 we do know that the lake has a very -- great variability
11 over time with what happens. It was the terminal lake.
12 It's subject to what happens to precipitation in the
13 eastern Sierra.

14 And so we know that, for instance, the six or
15 seven sand dunes around the lake were formed between 1200
16 and 2,000 years ago. And they were formed when the lake
17 was extremely low or entirely dry from sand blowing off
18 the lake into the shore. So the very arguments about the
19 formation of the sand dunes you can rely on the fact that
20 the lake was low naturally. We know in the last 2,000
21 years it's been completely dry at least six or seven
22 times.

23 And so what we're looking at and one of the legal
24 challenges that we're facing now is that we continue to
25 receive dust control orders for the lake. But we believe

1 that now we're in the arena where we're trying to control
2 what are natural events. So we're essentially being asked
3 to control areas that would be naturally dry year and year
4 out over time. And so as opposed to saying L.A. dried up
5 Owens Lake, we're looking at L.A. had an absolute impact
6 on Owens Lake. But it impacted as an overlay on top of
7 certain natural events that were occurring anyway.

8 And so we believe that 45 square miles we've more
9 than mitigated for the net impact of Los Angeles water
10 diversions and we're now getting to the realm of where the
11 dust that we see from the lake, which actually at this
12 point is substantially less than the dust from the rest of
13 the surrounding desert area. And as we've seen at the
14 rest of the valley, the sand dunes, everything blows,
15 Owens Lake is probably the least emissive area in the
16 Owens Valley at this time, because everything else is back
17 to its natural levels.

18 And so that's not -- I'm an engineer with a lot
19 of lawyers in the room, so I won't get too much into that.
20 But that is the basis of the argument, that we believe
21 that the city has met its responsibilities under the law,
22 and that the dust we're looking at now -- and I've been
23 asked am I suggesting the state should control the dust?
24 I'm suggesting that the dust at this point is entirely
25 natural and similar to everything around it.

1 And so at this point I mean we were backed down.
2 If you follow the first settlers that arrived in the Owens
3 Valley, the indians have been there for thousands of
4 years. We've looked at the first European settlers that
5 arrived in 1834. Every single issue they dealt with
6 between there and the 1900s all focused on living with the
7 dust. And so we know that there's, you know, clearly
8 issues.

9 And with the 7A issues, Collin mentioned about
10 the cultural artifacts issue. And I can't identify it
11 publicly on a map, but we found a number of artifacts,
12 including a very well documented 1864 battle site that
13 occurred 29 feet below the supposed water level that Los
14 Angeles was responsible for. And it occurred 41 years,
15 not 400 years, but 41 years before the city showed up. So
16 this is a relatively recent event. And it occurred on the
17 lake shore at an elevation well below the control level.

18 So these are the legal issues we're dealing with
19 and that we're trying to grapple with. And certainly on
20 the issue of finish the 7A project, most of the project
21 can move forward. There's that 350 acres that is full of
22 artifacts that we are working with State Lands staff very
23 closely to -- because one of the problems in the project
24 is that we've been ordered by Great Basin Unified Air
25 Pollution Control District to do work on state property.

1 But the state was never approached as to would it allow
2 the work, how should the work be done? And so it's been
3 an interesting situation, because we have come up with
4 projects and then approached State Lands to ask permission
5 to do those projects without the state having agreed early
6 on that the projects needed to be done, what would they
7 look like, what would be the conditions. And so it's
8 caused a strange relationship. And so we don't want to
9 repeat that. So there's nothing that we would ever look
10 to do in the future, including on phase 7A, without the
11 state being fully on board ahead of time and prior to
12 making any new commitments.

13 I'll get quickly to the effects of the dust
14 control. We have 45 square miles. That's basically about
15 the size of the city of San Francisco. And actually the
16 water used on the lake right now exceeds that of the city
17 of San Francisco.

18 ACTING CHAIRPERSON GARLAND: My boss being the
19 former mayor of San Francisco, I think I have to jump in
20 here and say that it's larger than the city of San
21 Francisco by a factor of about 14, 15 percent.

22 MR. ADAMS: Thank you.

23 So it's not a small feat. It means we've
24 constructed a water system across the size of the city of
25 San Francisco since 2000 and delivered a tremendous amount

1 of water.

2 And if you look at the law that actually made
3 L.A. responsible, the law very clearly states that the
4 control of dust -- not Owens Lake, just -- it says the law
5 because it doesn't pertain to any particular lake -- would
6 not impact the city's water rights or diversions,
7 production of water to the city. And of course exactly
8 the opposite has happened.

9 We'll actually -- this year we're celebrating the
10 100th anniversary of the Los Angeles Aqueduct, and we will
11 deliver less water to the city than we will put on Owens
12 Lake. And it'll be the lowest -- because of the last two
13 poor years of snowfall, it'll be the lowest delivery on
14 record for the city.

15 So it's a substantial impact. Right now that 15
16 percent of every water bill paid in L.A. pays for the
17 Owens Lake projects. About one in every seven dollars
18 goes to that. And in Los Angeles, it's a large city, but
19 we do have 800,000 people that live below the federal
20 poverty level in the city that are paying for those
21 projects. And we think that, you know, we need to change,
22 you know, how this is being done and how we need to
23 address this.

24 And we also recognize that because Los Angeles
25 has the most aggressive water conservation campaign and

1 results in the country, we've saved a tremendous amount of
2 water, but we still have to import additional water. And
3 so at this point when we leave water in Owens Lake, that
4 water's made up for by water out of the California Delta.

5 And so essentially I could say with great
6 certainty that drop for drop of water -- a drop of water
7 in Owens Lake is a drop of water out of the Delta. And so
8 that's another thing we have to consider, because we are
9 such a big player in the water game, that our activities
10 affect both sides of the Sierras and everybody else in the
11 state. So we can't look at ourselves in a vacuum.

12 The master plan was a great effort. When I got
13 involved we looked at the lake, and the lake -- it looks
14 like -- I would say it looks like if you bought a house
15 and had a child and added a room, had another child and
16 added a room, and it looks like you had a very large
17 family with a bunch of added rooms. It does not like a
18 cohesive project that was well thought out in advance.
19 And part of that is because we received orders over time
20 to do additional areas. Certainly if we'd known up front
21 what the 45 square miles would have been, the project
22 could have been delivered much differently than it is
23 today.

24 The master plan was an effort to try to convert
25 this, both to save water and to make the lake a better

1 place, better place for a habitat by trying to do things
2 on purpose instead of letting them happen by accident, a
3 place to accommodate access where there was no public
4 access before because, if you drove on the lake, you
5 basically lost your car. And so there's lake mineral
6 roads, there's -- the Rio Tinto Mine was the only access
7 on the lake. Now we have people out there doing bird
8 watching, other activities. We have -- there's hunting in
9 areas of the lake. And so we need to try to look at all
10 those -- all the things that have happened out there, the
11 good things as well as the dust control project, and try
12 to do those in an organized fashion so that we can plan
13 for the improvement instead of the way they just kind of
14 happened in a haphazard manner.

15 And so the master plan was trying to look at
16 these ideas and set up some broad goals. And we had
17 tremendous participation from all the different folks in
18 the group.

19 What I was seeing though, and after we had our
20 first master plan out, we started working on what was
21 called the fuzzy map. And the fuzzy map, not that it was
22 out of focus, but it was a map where the lines were blurry
23 between what kind of guilds would use different kinds of
24 habitat. And not of course realizing that every guild
25 overlays each other. But there are certain parts of the

1 lake that are primarily used by different types of
2 wildlife.

3 And so we are working on that project. But a lot
4 of the folks in the master plan process were frustrated
5 that it had been at least two years had been involved,
6 L.A. had filed major lawsuits against a number of agencies
7 trying to bring some conclusion or reasoning to what the
8 law intended, and that there was uncertainty how we could
9 move forward; you know, would we spend two more years?
10 And so our board is very interested in the master plan and
11 has been keeping up to speed on it for the last -- since
12 it began really.

13 But they were also concerned that the master plan
14 could develop goals in there that maybe the city of Los
15 Angeles being the one who's going to pay the bill for a
16 project coming out of the master plan wouldn't be able to
17 live with. And so we put out -- in January 24th the board
18 put out a letter saying these are seven things that Water
19 and Power needs to have in order to commit to this. What
20 we didn't want to do is have a master plan complete that
21 we initiated that we couldn't even sign on to. And so we
22 said we needed to tell everybody where we stand.

23 And three of the seven things are part of the
24 project, about saving water, with the opportunities of
25 ground water, and maintaining the habitat. The other four

1 things were looking at what the city's legal
2 responsibilities are under the law for dust control,
3 looking at what kind of dust controls are allowed.
4 Because the law that makes the city responsible does not
5 dictate that it has to be the three methods for dust
6 control we have now. There's no hook to that whatsoever.
7 And we know that -- we've been doing this for enough years
8 to know that the promise that we'll try to work on new
9 ways to control dust is not the same as saying we're going
10 to actually be able to do it.

11 And then another thing was the transitioning.
12 It's a technicality in the SIP. But right now nobody, the
13 city or no one could -- we could not transition any dust
14 controls without being subject to a \$10,000 a day fine.
15 He was what's currently allowed. And so we have to have a
16 legal mechanism to do the work. --

17 And then in terms of the lease, I put the word
18 "permanent." I'd probably prefer -- 49 years would have
19 been better. The key is though recognizing that all our
20 leases expire in just a few years. We're looking at an
21 investment of over \$600 million to make the master project
22 a reality. So we need to know that within the agreed
23 guidelines, because things will change in the lake and the
24 areas will morph and habitat will move, salt will move and
25 we'll have to respond to that, that with -- but within the

1 guidelines that we're allowed to exercise that plan
2 because we'll have to make timely decisions. We won't
3 always have an opportunity to re-document and to restart a
4 process to come back for more lease amendments. And so
5 that's what that's about.

6 Real quickly, you know, we are definitely looking
7 to include all the master plan participants that are still
8 willing to work with us. We're not trying to abandon a
9 collaborative process. But we recognize that we can't all
10 drive the boat, that Water and Power's going to be the
11 ones that are pitching with this project. That if we're
12 allowed to do this work and we're allowed to have a good
13 understanding of what city's real legal responsibilities
14 are, that we're willing to make this investment.

15 This investment helps the state as a whole
16 because it improves the state water supply scenario, and
17 we know how critical it is right now. It does pay for
18 itself over 15 or 20 years, so that investment is
19 justified, because we're basically redoing the work we
20 already did at at least the same cost. We've got about
21 \$650 million in infrastructure out there now. Our whole
22 project cost was over \$1.2 billion, so it's very
23 substantial.

24 But this is a way to basically package all the
25 things that were going on in the master plan. We refine

1 the goals so that they made sense for the project. And
2 we're trying to move this ahead with the inclusion of
3 everybody in the group and bring a project. And certainly
4 with the CEQA, it will come to you for review of that.
5 But we think it is a holistic solution. It embodies all
6 the goals of the master plan and can deliver something
7 that should be happening at the lake, and that makes sense
8 for the whole state.

9 ACTING CHAIRPERSON GARLAND: Thank you for your
10 presentation.

11 I do have one quick question. You dealt with one
12 of them.

13 We've talked about this, and rather impressed.
14 And this is just an informational item. I know it's going
15 to come back to us for action at some point.

16 What are your -- what's your kind of take, if you
17 were a betting man, on how the air district is going to
18 view what you're proposing? Do you have a reasonable
19 expectation that what you are proposing will be accepted
20 or adopted by the air district?

21 MR. ADAMS: I think the air district -- you know,
22 some of the things that we're saying we need are some of
23 the things that are directly in opposition to things that
24 they would want to see. We know that right now under the
25 current rules dust control will never be complete. It's

1 impossible. It's never -- the dust has never been in
2 history, except when there was an ice age, at the level
3 we're supposed to get it to. So we just can't get there.
4 So we need to recognize that.

5 And we believe that the air district's -- they're
6 not motivated to look at it that way. We're trying to
7 change that. I think that locally there's a lot of
8 interest in doing a project like this at the lake.
9 There's tremendous interest from the environmental
10 organizations to see good habitat and to see the guarantee
11 of good habitat. There's tremendous interest from the
12 ranching community to look at the wise use of water. And
13 they don't see this much water going in the lake. They
14 see, is it hurting the other interests in the Owens
15 Valley.

16 I think the county's interested in a good
17 project, a good solution, the best use of water in Owens
18 Valley and also economic opportunities.

19 So the problem's that the only player in the game
20 so far has been the air district. And I think there's a
21 lot broader range of people who are interested in a good
22 solution. But it ultimately I believe will have to have
23 someone recognize what the law says and what was intended.
24 And we don't think that what we're doing now is what was
25 intended.

1 ACTING CHAIRPERSON GARLAND: One quick follow-up.
2 Yes or no type.

3 You glossed over that you got environmental
4 support. Do we have anything on record yet for the
5 current proposal that --

6 MR. ADAMS: Yeah, I would -- I would say -- we
7 have -- I wouldn't say environmental support. We have
8 positive feedback from a number of groups --

9 ACTING CHAIRPERSON GARLAND: Excellent.

10 MR. ADAMS: -- that want to continue on this
11 process. And I guess I'd say people have not abandoned
12 us. They want to stay involved, they want to see this
13 through. They think this is the -- maybe not the
14 smoothest way they'd like to see us go forward. But I
15 think this is the only way we're actually going to see
16 something happen in the near future.

17 ACTING CHAIRPERSON GARLAND: Mr. Gordon.

18 ACTING COMMISSION MEMBER GORDON: I don't even
19 know where to start. I've got about 30 years working on
20 California water policy. And when I see the opening line
21 here on background where you refer to Owens Lake and the
22 Owens River as 95,000 acre/feet of drinking water, it
23 reminds me of fights we had in the 1970s. There are other
24 multiple uses of that water. And while it's not -- it is
25 true that Owens lake is greatly variable, as all desert

1 lakes are, to go back and say, yeah, it was dry during the
2 13th and 14th centuries when there were hundred-year
3 droughts is a little difficult, based on the fact that if
4 you look at the history, then the paleontological history
5 shows that the indians started killing each other back
6 then when the water disappeared. So I don't think that's
7 really the time frame we wanted the talk about.

8 More specifically, my problems with where L.A.
9 DWP's going here is that -- I'm going to use somewhat of a
10 different analogy. The precautionary principle that's
11 used in chemical regulation requires that the folks who
12 wish to introduce something new to the environment prove
13 that it is not damaging. Based on L.A. DWP's history in
14 this area, I think that the bar for you folks to show that
15 your plan will not be significantly damaging to whatever
16 progress has been made there is very, very high. Yes,
17 Mono Lake has come back well. But not because of by
18 anything voluntary by L.A. DWP. And it took years of
19 litigation in the Mono Lake decision to get that lake
20 back.

21 To see you guys pulling back with your goal of, I
22 think it is, reduce total lake-wide water use by at least
23 50 percent, fauna need water. The same argument's being
24 made on the San Joaquin, that we can restore it without
25 water. Fish need this bizarre thing, they need water to

1 live in. And to reduce the amount of water that has been
2 used on the lake by 50 percent, maybe it's doable. But
3 for our office, that's going to be a very, very high bar
4 for L.A. DWP to pass.

5 Yeah, this is -- I understand your need for the
6 water. I understand you're losing Colorado River water.
7 It's possible you'll lose some Delta water. And the city
8 has a lot of people and they need water. But to pull back
9 50 percent strikes me as a huge, huge overreach. And
10 unless you can pass that high bar, we will have a very
11 hard time voting for this plan.

12 MR. ADAMS: If I could answer briefly.

13 On the years -- the reason I cite the long
14 history is just to demonstrate that the lake does vary.
15 We do know even in recent times it varied because we know
16 that it was down 29 feet within a half a century before --

17 ACTING COMMISSION MEMBER GORDON: But not dry.

18 MR. ADAMS: Not dry, right. But it does vary. And
19 one of the issues is that we have constructed about
20 half -- close to half of our dust controls above the lake
21 level where it was when we began diversions. And you
22 could pick a finite lake level or you could look at just
23 the variation. But the truth is it hasn't been at the
24 level that we're supposed to regulate to in hundreds and
25 hundreds of years. And so, you know, it's not a naturally

1 full lake. It wouldn't occur.

2 In response to the dust, we are -- have no
3 intention of recreating dusty areas in Owens Valley.
4 We've committed to 45 square miles of dust control and we
5 would continue to do 45 square miles of dust control. The
6 difference is, yes, how we would accomplish that control.

7 The control could be done, a lot of it, with
8 gravel. Gravel's \$30 million a square mile. It's very
9 expensive. It's intensive. We have to mine that gravel
10 from nearby. There are probably other good solutions.

11 There's solutions that have been looked at at the
12 Salton Sea. There's solutions that have been used in
13 farms. And things used all over the world that need to be
14 allowed at Owens lake.

15 And with the water, the water reduction is based
16 on the work of the Planning Committee. That's based on
17 the habitat suitability model. The fuzzy map was -- two
18 things went into that. There's a fear of something called
19 the golden acre, that we'd try to put all the valued
20 habitat in one acre and the rest would be waste land. So
21 that's not happening.

22 The other thing is the fear is that L.A. would
23 try to do projects to save water first and then follow
24 with habitat projects. And if you look at, Collin had a
25 slide, and it's in the book that I brought, about the

1 phasing. And it shows that in each phase habitat is above
2 where it is currently and is balanced. So as water use
3 reduces, habitat stays balanced. And the key is -- the
4 whole issue with the habitat model is that because there's
5 a lot of water out there that does nothing but evaporate
6 and there's other water in meadow areas that grow plants
7 and animals, that we can, and we've proven this and I
8 believe the Planning Committee has agreed to this, that we
9 can -- we have shown that we can save that much water and
10 have no loss of habitat value on the lake.

11 And so the key then is what goes in those areas.
12 Are they just gravel? Is it other things? But we know
13 that scientifically we could have all the good things we
14 have in the lake right now with that much less water.

15 ACTING COMMISSION MEMBER GORDON: Okay. I'd be
16 interested to see how other groups respond to that claim.

17 Thank you.

18 ACTING CHAIRPERSON GARLAND: Commissioner Finn.

19 ACTING COMMISSION MEMBER FINN: No. Thank you.

20 ACTING CHAIRPERSON GARLAND: Anything from --
21 Anything staff feels we need to know based on DWP's
22 presentation? Or any concerns you have?

23 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

24 I have nothing to add.

25 Jennifer?

1 EXECUTIVE OFFICER LUCCHESI: Well, I can always
2 add something.

3 ACTING CHAIRPERSON GARLAND: Is there anything
4 you think we need to know right now?

5 (Laughter)

6 MR. ADAMS: Thank you for your time.

7 ACTING CHAIRPERSON GARLAND: Thank you, sir.

8 EXECUTIVE OFFICER LUCCHESI: Your fault for
9 asking if we had anything to add.

10 I would say that staff has participated in the
11 Planning Committee meetings and also in agency forum, all
12 of the meetings, as the habitat suitability model has been
13 developed and brought forward. And there is generally
14 support, both -- from all of the agencies with expertise
15 and non-governmental agencies, and also from the
16 biologists on State Lands staff, such as myself, that we
17 do feel that the model is based on sound science; that
18 while we do fear because of the way that it's
19 calculated -- the value acres are calculated where it's
20 basically taking the size of the cell, multiplying it by
21 that zero to one index factor, then you get how -- you
22 know, what's the sort of qualitative value, a value acre.
23 So we're worried about making one little piece of it a one
24 and then, you know, killing the rest of it and, hey, it's
25 still 400 acres of value. So we've worked through that

1 with DWP and the others.

2 So I would just -- it is -- you know, to your
3 questions specifically, there is generally consensus that
4 the habitat suitability model is sound scientifically and
5 that a more complex habitat structure, biological
6 structure does increase the value more than giant ponds of
7 varying depths of water. So it is possible to bring just
8 the three BACM into play but mix them to create the
9 complexity that will add benefit to the wildlife species
10 that live there. So I would just add that.

11 And the map that is the master project now
12 instead of the master plan, back when we hired a
13 consultant to do the Environmental Impact Report where we
14 would be the lead agency as is specified in the -- one of
15 the amendments to DWP. We did hire a consultant, and that
16 consultant with us determined that what was needed to
17 proceed with the analysis was additional specificity as to
18 transitioning areas and basically the map that is now
19 appearing in the master project. So there is a little bit
20 of a transition there of what to call it. So that was the
21 only thing that I had to add.

22 Thank you.

23 ACTING CHAIRPERSON GARLAND: Thanks a lot.

24 ACTING COMMISSION MEMBER GORDON: Jennifer, just
25 one question. How would the -- let's assume for a second

1 that the habitat plan proposed by DWP works on the lake
2 with the values you described. How would the decrease of
3 water in the lake affect the Lower Owens River Restoration
4 Project, if at all?

5 EXECUTIVE OFFICER LUCCHESI: I'm not -- we have
6 not really looked at that in depth. That would be
7 something that were we undertaking the environmental
8 analysis for the master plan/master project would be
9 considered in surrounding land use, approved or adopted
10 conservation plans. So that would come out in the
11 evaluation of surrounding uses and adopted plans. So we
12 would see if there was any impact or interaction between
13 those two.

14 ACTING COMMISSION MEMBER GORDON: Okay. Thanks.

15 ACTING CHAIRPERSON GARLAND: I think that
16 question has now raised two eyebrows back there.

17 Did you gentlemen want to step up and say
18 something?

19 Stop looking behind you. Yes, you and Marty.

20 Both of you looked like you might have wanted to
21 say something.

22 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
23 We've got the same suits on, so --

24 ACTING CHAIRPERSON GARLAND: I know. Very
25 stylish.

1 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

2 I would actually let Marty go forward on that
3 interaction between --

4 MR. ADAMS: Yes. The Lower Owens River
5 Project -- I guess it has been about eight years now since
6 it was restored -- has actually been extremely successful.
7 And so there's -- there's no -- you know, water from the
8 LORP does end up in the lake's delta. What happens if I
9 say delta here? But there's a delta at Owens Lake, and
10 that's where that water flows out. And actually we have a
11 lot of meadow growth there and some trees and quite a bit
12 of wildlife, you know, occupying that area seasonally.
13 But that's not really part of this project.

14 Now, where it would be part of the project is in
15 things like public access. There's a whole LORP
16 recreation plan that Inyo County is doing right now. And
17 I think in terms of tying recreation and access on the
18 lake and signage and public amenities, that those should
19 be tied together. But there's no impact on this water use
20 to the LORP project. The only thing looking at the LORP
21 right now, we have a really issue with tulle growth in the
22 river. It was expected to happen. It's just happened a
23 little faster than people thought. And there's a lot of
24 concern that some places the river's disappeared and
25 become a tulle marsh and there's excess evaporation that's

1 kind of hurting. So we're looking at how to deal with
2 that.

3 And then we're also looking at maybe the
4 opportunity to do higher flushing flows. But we'd need to
5 be able to pump back more water at the end. But higher
6 flushing flows would help the cottonwoods to seed better
7 on the banks. But no direct relationship.

8 ACTING COMMISSION MEMBER GORDON: Okay. Thank
9 you.

10 ACTING CHAIRPERSON GARLAND: Well, I think that
11 concludes that item. I want to thank staff very much and
12 thank L.A. DWP for coming in as well. We look forward to
13 the action items when we have them later in the year
14 probably.

15 Ms. Lucchesi, that I believe ends our regular
16 order of business.

17 EXECUTIVE OFFICER LUCCHESI: Actually we have
18 public comment.

19 ACTING CHAIRPERSON GARLAND: We have public. But
20 that's the last --

21 EXECUTIVE OFFICER LUCCHESI: That's the last
22 agenda item, yes.

23 ACTING CHAIRPERSON GARLAND: So public comment.
24 I have three here. Take them in order that I have them.

25 Alison Madden. Welcome back.

1 I'm going to ask you pay close attention to the
2 lights in front of you.

3 MS. MADDEN: Yes. Thank you for having us, as
4 usual. We understand you work on far more than Pete's
5 Harbor in Redwood City.

6 And I wanted to say that we sent a two-part op-ed
7 to the city and the San Mateo County Journal yesterday.
8 And then we forwarded it to the State Lands Commission.
9 And I've asked Ms. Hub and Ms. Lucchesi to pass it on to
10 you.

11 The first part is called "Own the Bay." And the
12 second recaps the situation of the half dozen people that
13 are still there and facing unlawful detainer.

14 And it also identifies the group of individuals
15 who's working to, you know, keep liveaboards, keep the
16 public commercial harbor and the outer harbor and Smith
17 Slough and specifically also keep liveaboards. And that
18 is Itsik Lerno, Buckley Stone, Wendy Stone, Tal Revay,
19 Murry Webber, Faith Riley, Alison Madden, Paul Seplay,
20 Jerod Vaudry, Eric Peace, Thomas Dworshat, J.D. Hoover,
21 James BeBe, Danna Sanderson, Jim Sanderson and their
22 daughter Kit, among many others who have expressed support
23 and said that they may also want to be identified publicly
24 as we move forward.

25 Very specifically, I'm here to ask for a couple

1 things. And one is that the Commission seriously consider
2 very soon ordering or issuing a 60-day notice of material
3 breach and failure of condition to operate a commercial
4 harbor and marina. And, you know, the Commission and the
5 staff has been very, very diligent and appropriately
6 deliberative and in the information gathering stage. And
7 the harbor was closed by notification in November that the
8 last day it would be operated is January 15th. And then
9 there's been a period where there's been a three-month
10 wait for a plan for repairs and upgrades that is allegedly
11 going to start happening.

12 And as you know, the plan development permit was
13 put before the city of Redwood City in July. And, in
14 fact, since 2003 there's been an assumption that this part
15 of Smith Slough could be privatized. And that turns out
16 likely to not be the case, and no one bothered to come to
17 the State Lands Commission. The city of Redwood City in
18 2003 passed an ordinance voted down by the voters in 2004.
19 And then the Planning Commission kind of softly approved
20 the 411 condos in '08 but nobody checked. And then they
21 had one meeting with -- the tenants had a three-week
22 notice. They had one meeting in October, at which they
23 approved it, and it had private boat slips. And nobody
24 checked in ten years whether -- if you could privatize the
25 bay.

1 And so what we would like is a 60-day notice of
2 breach and a failure of condition to operate the
3 commercial harbor and marina as to both the consent lease
4 and the transfer lease. And that would then have the
5 Pauls Corporation of Denver applying for both leases.

6 We would also like to ask for attendance at Mr.
7 Buckley Stone's trial. He's facing unlawful detainer on
8 Monday, May 6th.

9 And, you know, I've spoken to the deputy attorney
10 general, and I know that we could subpoena. But we would
11 ask for the attendance at trial of a member from the State
12 Lands Commission that could just describe to the judge
13 what the issues are, what's been going on, and why we're
14 in this situation.

15 ACTING CHAIRPERSON GARLAND: Your time has
16 expired. Thank you very much for your comments.

17 MS. MADDEN: Thank you.

18 ACTING CHAIRPERSON GARLAND: Again, I remind you
19 this is a public comment period and we won't be taking
20 anything up at this time.

21 But next is Mr. Buckley -- Buckley Stone.

22 Thank you, sir.

23 MR. STONE: Hello. My name is Buckley Stone.
24 Hi. I'm still living at Pete's Harbor with my wife.

25 I'm a veteran who is a cancer survivor, and I've

1 got a lot of medical issues that I'm dealing with. I was
2 just last month in intensive care for a respiratory
3 infection for five days.

4 My location at Pete's Harbor is very important
5 as -- its location. I go to the VA in Palo Alto. And
6 we're still there because it was a life decision. I
7 didn't accidentally fall into owning a boat. It was a
8 life choice. And we're hoping that the outer harbor,
9 those leases that you guys really own, would be kept
10 commercial.

11 I've sent some e-mails and some pictures showing
12 that they have created really some very dangerous
13 navigational situations out there. They have boards
14 hanging out. I've got pictures of the boats being hung up
15 on it. And they have cables going across the slips. And
16 a young ten-year old girl got caught underneath that.

17 And I've been trying to stay in communication
18 with you guys to let you know that we're still there, and
19 we're really looking forward to have you guys go one way
20 or another, give us a sign. And, you know, I've seen the
21 letters that, you know, were sent to Paula's lawyers about
22 "before you tear up anything or do anything, you really
23 ought to clear it with us." And they're blatantly
24 ignoring you, and it's a shame.

25 And it would really be neat if we could see some

1 action. We're hanging in there and, you know, there's 300
2 people that have been displaced, and not even with a thank
3 you for the tax money or anything.

4 And rents were collected illegally. It's a mess.
5 And we need your help. We really, really need your help.

6 Appreciate your time. And I appreciate your
7 communications. And we're on your side, guys. You know,
8 reach out and help us straighten out that crazy Redwood
9 City, you know. They're walking all over you and they're
10 walking all over us, and it's not fair. There's a lot of
11 people who are -- been displaced and still have to commute
12 back to Redwood City. Kids going to school in Redwood
13 City who've got friends that are now in Alameda and Half
14 Moon Bay and Oyster Point. And they still have to go to
15 Redwood City. And it's a shame.

16 Help us out. Okay? Help us out. We're behind
17 you. Let's do something. Okay?

18 ACTING CHAIRPERSON GARLAND: Thank you, sir.

19 ACTING COMMISSION MEMBER FINN: Thank you.

20 MR. STONE: Thank you.

21 ACTING CHAIRPERSON GARLAND: And our final public
22 comment is from Diane Reddy -- Diana Reddy. Excuse me.

23 MS. REDDY: Mr. Chair and commissioners. Mine is
24 a different voice. I am a long-time advocate of
25 affordable housing and a lifelong resident of Redwood

1 City.

2 And I've been extremely concerned, passionate
3 about the displacement of so many low income and extremely
4 low income residents in San Mateo County and particularly
5 in Redwood City. We recently lost 15 percent of all
6 affordable housing in San Mateo County to -- as a
7 gentrification in east Palo Alto. And I see the marina's
8 closing in Redwood City and the gentrification of those
9 areas as being a very serious issue.

10 The liveboards have been held up as being the
11 one area of the most affordable housing in Redwood City.
12 And I grew up in Red wood City, which you can imagine was
13 quite a while ago. And so I remember the marinas and
14 people. You know, it was a working marina when I grew up.
15 And one of the last vestiges was in Pete's Harbor where
16 people were actually living on their boats.

17 So I'm asking you, as a passionate affordable
18 housing advocate, to use your resources and whatever
19 influence you might have to help us prevent further
20 displacement of our low income residents and the further
21 gentrification of the wharf area.

22 Thank you very much.

23 ACTING CHAIRPERSON GARLAND: Thank you.

24 Any other speakers who didn't submit a card?

25 Seeing none.

1 Do the commissioners have any public comments at
2 this time or shall we move into a closed session?

3 All right. In that case, we're going to move
4 into closed session. I'd ask that any non-staff please
5 leave the room immediately. 12:32 PM 12:45 PM

6 ACTING CHAIRPERSON GARLAND: Bring the State
7 Lands Commission back into open session.

8 I ask, do any of the commissioners have anything
9 further to discuss in open session?

10 I thank everybody for their participation today.
11 This meeting is hereby adjourned.

12 (Whereupon the California State Lands Commission
13 meeting adjourned at 12:46 PM)

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