

STATE OF CALIFORNIA

OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION

PUBLIC HEARING

SATURDAY, DECEMBER 10, 2005

9:11 a.m. to 4:45 p.m.

HELD AT

LIONS GATE HOTEL, Courtyard Room,
5726 Dudley Boulevard, Building 1420,
McClellan, California

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1 (McClellan, California, Saturday, December 10, 2005.)

2 (Meeting continued at 9:11 a.m.)

3 CHAIR SPITLER: Thank you all for attending the
4 third and final day of the State of California OHV
5 Commission meeting. I want to introduce to my left
6 Bruce Reeves from the Attorney General's Office who
7 will be representing the Commission today. He's here
8 on behalf of Billy Jenkins who had to be away on
9 personal business.

10 The purpose of today's meeting is to continue
11 the agenda items from the past two days. We got mostly
12 through Item A of new business, the 2005/2006 local
13 assistance grants and cooperative agreements program.
14 We have six more items remaining ranging from policies
15 to capital outlays, and a number of items that were
16 carried over from the meeting of the past few days.

17 Before we move forward with the agenda, any
18 comments or discussion Commissioners would like to
19 make?

20 COMMISSIONER WALDHEIM: Yes, Mr. Chair,
21 yesterday after the public comments there were several
22 ideas that I came up with, and I wanted to do a
23 resolution, and you had told me that wasn't the proper
24 time, it should be under new business. I'm just
25 wondering if I can make a comment or make a reading of

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1 a resolution I'd like the Commission to accept or
2 message. I don't know what time you want me to do
3 that.

4 CHAIR SPITLER: Once we get into the other new
5 business items, then that would be the a appropriate
6 time.

7 COMMISSIONER WALDHEIM: My only problem,
8 Mr. Chairman, at eleven o'clock I'm leaving for the
9 airport. I've got a prior commitment tonight, so I'm
10 only going to be here until 11:00.

11 COMMISSIONER THOMAS: Do we have some language
12 we can look at?

13 COMMISSIONER WALDHEIM: I can just read it for
14 the record, then you can rework it.

15 COMMISSIONER THOMAS: I was thinking to look at
16 it.

17 CHAIR SPITLER: Why don't you read it.

18 COMMISSIONER WALDHEIM: I can read it --

19 CHAIR SPITLER: We'll discuss it when we get to
20 new business.

21 COMMISSIONER WALDHEIM: Can I read it?

22 CHAIR SPITLER: Go ahead.

23 COMMISSIONER WALDHEIM: Basically the resolution
24 is:

25 Be it resolved that the OHMVR

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1 Commission is committed to funding
2 enforcement and non-CESA as a means
3 of protecting the environment while
4 providing quality recreation to the
5 California citizens. Therefore, be
6 it resolved that the OHMVR Commission
7 requests that the OHMVR Division
8 absorb \$4 million of restoration
9 dollars currently placed out of a \$7
10 million in the grants and cooperative
11 agreement program to the enforcement
12 and non-CESA account.

13 Basically my idea is that we should have the
14 support budget pick up the restoration portion of that,
15 not the whole burden that we currently have, which
16 yesterday demonstrated we are definitely in the
17 shortfall for the enforcement account and the non-CESA
18 account, and that's my idea if you guys can work on it.

19 CHAIR SPITLER: We will consider that when we
20 get to the new business.

21 There is one item of business I understand that
22 we need to resolve from yesterday.

23 COMMISSIONER WALDHEIM: Yes, Mr. Chairman, I
24 failed to -- I thought I had all bases covered, but I
25 failed to realize that under the conservation account

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1 we were overdrawn. And last night somebody was really
2 quick on the website and went and put things on the
3 website, and Diana Craig's funding went off the chart
4 because we were overdrawn.

5 So I would like to make a motion that we direct
6 staff to move funds that we had left over in the other
7 categories, non-CESA and the enforcement accounts, and
8 move it into the CESA account and fund Diana Craig or
9 the regional office for the amounts that we had left
10 over. So it would be less than what she had requested,
11 but give her whatever -- give that project whatever
12 funds we had left over, so it would be out of the zero.
13 We're not reranking anything. We're just moving any
14 leftover monies that we had it into that account.

15 COMMISSIONER PRIZMICH: Do you have an idea how
16 much that is?

17 CHAIR SPITLER: We're about 37,000 short, but we
18 did have the money in the non-CESA categories, so.

19 Was that a motion, Commission Waldheim?

20 COMMISSIONER WALDHEIM: Yes, Mr. Chairman.

21 COMMISSIONER BRISSENDEN: Second.

22 CHAIR SPITLER: Discussion?

23 COMMISSIONER WALDHEIM: Discussion,
24 Mr. Chairman, it's fully up to the Division to make
25 sure they look at the numbers. We're not giving you a

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1 dollar amount. Just give you the mechanism to take
2 care of it. Mr. Jenkins is the one who told me that we
3 had a problem there. Thank you.

4 COMMISSIONER THOMAS: Just a question, this is
5 not the \$750,000 grant?

6 COMMISSIONER WALDHEIM: No, Mr. Thomas. Thank
7 you for the ride this morning. He's got a car that has
8 a hot seat -- a VW where your seat gets hot. I have
9 never been in a car where my seat gets hot.

10 COMMISSIONER THOMAS: It's special for you, Ed.

11 COMMISSIONER WALDHEIM: Boy, I got out of that
12 car as soon as he stopped, talking about being in the
13 hot seat. Anyway, no, this is strictly for the Diana
14 Craig from the regional office where she does the
15 biological stuff and studies.

16 COMMISSIONER THOMAS: We gave them \$750,000?

17 COMMISSIONER WALDHEIM: No, that's a different
18 grant.

19 COMMISSIONER THOMAS: This is not the spotted
20 owl?

21 COMMISSIONER WALDHEIM: No.

22 COMMISSIONER THOMAS: Very good. Thank you.

23 CHAIR SPITLER: More discussion? All those in
24 favor?

25 (Commissioners simultaneously voted.)

1 CHAIR SPITLER: Opposed? Motion carries.

2 Back to the agenda, the first item of business
3 is the reports, which we deferred from the first day.
4 We will start with the Deputy Director report and move
5 on to federal governments.

6 Deputy Director Greene, if you could actually --
7 maybe you could just start, I think it would be really
8 nice if you could introduce the staff you have here
9 today so we can give them some acknowledgement for all
10 their hard work over the past few days and months
11 working on this process.

12 DEPUTY DIRECTOR GREENE: Thank you, Chairman
13 Spitler. Commissioners, members of the public,
14 actually, that was my first item today because we
15 actually haven't gotten together as a group for quite
16 some time. We've had a lot of staff changes at the
17 Division. And first and foremost, I would like to
18 introduce the new Chief of the Division, Phil Jenkins,
19 who many of you know already. I'm going to have Phil
20 just take a moment, share a little bit of his
21 background, and then introduce the other new staff that
22 we have.

23 CHIEF JENKINS: Thank you. Yes, so I've been
24 actually in the Division now since June 1st, so it
25 doesn't seem like it's been that long, but it

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1 absolutely has. I came to the Division from -- my last
2 assignment was in Monterey. I was the district
3 superintendent for the coastline in Monterey and over
4 the coast into Henry Cove. There's a lot of
5 interesting parks there. I've been up and down the
6 system quite a bit. I began my career as biologist,
7 actually, doing Tule oak research back in Panza, in the
8 mountains behind San Luis Obispo, so I got my feet
9 under me as a biologist; ran out of money with the
10 Prop. 13 SNAFU and became a ranger and have been with
11 State Parks ever since. I actually began my career
12 with State Parks as a park aide at Hollister Hills back
13 when the park was originally purchased by the state
14 after I had worked for Howard Harris when it was still
15 a private park, so I have quite a background in OHV
16 activities, too; also worked reserves, historic parks,
17 natural parks, up and down the state; spent a time at
18 Oceano Dunes many years ago; and actually want to also
19 introduce another new staff member who began -- Jeff,
20 there you are coming in the back -- Jeff Herman, we
21 just brought Jeff Herman on with the Division. As many
22 of you may know, Jess Cooper recently took a transfer
23 over to another unit over at Millerton Lake where I
24 spoke to him the other day, and he's quite happy
25 actually. As we refilled that position, we were able

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1 to do that with Jeff Herman in the back here. He comes
2 to us from most recently Tahoe, so he heard it was
3 snowing up there, came down to work for us instead.
4 Jeff Herman, once again, he's had quite a career with
5 Parks moving up and down the state in a variety of
6 units, including historic parking, reserves, natural
7 parks; you name it, I think Jeff has done it. So he
8 has had an extensive background and brings all of that
9 breadth of experience into the Division. So we're
10 looking very much forward to having his expertise to
11 help us out there.

12 DEPUTY DIRECTOR GREENE: Also, many of you know
13 certainly, she had a big program to inherit, Julie Hom,
14 the grants manager. And Julie also has some new staff
15 which she'll take the opportunity to introduce.

16 STAFF HOM: Yes, we have a new grant
17 administrative Larry Bellucci. Larry, if you could
18 stand. Larry is actually going to be doing or
19 administering the Northern California grants and
20 cooperative agreements. And then there is Barbara
21 Greenwood, she was manning the computer yesterday.
22 Aaron Jr. and Barbara will be doing the Southern
23 California grants and cooperative agreements. I also
24 have Patrick Rodriguez. Patrick is a retired
25 annuitant, and he's helped out with the southern

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1 grants, as well.

2 DEPUTY DIRECTOR GREENE: And also members of the
3 staff who are here I think you know everybody, but
4 we've got John Horn -- John, if you could stand --
5 superintendent of Hollister Hills; Andy Zilke,
6 superintendent of Oceano Dunes; and all of you know
7 Terry Harper and John Pelonio -- where are you?
8 There's John, and Dave Quijada. So thank you.

9 It certainly has been a time of change at the
10 Division, and we look forward to -- I'm sorry Rick
11 LeFlore. Certainly a time of change at the Division,
12 and I appreciate everybody's patience as we get
13 everybody on board and create a team that can move
14 forward, address a variety of issues that challenge us
15 throughout the state as we try and provide the
16 opportunity for OHV and the protection of the
17 resources.

18 Along those lines, one of the most important
19 things -- I thought I would just take a few minutes
20 because we haven't gotten together in a long time, try
21 and give everybody an update on a number of items which
22 have come up a little bit over the past two days, but
23 try and update everybody in a more thorough manner.

24 The Fuel Tax Study, which is obviously one of
25 the -- it is really the cornerstone of this program,

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1 many of you know that upon my arrival, the Fuel Tax
2 Study has been a challenge because it has been delayed.
3 And at this point in time, we are looking somewhere
4 around July 1 for a finalization of the Fuel Tax Study.
5 But a number of issues that we've had working with DMV,
6 and so some of those have been problematic to us.
7 Staff at DMV have been diverted elsewhere due to some
8 issues from the Governor's Office, as well as the
9 Legislature. So that's been a challenge for us, but we
10 certainly look forward to the finalization of the Fuel
11 Tax Study as it is a vitally important document.

12 One of the things that they're doing in
13 particular is looking at obviously the unregistered
14 vehicles, which are of particular importance to all of
15 us, and making sure that those unregistered vehicles
16 are accounted for one way or another. If they're not,
17 then they are truly unregistered. But in some cases,
18 we've had some discrepancies where perhaps somebody
19 owns them, but they have them actually registered or
20 delivered at another address. So we're trying to
21 balance out all of those issues.

22 As we move forward, there was a mention the
23 other day about Riverside and the Riverside project.
24 We continue to work with the County of Riverside.
25 Obviously it's a project that we would like to see some

1 opportunity in Riverside County, whether or not that be
2 a state project or a county project. We're still in
3 those discussions, have some issues with Lockheed and
4 the idea of remediation of those lands and liabilities.
5 So there have been a number of issue as well as
6 payments that are due back to the State of California.
7 So a lot of issues as far as that particular project
8 goes.

9 We move north a little bit to Bakersfield, and
10 Bakersfield, part of the Central Valley strategy for
11 State Parks and the identification of the SVRA there.
12 That project is going very well, community-based
13 project. And so we're very encouraged that we should
14 hopefully see in the not too distant future something
15 before you as a Commission for final approval for that
16 SVRA in Bakersfield.

17 Obviously, the issues of the audit, we'll
18 discuss some of those today, as we try and assist the
19 Commission in providing staff assistance for the 60-day
20 response due back to the auditors. The Division
21 obviously had a 60-day response as well, a number of
22 items that we've had to address. One of the issues
23 that we've been working closely with is the other side
24 of State Parks and where monies, OHV monies are going
25 to the other side of Parks, to make sure that those

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1 monies are accounted for, where they're being spent to
2 make sure they are being spent appropriately for OHV
3 opportunity and again resource protection or law
4 enforcement, and to make sure that those monies are
5 adequately addressed, as was highlighted in the audit.
6 So we continue to work with the other side of State
7 Parks.

8 And then as we look at certainly the issue of
9 snow, and it is snowing, and how do we make sure that
10 we provide information to the public on safety and
11 education, and so last year we developed the Snow Pals
12 program, making sure that we work with the Police
13 Activities League in providing safety and education
14 programs for children ages 12 to 16. We're doing that
15 again this year. And also to work in partnership with
16 other groups, California Nevada Snowmobile Association,
17 to do clinics for all people who are interested to make
18 sure -- again, whether or not it be a proper clothing
19 attire, avalanche, maps, proper knowledge of adequate
20 places to ride, so we continue to try and do that
21 outreach and education with a variety of groups.

22 And then finally we had a number of -- one of
23 the reports that we had due more recently was the noise
24 study which was completed. It really highlighted where
25 we have made great strides in trying to educate the

1 public of California about the lower sound studied and
2 noise limitations that were addressed in 2003 with new
3 laws bringing noise down to -- sound limits to 96 dba,
4 and also addressing the fact that can it go lower and
5 how much longer. It looks like today we could perhaps
6 go to 94. And then in the years to come, what other
7 limits could we reduce those, recognizing, as many of
8 the people said the other day with the Sound Summit
9 that occurred last week, that it is one of those issues
10 that does present a problem since we try to identify
11 sites.

12 I don't know if there were any other questions.
13 I know that was sort of a -- tried to be brief, but
14 there is a lot going on throughout the state when it
15 comes to OHV recreation.

16 CHAIR SPITLER: Okay. We'll do questions from
17 the Commission. Commissioner Thomas.

18 COMMISSIONER THOMAS: Yes. Thank you,
19 Ms. Greene, for your report. In my review last evening
20 of the statutes in preparation for today's meeting, I
21 was reminded again as to our duties, the Commission's
22 duty to be informed regarding governmental activities
23 affecting the program, and particularly the legislative
24 direction, that we focus on a strategic plan for
25 acquisition of new opportunities and other items in

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1 this strategic plan, but certainly application of other
2 opportunities is one of our mandates from the
3 Legislature.

4 I just heard you discuss a number of SVRA
5 proposals that are in the works, and your indication
6 was it will be coming to us, but in fact we really have
7 no concept of the plan that you have in the large
8 picture and the specific elements of the plan in the
9 narrow picture so that we really can't be informed
10 without that information, and we can't work with the
11 legislative mandate as to our budget and oversight of
12 your budget without that information. So my question
13 is:

14 When will you be providing us with an outline of
15 all your acquisition proposals and the status of those
16 proposals so that we can analyze them in light of the
17 upcoming budget?

18 DEPUTY DIRECTOR GREENE: Commissioner Thomas,
19 just a reminder, I actually inherited the Riverside
20 project, as well as the Bakersfield project. So those
21 projects would have already been brought to the
22 Commission either as concept issues.

23 But at this point in time, I would be happy to
24 provide any information that we can to the Commission.
25 Certainly as we look at the strategic plan, I think

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1 what's going to be particularly important -- and I look
2 forward to today -- is working towards what sort of
3 shared vision is there, how do we work with that with
4 the Commission, and then be able to take that
5 information from that shared vision, and then begin to
6 work on a strategic plan as is defined for the Division
7 to do based on input from the Commission.

8 And certainly within that strategic plan,
9 obviously something was brought forward yesterday in
10 terms of identification of an acquisition plan. Part
11 of that is contingent as well, and that's with the
12 strategic plan and overall comprehensive plan, is the
13 fact that we don't have the information yet from that
14 Fuel Tax Study, which certainly will let us know on a
15 much more specific basis where people are recreating
16 within the state, what vehicles they're using, and that
17 will then allow us to work within that acquisition and
18 to develop that acquisition plan for the future.

19 COMMISSIONER THOMAS: I'm asking a much more
20 narrow question. I've actually never seen any report
21 from the Division about either the Riverside concept
22 proposal acquisition nor the other acquisitions. I
23 don't believe there have been any detailed reports in
24 the five years that I've been on this Commission as to
25 exactly what was occurring. Lots of oral reports,

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1 nothing in writing and nothing that detailed how much
2 land, what specific allocations for buffer versus
3 actual roads versus numbers of miles. And now I hear
4 you saying that there's additional acquisitions in the
5 works that are coming to us.

6 So regardless of what the overall planning that
7 you are doing and we are doing is, we need specific
8 reports on a regular basis as to the individual SVRA
9 proposals and what's occurring. So that when Ed
10 Waldheim asks me what do I think about something on
11 Riverside or we listened to public testimony yesterday
12 about Riverside, we can be an informed -- as the
13 Legislature has required us to be, informed about the
14 activities you're doing. So we don't know anything
15 about it other than what you tell us orally. And in
16 five years I don't have a lot of detailed oral
17 communications, at least that I can remember.

18 DEPUTY DIRECTOR GREENE: And that is duly noted
19 as I mentioned. I certainly can't speak for past
20 administrations and what they did, but certainly will
21 note that and try and provide you with an update.

22 COMMISSIONER THOMAS: Well, you may remember it
23 being on the Commission yourself. Did you ever receive
24 any written reports about the last two acquisitions?

25 DEPUTY DIRECTOR GREENE: I believe actually on

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1 the Riverside project there was a comprehensive
2 presentation and report that was done.

3 COMMISSIONER THOMAS: Oral presentation, but any
4 written reports?

5 DEPUTY DIRECTOR GREENE: I think we did receive
6 something actually, yes, from Deputy Director Wydal and
7 actually at that point in time Mr. Dangerman.

8 COMMISSIONER THOMAS: I'll go back and look at
9 that. But certainly if there have been changes in that
10 status from the public informing us that there are
11 changes in the status of that proposal, I think we were
12 told yesterday that it was no longer functional for OHV
13 use, we'd better know exactly why, and what we can do
14 about it.

15 COMMISSIONER WALDHEIM: Mr. Chairman.

16 CHAIR SPITLER: Mr. Waldheim.

17 COMMISSIONER WALDHEIM: In defense of the
18 Division, whichever administration there is, sometimes
19 we as a Commission, we'll look at the overall broad
20 policy of the need to acquire lands for access and
21 lands for public use in the State of California. Once
22 we have established them, they have for years worked
23 that we need a site in San Diego. We've been working
24 on that for years, Bakersfield, in the Jawbone area,
25 and even up in the north.

18

1 The problem is that it's really hard to put in
2 writing a specific project because those are developed
3 as you go along. You come up with a concept. One of
4 the problems we've already had, we get ahead of
5 ourselves. We put the cart before the horse. We make
6 the big announcements, OHV is going to have an SVRA
7 down in Timberline, and everybody coming out of
8 woodwork starts attacking us. We haven't even started.
9 Sometimes if you don't see something totally in writing
10 in concept, we have agreed we want to get some more,
11 there is a need for more additional writing. And the
12 staff can develop these areas, as it gets closer, where
13 you feel more comfortable, you have the community
14 support and the politician support and so forth, then
15 you can get a little bit more into the details.

16 But in an overall concept, this Commission I
17 think has made policies that we need to acquire, we
18 need to establish more areas for people to legally
19 ride. Then we can get into the minutia as it develops.
20 But there hasn't been a lot of stuff been able to be
21 ride even on Bakersfield or San Diego for that matter
22 right now.

23 DEPUTY DIRECTOR GREENE: And also, Commissioner
24 Waldheim, to your point, I will say on the Riverside
25 project, it is changing on a weekly basis given some of

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1 the decisions that Lockheed and the county have been
2 making recently.

3 But, Commissioner Thomas, we will make every
4 effort to try to make sure that we keep you informed.

5 COMMISSIONER PRIZMICH: If I may make a
6 suggestion. I think Commissioner Thomas and
7 Commissioner Waldheim both have good points, and I
8 think the Division is endeavoring to keep us updated.
9 And it may be that the Deputy Director can, in her
10 report, provide a verbal -- have a portion of it that
11 provides a verbal report on acquisitions. And from
12 that, I think the Commissioners can say well, we need
13 some more definitive information or if it looks like
14 it's moving, I think that's the easiest way to deal
15 with it. Because I think Commissioner Waldheim is
16 right, these things are conceptual and subject to a lot
17 of things as time goes on, so I think if you just added
18 it in your report at the Commission meetings, that
19 would be helpful.

20 COMMISSIONER WALDHEIM: Mr. Chairman, the other
21 thing we used to have in the past is we used to have a
22 five-year and a ten-year budget capital outlay program.
23 We knew very well up front exactly where we were going
24 and what we were planning on doing and we were
25 budgeting toward that major development or capital

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1 outlay. We need to go back to that and start
2 establishing what it is so everybody is on the same
3 line, we know exactly what we have coming down the
4 pipeline, and start budgeting and planning for that.
5 And so these things would fall into that place if we do
6 the proper budgeting and proper planning. We have to
7 do that, and we haven't done that. And I hope this
8 Commission starts planning out for these long plans.

9 COMMISSIONER ANDERSON: As the other person on
10 the capital outlay committee, I would concur with what
11 Mr. Waldheim said. Also, letting us know in advance
12 gives us an opportunity, when possible, to visit those
13 sites, where there are capital outlay projections, and
14 we can do a better job of making make a better decision
15 with on-the-ground information.

16 COMMISSIONER WALDHEIM: There's two projects
17 that have been contentious, one is the Riverside and
18 the other was the Deer Valley ones. And personally I'd
19 like to see if the Division can provide us with a copy
20 of the deeds of the properties that we spent \$8 million
21 in Riverside. I was on the Commission when we did
22 that. We bought 2000 acres in San Timoteo Canyon, and
23 we need to find out do we have an actual deed for that
24 property or did we just give the money away. If there
25 is a deed, that is something that the Division can use

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1 as a tool to negotiate and figure -- the other one is
2 Deer Valley, did we get an actual deed for that piece
3 of property or not. Then that also can be used as a
4 mechanism for buying or exchanging or mitigation. We
5 can use that for that. So those are two issues we need
6 to find out on the deeds.

7 The other thing, as a Commission, we can always
8 make a decision on that when the lands are acquired --
9 it's been a battle for the last 30 years, do we buy --
10 do we put it in the State of California's name, or do
11 we put it in the agency's name that's going to run it,
12 do we run an MOU with them. Maybe it's a combination
13 of the two, but we need to make sure we understand that
14 when we spend money for investment, do we get the title
15 for it just like we buy \$30,000 worth of equipment, we
16 put it in the Division's name. We don't put it in the
17 agency's name, any equipment that's over \$30,000. We
18 need to figure that one out on the land acquisition.

19 DEPUTY DIRECTOR GREENE: Commissioner Waldheim,
20 if I may, you mentioned Deer Valley, is that Deer Creek
21 or is there another place down south?

22 COMMISSIONER WALDHEIM: Deer Creek, sorry.

23 COMMISSIONER THOMAS: Mr. Chairman, I would like
24 to elicit from the Division a commitment that we will
25 receive the detailed capital acquisition proposals 90

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1 days in advance of our meeting. Because the
2 Legislature of 5090.61 actually has directed this
3 Commission to allocate monies appropriated by the
4 Legislature. So if we are charged with the allocation
5 of that -- those capital funds, as well as the approval
6 of the capital outlay, the allocation of the funds
7 after appropriate, subsequent to that the approval, we
8 need 90 days so that we can plan and understand and do
9 things like check the deed, which is what the
10 Commissioner is asking. So 90 days is my request. And
11 if you can't do 90 days, we'd like to know why.

12 COMMISSIONER WALDHEIM: Mr. Chairman, I would
13 like to add that we have a subcommittee on the minor
14 and major capitals. And the subcommittee should
15 definitely get that ahead and make the recommendation
16 to the full Commission.

17 COMMISSIONER THOMAS: Absolutely. If the
18 subcommittee needed additional time, that would be your
19 choice. But this Commission itself needs 90 days so we
20 can do the research, and, in fact, having a plan would
21 be all the better because I would be happy to be in
22 front of the legislative committees, as again the
23 Division is charged with going before the Legislature
24 and dealing with the budgeting.

25 COMMISSIONER WALDHEIM: Mr. Chairman, I get the

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1 feeling that with the things that Mr. Thomas is
2 bringing up, Ms. Anderson, Mr. Prizmich, it looks like
3 we're developing a shared vision here. We've started
4 working on the vision here.

5 I'd like to ask Deputy Director Greene if there
6 is a way at the next Commission meeting we can bring up
7 our rainbow chart that we spent the whole day putting
8 up together with the stakeholders, and I think we do
9 not need to go to base one. We just need to recapture
10 what we had done at that first Commission meeting, and
11 maybe take out of there the highlights, get through the
12 minutia of all that big -- it was incredible work
13 everybody did. But the public participated. That
14 should be the basis for to us come with up with our
15 shared vision as the audit is asking us to do.

16 I think we've already done the work. We just
17 didn't finish it. If we can bring that back? I don't
18 know who has custody of all of those records. I have
19 absolutely no idea if it's you or if Lisa Buehler has
20 it, I don't know. But we did our work. We just didn't
21 finish up the wrapping and packaging. So if you could
22 do that, we would be cool.

23 CHAIR SPITLER: I'd like to propose the question
24 to staff. Is one of the things that the audit called
25 for a shared vision between the Division and

24

1 Commission? I'd like to hear from the staff their
2 mechanism for establishing that shared vision.

3 COMMISSIONER THOMAS: Mr. Chairman, before we do
4 that, I would like an answer to the 90-day request. Is
5 that possible? Is that commitment going to be able to
6 be done?

7 DEPUTY DIRECTOR GREENE: Commissioner Thomas,
8 certainly on anything new that we look at -- I mean the
9 Riverside project and the Bakersfield project have
10 already moved through the Legislature, which would then
11 bring us to 5090.32 and how the Division then needs to
12 move forward with the planning process, which we would
13 then bring forward back to the Commission.

14 So as I mentioned, we will certainly make every
15 effort we can to make sure that we keep you up to date.
16 The only concern I have on the 90 days is, for
17 instance, Riverside has changed probably four or five
18 times in the last 90 days, and so to be able to make
19 sure that we provide you the most up-to-date
20 information.

21 COMMISSIONER THOMAS: No, my request is as to
22 new capital acquisitions from the major and minor
23 capital outlay, 90-days notification and packet in
24 advance of the proposed action by the Commission; can
25 you do that?

25

1 DEPUTY DIRECTOR GREENE: Sure.

2 COMMISSIONER THOMAS: Okay.

3 CHAIR SPITLER: Deputy Director Greene, can you
4 address the shared vision question and what's your
5 question of how to establish that shared vision?

6 DEPUTY DIRECTOR GREENE: Not a problem,
7 Chair Spitler. I don't know whether or not it might be
8 more appropriate, though, under the agenda item under
9 audit because that is a question that you just
10 referenced that was raised in the audit.

11 CHAIR SPITLER: We can certainly spend more time
12 on it there. Since we've already started here, maybe
13 you could just provide a brief answer and we'll explore
14 it a little bit more fully.

15 COMMISSIONER WALDHEIM: Mr. Chairman,
16 Ms. Greene, I'm leaving so that's one of the reasons
17 I'd like to hear more about it.

18 DEPUTY DIRECTOR GREENE: Not a problem at all.

19 I think that I what we need to do first and
20 foremost, is try and see if we can -- even though the
21 statute says a certain number of meetings, I think that
22 the more meetings that we can have with the Commission,
23 the more important that we can have the one-on-one
24 dialogue because I think when we have six months or
25 seven months that go between meetings, with all of the

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1 Commissioners that is certainly problematic for us.

2 I also think if there is a way that we can
3 address trying to get the Commission and the Division
4 and staff out on the ground on a more regular basis so
5 that we can look firsthand at some of the issues which
6 are occurring out on the ground, issues which we've
7 spoken about in the past two days of the demand that
8 is -- that the recreation is occurring.

9 I think part of it also from the Division's
10 perspective is that we certainly could do a better job
11 trying to help provide materials to the Commission
12 members on some of the changes that we're seeing within
13 the community. If we looked just in the past five
14 years alone, we've seen an 87 percent increase in the
15 dirt bike green sticker registration; seen an 83
16 percent increase in ATV registrations. So I think that
17 we need to be able to have those forums where we can
18 really have a much more relaxed, as it were, perhaps
19 not quite so contentious back and forth. But to really
20 look at it, as we talk about a shared vision, what does
21 it look like to try and address some of these issues.

22 And then I think certainly on the issue of
23 communication and being able to provide staff to the
24 Commission, we've looked at it as we've been working
25 with all the staff changes that I referenced earlier.

27

1 As we look at our organizational chart, recognizing
2 that to try and have -- and Sandy has told us that she
3 will be retiring, and so it's no -- it's, no disrespect
4 to Sandy, but recognizing that the amount of -- that
5 the demands that the Commission has and needs and the
6 information that needs to be provided to the
7 Commission, and so looking at trying to identify a
8 full-time staff position for the Commission to address
9 some of these needs that Commissioner Waldheim and
10 Commissioner Thomas have addressed this morning.

11 So I think those are just some of the ideas that
12 we have. Also, ways that perhaps maybe on a more
13 regular basis, where it be may be a monthly basis if we
14 can do a conference call that's open to the public,
15 where we might be able to update the Commissioners and
16 the public on issues that are going on. Certainly
17 working more recently with our website and trying to
18 make sure that we get those announcements out and some
19 of the educational campaigns that we're doing, to try
20 and educate the public and then provide a resource for
21 the public, as well as the Commissioners and to try and
22 update your website.

23 So I think that if we can try and get out on the
24 ground on a more frequent basis and be able to have a
25 more relaxed dialogue, that that would certainly be

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1 helpful and the first steps in trying to achieve some
2 of these goals.

3 COMMISSIONER WALDHEIM: Mr. Chairman, Deputy
4 Director Greene, one of the issues that I think the
5 disconnect is taking place, is that I wish we could
6 have smaller groups that could be one from each party,
7 so to say one from the motorized, one from the
8 non-motorized members of this Commission, to meet with
9 you or meet with staff as you're developing things.
10 I'm mainly thinking of the policies right now.

11 I feel we should be part, as should the public,
12 be part of it as you're developing these policies. You
13 say, yeah, send me your input and we will consider it.
14 That's not really what I'm looking for. I'm looking to
15 be part of the team as you develop the policy because
16 any Tom, Dick, and Harry can go make a comment. What
17 you do with the comments is my problem. I would rather
18 be at the beginning when we're making the cake, not
19 afterwards when we're tasting the cake. I'm not
20 interested in that.

21 So I would like to develop some system where you
22 would feel comfortable having one member non-motorized
23 and one member of the motorized side to sit with you,
24 and those people in turn would say to the Commission
25 this is what we worked out, this is where we feel we're

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1 going. And the full Commission say yea or no. But at
2 least we're working together and get one or two
3 representatives from the public to work with you,
4 especially on -- specifically talking about the
5 regulations that you're changing. I'm not happy
6 with -- there are things that we need to do as we found
7 yesterday. We need to tweak it, and we need to make it
8 better. We got some ideas, but I have no idea how we
9 can get those ideas without having to be in this
10 five-day, Saturday and Sunday, public comment period.

11 DEPUTY DIRECTOR GREENE: Absolutely,
12 Commissioner Waldheim, and I appreciate those comments
13 because let me just try and address them on a number of
14 levels. And I don't think -- and I would certainly --
15 I don't believe that I've ever said, send me your
16 comments particularly to any member of the Commission.
17 We have identified in just this past week, we were
18 working with the agencies and trying to work on some
19 ideas that the agencies had and some of the challenges
20 they had addressing and writing the grants this year.

21 To be able to take some of that input and then
22 to be able to have a series of public and stakeholder
23 meetings both in Northern California and Southern
24 California because we recognize without that input, we
25 don't want to work in a vacuum, and that is not the

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1 intent whatsoever. So it is to be able to have an open
2 dialogue about what works and to be able to take all of
3 the input and to be able to have that ongoing dialogue.

4 One of the points that I think Commissioner
5 Thomas shared with us, and we actually are moving
6 forward with it, was the idea of trying to work -- we
7 have our stakeholders group, which is a much larger
8 group, but then also then have you narrow that down
9 perhaps to work within committees, but then recognizing
10 there are other members of the public who may have
11 expertise in certain areas. So how can we make sure
12 that we get your input as well, and so to develop, if
13 we can, task force meetings which would allow
14 interested members of the public as well and then
15 Commissioners who are interested -- I certainly know
16 Commissioners Prizmich and Thomas have been interested
17 on the law enforcement. So to be able to get smaller
18 groups together to be able to work on a more frequent
19 basis, getting input on some of the issues, whether or
20 not they be legislative or safety and education,
21 whatever they may be, to be able to try and get that
22 input and then move forward.

23 I will say, again, part of this has been many of
24 the changes that have been occurring at the Division,
25 as Phil just alluded to, he just came in a short time

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1 ago, and many of the different staff changes. So I
2 appreciate everybody's patience and understanding as we
3 move through here. And Commissioner Waldheim, I just
4 want to reiterate the fact that I would certainly never
5 say just give me your input and I'll consider it, not
6 at all. We need to make sure that -- we have the
7 45-day public comment period as part of the regulation
8 process, and I have made the commitment. I don't want
9 to wait for that 45-day comment period because to me
10 that doesn't seem as though it's really an opportunity.
11 That's more regulated. I think that we need to have
12 the dialogue, and certainly what went on these past two
13 days have given us a number of items to consider and to
14 work with you, members of the public, as we try and
15 fine tune.

16 I mean I think that one of the things we realize
17 when we had the Washington fuel tax, individual who
18 represented Washington State the other day at the
19 stakeholders meeting, took them fifteen years to
20 develop their program to where it is today. And that's
21 not to say that fifteen years -- that we want to wait
22 that long, but certainly we know that we need to take
23 that input from everybody.

24 COMMISSIONER WALDHEIM: Ms. Greene, one of the
25 downfalls for us is that just like you last night,

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1 everybody left the room, and you had your staff
2 meeting. You had a debriefing. You went over last
3 night what happened, what went good, what went bad,
4 you've done it now for two days in a row.

5 We, on the other hand, we go to all four winds
6 and we have no clue. We have no opportunity to, hey,
7 what went good, what went right, as far as this
8 Commission is concerned, and that's our downfall. We
9 don't get a chance to check in to see how have we done,
10 what could we have done better in a real open forum.
11 We need to do that, just like you did, like any team
12 member does that after a baseball game, or a football
13 game, or a basketball game, they go, now what did we
14 do, they run the tapes and who messed up or who didn't
15 mess up.

16 One of the things we need is if you get to a
17 point where you can assign one person to work with us.
18 I'll still looking for the superior achievement award.
19 Mr. John Brissenden is also looking for our awards. We
20 want to do that. There are things that are falling
21 through the cracks because we don't have that one
22 person to assist us, to either the committees, we need
23 in the committees, either Ms. Anderson or myself, we
24 should have reviewed all of those minor and major
25 capitals. And we should be making the recommendations

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1 as a Commission, and it's not being done.

2 DEPUTY DIRECTOR GREENE: I think I mentioned
3 that a few moments ago that we are working to identify
4 that full-time staff person, and that we will have it
5 hopefully in the next month or two.

6 COMMISSIONER WALDHEIM: And that person will be
7 able to coordinate the meetings and telephone
8 conference calls. We can't physically get through but
9 definitely a conference call is an easy way to do it
10 now.

11 DEPUTY DIRECTOR GREENE: That is correct. I
12 think that would give you an opportunity on a more
13 regular basis to have some of the debrief and to
14 work --

15 COMMISSIONER WALDHEIM: Mr. Chairman, at some
16 point if I leave or after I leave at eleven o'clock, I
17 think this Commission should take a couple of minutes
18 to review and get on the record what you felt was the
19 good points of what happened, so staff can take our
20 inputs where we felt we could have done better
21 yesterday, where the fallacies were in the criteria,
22 the process, or how we did it. I'd love to hear where
23 the individual things come in.

24 Last year, Mr. Spitler and myself, we were
25 chastised, well, you guys just made up your mind and

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1 you did the thing. That was uncalled for, that was not
2 totally right. We want to help make sure it's a real
3 open way of getting the business of taking all of the
4 public comments in there, and see how we can do better
5 for the public. I'd like to hear more everybody's
6 comments on that.

7 COMMISSIONER THOMAS: I have another question.

8 CHAIR SPITLER: Commissioner Thomas.

9 COMMISSIONER THOMAS: Deputy Director, our job
10 at the Commission is to review and comment annually to
11 the director on the proposed budget expenditures. We
12 have not yet received the budget proposals for the
13 calendar year that is coming, and I understand the
14 Governor is about to issue his budget. When do you
15 anticipate informing us as to the proposed budget for
16 both the support budget, the minor and major capital
17 outlay budget.

18 CHIEF JENKINS: I can answer that. The budget
19 process, as convoluted as it is, we should be getting
20 the actual budget for the Division here this next week.
21 There's a lag time that happens between when the
22 Governor's budget comes out and when the money goes out
23 to the agencies, and then when the agency money goes
24 out to the various divisions. I've been pushing the
25 department to try to get that budget number in our

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1 hands. So far we've been working with this current
2 year off of estimated numbers of what we expect to see
3 in that report. It's called a BP1, and we should be
4 getting it this next week.

5 Certainly, at the next Commission meeting, I
6 should be able to give you a very clear report on what
7 monies we got, how we plan to use those monies. And
8 then as we move into the next cycle, I would be happy
9 to share that information as far as earlier in the
10 process when we're building our budget on our
11 supposition of what we're going to get, and that's one
12 of those things that there's an ambiguity that's built
13 in. You build your budget assuming you know what's
14 going to happen. The budget cycle happens with the
15 Governor's budget, and then you make your adjustments.
16 So certainly in this next cycle as I move through and
17 get familiar with my duties in this role, I'll be happy
18 to keep you all informed on that.

19 COMMISSIONER THOMAS: So there will be no review
20 and comment as to the budget in this fiscal year?

21 CHIEF JENKINS: No, as we develop the
22 criteria -- I wasn't clear.

23 COMMISSIONER THOMAS: You're proposing that we
24 do review and comment in the '07/'08 budget, but I'm
25 saying in the '06/'07 budget, which is about to be

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1 released, we've not reviewed and commented. So when
2 did you anticipate we would be able to review and
3 comment on those, '06/'07 budget?

4 DEPUTY DIRECTOR GREENE: Commissioner Thomas, I
5 believe that we discussed that at the April meeting.
6 There was a point in time where that --

7 CHAIR SPITLER: We discussed discussing it, and
8 we discussed you bringing the information back so we
9 could discuss it.

10 COMMISSIONER THOMAS: I've never seen it.

11 DEPUTY DIRECTOR GREENE: There was a lot of
12 discussion.

13 COMMISSIONER THOMAS: And not a lot of facts.

14 CHAIR SPITLER: Every time we discuss it, we
15 say -- we hear from the staff that it's going to come
16 back for some information, yet we end up in the same
17 situation each time where the budget has been
18 presented, and we've never seen it.

19 COMMISSIONER THOMAS: And by the time it goes to
20 the Governor, it's too late to review and comment
21 because it's now the Governor's budget. And that's my
22 question to you is: Will we be able to comment before
23 this becomes the Governor's budget?

24 CHIEF JENKINS: I can't speak to what happened
25 in April obviously. As I mentioned, I started

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1 June 1st. But as the Governor's budget is developed,
2 there are -- I can certainly tell you this coming year
3 as we develop our staffing plans for what we want to do
4 in the Division and how we want to spend the monies, we
5 can absolutely tell you where those things are. I
6 believe there are some elements of the Governor's
7 budget that agencies aren't allowed to put out to the
8 public until the Governor gets behind it. So I will
9 have to find out some specifics about the mechanisms
10 for getting that information to you.

11 COMMISSIONER THOMAS: Well, the Division has
12 been preparing the Governor's budget since, what, last
13 June, I believe; is that correct? You start putting
14 budget change proposals in June or earlier. And so, in
15 fact, you've been making submissions to your own
16 department as to what the budget will be. Why were we
17 not given the opportunity to review and comment on that
18 budget at some point in the process?

19 CHIEF JENKINS: I don't believe we put any
20 budget change proposals in this current year. I can
21 certainly check on that, but to my knowledge --

22 COMMISSIONER THOMAS: Well, even the base
23 budget, we've not seen that either. We've never seen
24 the base. All we get is -- all we know is what the
25 Governor published and the Legislature approved in the

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1 last fiscal year. We have no idea what the next fiscal
2 year will bring; therefore, we can't do our job, either
3 under the .61, which requires us to make an allocation,
4 nor under .24, which requires us to actually review and
5 comment. So we're not doing our job.

6 And that must be then included in the
7 Governor's -- in the report to the Legislature that we
8 were unable to do our job because in fact we were not
9 provided the information. And that doesn't look good
10 for anybody. And the off-road community shouldn't be
11 any happier than anyone else that we weren't able to do
12 our job. So my question to you is: What are we going
13 to do different now before the Governor's budget is
14 issued?

15 COUNSEL LaFRANCHI: If I might, Chair Spitler,
16 if I could be recognized for a moment?

17 CHAIR SPITLER: Counsel LaFranchi.

18 COUNSEL LaFRANCHI: The Governor's budget
19 process is very restricted in terms of the information
20 that we can share. Budget change proposals, until
21 they're finally approved and sent to the Legislature as
22 part of the Governor's budget, we are not allowed to
23 release those to the public.

24 The current status of the statutory structure
25 for the Commission and the budgeting process just

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1 simply does not allow us to do that. I think what --
2 the way we've interpreted this over the years is in
3 terms of allocation, once the Legislature has
4 appropriated funds, the Commission -- the process the
5 Commission went through for the last two days is part
6 of that allocation process. And that occurs after the
7 budget is passed, which for the 6/7 year that
8 Commissioner Thomas is referring to, would be next
9 July, August, September, whenever that occurs.

10 What Chief Jenkins is referring to with regard
11 to sharing with the Commission for review and comment
12 proposed expenditures is once -- either once a budget,
13 the Governor's budget has been presented to the
14 Legislature in terms of the proposed expenditures or
15 the proposed appropriations from the trust fund for
16 both the grant program and the support budget for the
17 Division and the program and the SVRAs, at that point
18 it's -- the information is available, and the Division
19 is prepared, as they did in some form last April, to
20 share its view of how it intends to spend those monies
21 for the upcoming year once those monies are
22 appropriated. At that point the Commission has --
23 would have the information to review and comment on how
24 the Division intends to spend the monies that it will
25 likely -- has been proposed in the Governor's budget.

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1 So in terms of sequencing that's the way we've
2 interpreted --

3 (Audio difficulties, no sound amplification.)

4 COMMISSIONER THOMAS: I can speak up. I respect
5 your sequencing suggestions; however, we haven't
6 behaved consistent with that sequencing either in past
7 years. In fact, .61(b) requires the Commission review
8 and comment on the support of the Division budget, and
9 we've never done that either. So my question would be
10 when this year do you intend within the sequencing that
11 you described to allow us to review and comment,
12 support of the Division budget and to exercise our
13 allocation power?

14 DEPUTY DIRECTOR GREENE: Well, I think, again,
15 Commissioner Thomas, as we presented that in April, we
16 certainly would be happy to work with you. The key
17 will be today, as you set your agenda for next coming
18 calendar year. So I can't -- until I know what that
19 calendar year looks like and how that works with the
20 Governor's budget, we won't have the ability to let you
21 know specifically until we identify that calendar.

22 Chairman Spitler, just so you know your foot
23 continues to go back and forth --

24 CHAIR SPITLER: Deputy Director, maybe you can
25 tell us when you could share the budget information,

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1 and then we can set our calendar around that.

2 DEPUTY DIRECTOR GREENE: I think as soon as the
3 Governor's budget comes out and we're able to move
4 forward with that, then we can identify that day. So
5 any time, perhaps March or April.

6 COMMISSIONER THOMAS: Well, the budget will be
7 approved in June, so the subcommittee work will be done
8 by June. So if it comes out in April -- well, that
9 might be enough.

10 COMMISSIONER WALDHEIM: At our May meeting.

11 COMMISSIONER THOMAS: At the May meeting, but
12 does the Division then anticipate our allocation
13 hearing to occur in that April period?

14 Ms. Greene, you are secretary of the Commission,
15 and that's why I am asking you these questions. So you
16 really do control the schedule of the meetings in
17 consultation with the Chair as secretary of the
18 Commission. So give us some dates.

19 DEPUTY DIRECTOR GREENE: If you would like, we
20 can set up a meeting today identifying some time in
21 April, if that's convenient and works. I think --
22 Commission Thomas, I think perhaps off-line it might be
23 appropriate to have the discussion so that we can get
24 some clarity. I think we all recognize the statute is
25 not particularly clear. It is a challenge for all of

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1 us because it also indicates that it's a review and
2 comment. So I think it's trying to get some clarity,
3 trying to work together, and to be able to move forward
4 in providing you the best information that we can.

5 COMMISSIONER THOMAS: We want that fair and
6 honorable process to be public, and that's why I'm
7 making these statements and asking as I am today.

8 DEPUTY DIRECTOR GREENE: I understand that. I'm
9 just noting that our statute is not particularly clear
10 and continues somehow to -- at times unfortunately
11 seems to have us at odds, and I think that all of us
12 collectively recognize that it would be nice to have
13 some better clarity in the statute to avoid that.

14 CHAIR SPITLER: Commissioner Prizmich.

15 COMMISSIONER PRIZMICH: If I might -- I'm sorry,
16 Judy.

17 COMMISSIONER ANDERSON: That's all right.

18 COMMISSIONER PRIZMICH: In my role as sheriff of
19 a small county, I know it's similar in other counties,
20 but we struggle with the same kinds of concepts. And I
21 know how Hal is aware of that. We have tax rolls that
22 come in that set the standard by which your budgets are
23 established and time frames, and tax rolls don't always
24 coincide. So we run into the same problem.

25 And I think what we are really -- we need to go

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1 back to kind of a mind-set where the Commission and the
2 Division don't meet and deal with each other three or
3 four times a year, but meet and work with each other
4 three or four times a year. And that really means, it
5 really gets down to more work on everyone's part. And
6 it's just not rhetoric that I'm throwing out. This has
7 been a long three days for all of us, and I think all
8 of us have held up well and done our job. But this is
9 the kind of thing that we need to continue and look
10 forward to. And when we have site visits, which I
11 haven't seen. I mean you talked about having site
12 visits, and I've gone to quite a few of them, I haven't
13 seen those set up recently. It would be the duty I
14 think of each commissioner, if they're going to hold
15 this position, to engage in that, and that's certainly
16 every one of them.

17 But what this all means is that we need to
18 collectively have a mind-set that this is going to be
19 work, it's just not a four-time-a-year meeting that we
20 kind of breeze through. And I think with that
21 ultimately, and with some work on the Division's part
22 as well, we'll get beyond all of this. But it would be
23 helpful. I mean I can't -- we struggle with the same
24 thing in counties and I know the state does, as well,
25 where you've got a funding source that is at odds with

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1 your approval time frame. So I think we just need to
2 work more and just commit it's going to take more time.

3 DEPUTY DIRECTOR GREENE: No, and I appreciate
4 that, Commissioner Prizmich. I think -- and
5 particularly the site visits, I think as we saw what
6 became more difficult, and I appreciate that and I hope
7 that we have the commitment from all members of the
8 Commission. Because the reason that we really
9 didn't -- haven't done the site visits in a number of
10 years is because really a lack of participation from
11 the Commission members, from all of the Commission
12 members.

13 COMMISSIONER PRIZMICH: I don't think you should
14 presume that.

15 DEPUTY DIRECTOR GREENE: I'd love to have
16 everybody, and if there is that, we will start that
17 effort again, as I mentioned earlier, certainly to do
18 the site visits and get people back on the ground. If
19 we certainly -- I know that we always say that you
20 can't really understand something unless you see it, so
21 we will move forward.

22 COMMISSIONER PRIZMICH: I'm just delighted when
23 I do go on -- and I'm not an off-road enthusiast, I
24 have nothing against it, but I don't participate in
25 that -- but I do derive a great deal of pleasure in

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1 seeing the pride that comes from a site visit and what
2 the people on those sites are willing to express to a
3 nonuser like me, and I think it's a value to the
4 Commission. And it's up to each individual
5 Commissioner to take that -- to make that time and go
6 on site. So I wouldn't not schedule them because
7 people aren't showing up. I would schedule them
8 anyway.

9 DEPUTY DIRECTOR GREENE: That's what I said
10 earlier in my comments, that our intent is to respond.
11 In terms of Chairman Spitzler's question, that is one of
12 the things that we'd like to do to try to get some more
13 interaction between Division, Division staff, members
14 of the public, and the Commissioners out on the ground.

15 COMMISSIONER WALDHEIM: Mr. Chairman.

16 CHAIR SPITLER: Commissioner Anderson.

17 COMMISSIONER ANDERSON: I think I'm first, Ed,
18 when Mr. Prizmich spoke.

19 I have another interest, a longer range for
20 following these budgetary concerns, and that is
21 something that was raised peripherally, and most of the
22 public may be aware of it, but that is the results of
23 the gas tax study, the Fuel Tax Study, and what kind of
24 effect that might have on the funds available, the
25 allocations. And I think the more we can do as

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1 Commissioners to understand the existing structure, the
2 easier will be the transition to what may happen as a
3 result of the reevaluation from the fuel study, to see
4 how allocations to the department might match grant
5 dollars available.

6 Is there going to be more money, less money, is
7 it going to be restricted in ways that it's not or
8 unrestricted, those kinds of changes are best handled I
9 think when people are well informed in advance of what
10 the potential might be. And so we have to start with
11 the base understanding of how the current one works.

12 CHAIR SPITLER: I think that's a good point. I
13 think the Legislature first added money for the new gas
14 tax study in I believe 2000 or 2001, so it's been four
15 to five years, and it's been delayed again. And I
16 think there seems to be the approach that things need
17 to be put on hold while the new study is being done.
18 My approach would be we need to work with what we have
19 now, not knowing when the new study will be completed.

20 Commissioner Waldheim.

21 COMMISSIONER WALDHEIM: I would just offer,
22 Deputy Director Greene, that California City would be
23 happy to host a meeting in city council chambers, and
24 we can tour from there and show you what we have in the
25 Ridgecrest Field Office in California City and have

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1 lunch at Randsburg, I think it would be cool to do
2 that.

3 CHIEF JENKINS: That would be at the Lighthouse
4 at Randsburg?

5 COMMISSIONER WALDHEIM: Not the meeting, but for
6 lunch.

7 COUNSEL LaFRANCHI: Chair Spitler, if I may for
8 just a moment, getting back to Commissioner Thomas'
9 question about scheduling and your question about what
10 dates might make some sense, as you recall, last year
11 in January the Commission -- we brought to the
12 Commission to actually start that allocation process
13 for this year by asking for funding targets to be
14 allocated or established, which we see as part of the
15 allocation process for the upcoming year. So the
16 Governor's budget comes out in January, that has a
17 number in it for grants, the grants number, and we
18 asked for an allocation then.

19 So understanding it, a little more specifics --
20 or getting to, in specifics that is Commission's
21 objective, that's one -- that's one step in the process
22 which has some information available. The next step
23 would be with that number, whether Chief Jenkins is
24 able to commit to be able to start discussing, you
25 know, this year's expenditure program for the SVRAS and

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1 the whole support side in terms of how he would pull
2 something together, as well as relating that to how it
3 might look for the numbers that are proposed in the
4 Governor's budget. So that could happen between
5 January and April, depending on Chief Jenkins' ability
6 to pull that together. So I'm trying to make a
7 suggestion, specific suggestion as to timing and the
8 kinds of information, what to look at. So those are
9 the three things that I see.

10 CHAIR SPITLER: I guess, the Governor's budget
11 will be out in January, so that seems to be the
12 appropriate time to bring this back for discussion and
13 comment so the Commission can fulfill its legislative
14 responsibilities.

15 CHIEF JENKINS: What might assist in that
16 actually is to show you where we're going with budget
17 this year because a lot of the budget builds from year
18 to year, and so what we've done in one year tends to be
19 very similar to we're considering moving in the next
20 year. What is going to help that process actually is
21 our department has been adopting a brand new budgeting
22 program. It's called BEARS, oddly enough, for State
23 Parks, and it stands for budgeting, something,
24 something, I don't know. But it's a new computerized
25 system that's going to be able to provide us with a lot

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1 more detailed breakout about where the dollars go. And
2 so we should be able to have better reports, is what
3 the whole thing is after, so we can actually see what
4 it costs to run the SVRAs to a much finer detail. And
5 that information will, I think, assist this process as
6 we go through. This is our first year in the Division
7 going into disparage process, but I anticipate that
8 we're going to be able to actually share much more
9 details and information that can actually help you make
10 decisions and recommendations in a much more timely
11 fashion.

12 CHAIR SPITLER: Great.

13 COMMISSIONER BRISSENDEN: If I can add a
14 comment, I would like to chime in here. I've asked for
15 four years, almost four years for details on SVRAs
16 versus regular State Parks, and I have never gotten
17 that information. I've never gotten a budget on
18 support. It's an impossible situation for us as
19 Commissioners to even comment, let alone be involved in
20 this process. So I am terribly frustrated.

21 On the issue of site visits, I was told by staff
22 that I was not invited. That pisses me off. So Jim
23 Weigand suggested this morning that we do anonymous
24 site visits when and how we wish, and I think that we
25 should all be encouraged to do that.

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1 COMMISSIONER WALDHEIM: Mr. Chairman, I have a
2 big problem with anonymous site visits, a big problem
3 with that.

4 CHAIR SPITLER: Hold on, hold on. Slow down.

5 COMMISSIONER WALDHEIM: I will be happy to host
6 anybody, anybody who comes to an area. I don't like
7 anonymous site visits because it's not fair to the
8 agencies. It's not fair to you. You are an elected
9 official, and we can host you and will be happy to host
10 you any time, any place you come out.

11 CHAIR SPITLER: Thank you, Commissioner
12 Waldheim. I think it's fair to state on the record
13 that all of the Commissioners are welcome and invited
14 on all of the potential site visits for the Commission.
15 I think those are best done as of old, but certainly
16 individual Commissioners are welcome to participate in
17 site visits as they see fit.

18 COUNSEL LaFRANCHI: I will just note that if all
19 of the Commissioners -- the one problem with site
20 visits, if more than a majority --

21 CHAIR SPITLER: We understand, there's a need to
22 be a notice of meeting, thank you, counsel. I want to
23 just want to wrap --

24 Before we get off on a side track here, I want
25 to wrap up on the budget discussion and make sure we

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1 have an understanding that this is going to come back
2 for a complete discussion in January with the budget
3 information presented so the Commission can fulfill its
4 responsibility to review and comment on the budget.

5 DEPUTY DIRECTOR GREENE: Yes, it will.

6 COMMISSIONER THOMAS: And that includes the
7 baseline budget, not just BCP, so that we have the base
8 allocated out by -- if necessary by PY, however you
9 have it organized, but in such a fashion as we can look
10 at program category and personnel and the detailed look
11 at the support budget.

12 COMMISSIONER BRISSENDEN: And I would like to
13 see the last three years, please, for comparison.

14 DEPUTY DIRECTOR GREENE: I would like just for a
15 moment. We're trying to talk about a shared vision.
16 And, Commissioner Brissenden, I'm sorry that for the
17 past four years you've been asking for information.
18 I've not been here for the past four years. And so the
19 energy which I'm feeling this morning feels pretty
20 aggressive. And I guess I would just ask all of us to
21 perhaps for a moment take a breath and recognize that
22 there have been incredible challenges that the Division
23 has been under for the past year -- not making any
24 excuses, but there have been incredible challenges.
25 And that when Commissioner Thomas says that he's been

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1 asking for information, I recognize that a lot of this,
2 it's frustrating, but I hope that as we talk about a
3 shared vision, that we can actually put aside some of
4 the -- some of the negative energy.

5 And Commissioner Brissenden, if at any point in
6 time any member of our staff said to you that you are
7 not welcome, I know that I followed up and said that
8 was simply not true, that you are always welcome, and
9 that anybody is always welcome. So I think if we could
10 really try this morning -- and, Chairman Spitler, I can
11 tell by your facial expressions that you're frustrated
12 or it would appear so, but I hope that we can try and
13 really if we're committed to working together, that we
14 do it, and that it's just not just -- I mean need, as
15 Commissioner Prizmich said, some commitments from all
16 of you as well to be committed to trying to work
17 together with the Division and not what feels like a
18 very aggressive environment today.

19 CHAIR SPITLER: Thank you, Deputy Director. I
20 think all of us here are trying our best to fulfill our
21 responsibilities, as the staff is trying to fulfill its
22 responsibilities.

23 So Commissioner Thomas, do you have additional
24 thoughts on this?

25 COMMISSIONER THOMAS: Yes. Don't misinterpret

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1 our effort to do a diligent job, as the Legislature has
2 asked us, as aggression. That's merely the government.
3 The reason one might be frustrated in NRC, is because
4 we as a group voted down regulations which the Division
5 promptly readopted as emergency regulations, without
6 notice other than the bare legal minimum. But
7 certainly in an objective world, if a policy group
8 votes something down, you don't turn around and game
9 the system and adopt the regulations anyway.

10 The same thing happened a number of years ago in
11 the snowmobile world, when we voted down funding and
12 adopted policies concerning the air shed of Tahoe
13 Basin, and the Division promptly went to the
14 Legislature and took the same money out of the grants
15 program and spent the money anyway from the legislative
16 budget.

17 So there's been a constant effort by this
18 Commission to do its job, and we'll continue to do
19 that. Do not interpret it as aggression but just
20 merely our effort to be good citizens and do our job.

21 DEPUTY DIRECTOR GREENE: And I would simply say
22 in response to that, Commissioner Thomas, I was faced
23 with two challenges last year. This Division had
24 underground regulation. So my choice was to proceed
25 with a program which was illegal, which then would have

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1 been challenged and perhaps had an injunction upon it,
2 in which case no monies would have gone out, or we
3 could move through, adopt those emergency regulations,
4 come back, try and work with everybody this year to
5 develop a good program, and I think we heard from the
6 grant applicants on their public comment that it was
7 providing more guidance. Having you guys identifying
8 your funding targets did help to make a difference.

9 In terms of the snow, that was done in '02
10 and '03, when that BCP went through. So, again, it's
11 trying to -- as we're trying to -- yesterday we heard
12 from Commissioner Waldheim saying that there just
13 wasn't -- how do we balance it, given all of the
14 financial constraints that we're under.

15 So, again, you know, it's recognizing some of
16 these decisions were made, yes, prior to my arrival,
17 some of them have been implemented since my arrival.
18 And again it comes back to trying to address the
19 issues, one of which was raised in the audit as it
20 pertains to the grant program. But that we did -- we
21 were faced with a situation where either the program
22 shuts down and no money goes out or we try and do the
23 best we can to move forward with a new program.

24 COMMISSIONER WALDHEIM: Mr. Chairman, I think,
25 Deputy Director, I commend her for going through these

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1 hard times that she's gone through, and it has been a
2 tough one, nobody works harder than she and
3 Mr. Jenkins, the hours that they spend in the office,
4 it's not right. I keep telling them, go home, this is
5 the end of it.

6 But I think the commitment from this Commission
7 has to be to work with the Deputy Director, and she has
8 said she will work with us. And I think this is a new
9 day, we move forward, and let's make sure we do the
10 right thing for the recreationist, who is out there in
11 the field. He wants a nice trail. He wants a safe
12 trail. He wants good facilities. And if we did that,
13 then our resources will be protected. And so we
14 don't -- let's not lose sight of who we are. We're an
15 Off-Highway Vehicle Commission, and off-highway means
16 off the pavement. So if we all work together, I think
17 we can get to where we want to go. And so I think we
18 should move forward, and let's work together. And I
19 look forward to the challenge of getting subcommittees
20 together and working with the Division closely. Thank
21 you.

22 CHAIR SPITLER: Thank you. Commissioner
23 Waldheim, I think everyone agrees we all want to do our
24 best to work together. We're all trying to fulfill our
25 responsibility. So we will move forward as best we

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1 can.

2 I wanted to raise -- I'm going to move forward.
3 I think we've beat this one enough. I want to raise an
4 issue that has been brought to my attention on several
5 occasions now. I'm starting to receive more concerned
6 calls and e-mails about an issue in northwest
7 California regarding a state park where it appears that
8 the Division is working to open a state park that's
9 currently closed to off-road vehicles, open that state
10 park to off-road vehicles.

11 I'm wondering, Deputy Director Greene, if you
12 could comment for us on what's going on up in the
13 Tolowa Dunes State Park in Del Norte County.

14 CHIEF JENKINS: We started receiving some calls
15 similar to that two month ago or so back in August,
16 actually. The situation up there, there's Tolowa Dunes
17 State Park, used to be part of what was called the Lake
18 Earl project. The Lake Earl project came into state
19 hands I believe about 20-plus years ago, includes some
20 Fish and Game land, some State Park lands, and it was a
21 project for many years. They had an interim management
22 plan that was in effect right up until 2001.

23 In 2001, the State Park and Rec Commission
24 designated a portion of that Old Lake Earl project to
25 be Tolowa Dunes State Park. So that decision was made,

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1 it became a state park. The way that the interim
2 management plan was written, and the interim management
3 plan, by the way, allowed for off-highway vehicle green
4 sticker driving on what they call the wave slope, and
5 there's some -- if you go up there locally, different
6 people will interpret the wave slope to either include
7 all the way up to two of the dunes or some of them
8 still try to interpret as going all of the way up to
9 the crest of the dunes into what's called the Worm
10 Trail up there.

11 In any case, new management came up into the
12 area up there in the recent couple of years. The
13 managers that came into place began to look at what
14 they had, you know, as far as the situation that was
15 presented to them. The old managers had been there for
16 a number of years. So the new folks came in and said
17 we have a state park, we have off-highway vehicle
18 happening on a state park. They begin to investigate
19 why this was going on.

20 Some of the things that turned up as they looked
21 into that is that in 2001, for instance, when the
22 designation was made as a state park, and you go back
23 and you read through all of the information that was
24 presented to the Park and Rec Commission as they made
25 that designation, there is no mention of 24 years of

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1 prior use of off-highway vehicle activity on that
2 beach. So that was information just simply was not
3 presented to the Park and Rec Commission who made that
4 decision.

5 As they then moved forward into now they have a
6 state park and they're trying to manage that state
7 park, they looked for direction on how to address this
8 issue, the new management there, how to address this
9 issue of vehicle use on the beach. What they had in
10 their hands was a park with no plan, no interim use
11 plan, because the old interim management plan fell out
12 of effect. There was a line in the plan that said upon
13 designation by the Commission as being a unit, the plan
14 would go away, the assumption being once it becomes
15 designated as a unit, a new plan would be written and
16 put into place, interim plan until they can do their
17 full general plan.

18 In any case, the park decided, well -- the local
19 manager there decided they should discontinue the use
20 on the beach, and they put out some information to the
21 public that they intended to start enforcing that in
22 this coming January, I believe it was. That, of
23 course, resulted in quite a lot of concern with the
24 community that this discussion had been made without
25 any community involvement, without community input,

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1 without even a plan for the park. And so the calls
2 started coming to all levels. They did call Deputy
3 Director Greene and myself, as well as the northern
4 Division Chief Lynn Rhodes, as well as the Secretary
5 Superintendent Marilyn Murphy, and the District
6 Superintendent Steve Horowitz. I believe it even got
7 up to the secretary level to the resources agency. So
8 there was a lot of activity on all fronts, folks that
9 wanted to keep the off-highway vehicle use occurring,
10 folks that would like to see it closed. A lot of
11 concern -- I think the hinge point on that was that
12 there was a lot of activities in the back dunes that
13 was never legal.

14 CHAIR SPITLER: Are you telling me that the
15 State Park staff in that area want to open the area,
16 the State Park to off-road vehicle use?

17 CHIEF JENKINS: It has currently been open for
18 the last 24 years. They're trying to decide how to
19 manage that activity right now.

20 CHAIR SPITLER: What I was asking was: Does the
21 State Park staff who manages the area want to open the
22 area to off-road vehicle?

23 CHIEF JENKINS: What I'm telling you, the area
24 has been continuously --

25 CHAIR SPITLER: What I'm asking is: Does the

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1 State Park staff who manages the area want to open the
2 area to off-road vehicle?

3 CHIEF JENKINS: You would have to call the State
4 Park staff up there.

5 CHAIR SPITLER: Your comment suggested that they
6 did.

7 CHIEF JENKINS: I said that the local community
8 contacted the State Park staff out there. They spoke
9 with Marilyn Murray. They spoke with Steve Horowitz,
10 and what they're planning to do, as I understand it --
11 because they manage that unit, not us, they're planning
12 to have a series of public meetings to discuss with the
13 public the future of that unit.

14 CHAIR SPITLER: I guess what I don't understand,
15 if they manage that unit and not us, why are we
16 involved in a state park that we have no management
17 responsibility over?

18 CHIEF JENKINS: Because \$3 million out of the
19 OHV Trust Fund moves from the OHV Trust Fund over to
20 State Parks.

21 CHAIR SPITLER: How much is spent at Tolowa
22 Dunes?

23 CHIEF JENKINS: We can get that number for you.
24 Do you know offhand?

25 DEPUTY DIRECTOR GREENE: No, I'm not sure

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1 offhand. I think, Commissioner Spitler, to answer your
2 question, the OHMVR Division looks at OHV recreation
3 throughout the state. So when there's an issue where
4 in this particular case members of the OHV community,
5 including fisherman and agate collectors and a variety
6 of access people are calling the Division saying that
7 they were not involved with the public process that now
8 is proposed to exclude OHV recreation on an area that's
9 existed for 24 years, we then went up, met with both
10 members of the environmental community, as well as the
11 access community simply to listen to them and also met
12 with the State Park management up there.

13 So I recognize that it is a contentious issue
14 that members of the environmental community up there
15 would like to see all use stopped. I think that what
16 we need to make sure that this is the process which
17 goes through whether or not it will continue to allow
18 OHV opportunity on the beach or not, that the public
19 process is adhered to.

20 CHAIR SPITLER: Of course, we all support the
21 public process. The process that I'm curious about
22 again is why the OHV Division is trying to assert its
23 influence over management of a State Park unit that's
24 not managed by the OHV Division?

25 CHIEF JENKINS: There is a difference between

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1 asserting our influence over another unit and listening
2 to the -- there's a group of users up there -- I'm
3 trying to answer to your question, sir.

4 CHAIR SPITLER: With all the work we have before
5 us --

6 (Simultaneously speaking.)

7 CHAIR SPITLER: With all of the work that we
8 have before us with implementing the audit and the
9 shared vision and the grants program and responding to
10 all of the great needs of this program, I guess I just
11 don't understand how it's a priority of this Division
12 to be meddling with the management of a State Park unit
13 that's not even part of the Division.

14 DEPUTY DIRECTOR GREENE: Chairman Spitler,
15 excuse me, I think what would perhaps be appropriate in
16 this case is to ask the director of State Parks because
17 she, in fact, has asked all of us --

18 (Audio difficulties, no sound amplification.)

19 COMMISSIONER THOMAS: Mr. Chairman, maybe I can
20 help here. Does the staff have any legislative
21 authority that they can cite as to how they can be
22 involved in the management of off-highway vehicles on a
23 State Park unit? I can't find it.

24 COMMISSIONER PRIZMICH: I didn't hear them say
25 they were involved in the management of anything. As I

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1 from -- this is the first I've heard of it, but what
2 I'm hearing is that the off-road Division -- or the
3 Division has interjected itself because they've had
4 some requests from both sides relative to an off-road
5 legal or illegal use in a particular area. I don't see
6 where they're managing anything. I think they're
7 trying to facilitate or at least find out what is
8 occurring and come to some conclusion.

9 COMMISSIONER WALDHEIM: Mr. Chairman, I think
10 this Commission is way out of line for us to be making
11 these statements, and we're getting into
12 confrontational things. It's not helping us
13 whatsoever, and I'm sorry to even be talking about
14 this.

15 But the Department of Parks and Recreation, Ruth
16 Coleman is director. We are part of the Department of
17 Parks and Recreation. We have every right to assist
18 and help and work cooperatively where there is OHV
19 stuff or hiking stuff or things like that. That is our
20 charge, part of the Department of Parks and Recreation.
21 We're not out there all by ourselves. So if we have an
22 opportunity in the dunes that we've been using for 40
23 years, 30 years, I applaud the Division going in there
24 to make sure they help those individuals and those
25 politicians and those folks in the local community to

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1 retain their opportunity. And they're working with the
2 Department of Parks and Recreation of which we are a
3 part of. So they have done nothing wrong. They're
4 evaluating customers' complaints from both sides and
5 trying to make sure they resolve an issue in an
6 amicable way, right or wrong, but they're going to get
7 to the bottom, what is the problem. That's exactly
8 what they're supposed to do. So I applaud you for
9 doing that, and thank you for looking after our
10 interests.

11 COMMISSIONER THOMAS: Commissioner Waldheim,
12 what you are raising is the responsibility of the
13 Division and vision of the Division in the community in
14 the off-highway use. Really, we have to go back to the
15 Legislature and see what the Division is charged with
16 doing. That's where this all starts --

17 COMMISSIONER WALDHEIM: Ruth Coleman is
18 secretary --

19 CHAIR SPITLER: Commissioner Waldheim, if you
20 could let Commission Thomas finish.

21 COMMISSIONER THOMAS: Your points may be well
22 taken. But I looked last night very carefully at this
23 charge, at .32, 90.32, and saying how far do we get to
24 go in influencing off-highway vehicle activities all
25 over the state. And if you look at (A) through (O),

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1 it's actually not any off-road vehicle anywhere in the
2 State of California. There's very specific duties that
3 the Division does. And so my only question, and it was
4 a serious question to both -- you are the Division, is
5 just help us out, how does what was proposed or talked
6 about is becoming controversial fall with (A) through
7 (O)?

8 COMMISSIONER WALDHEIM: Let me give you an
9 example. In 1984, when I got on the Commission, I
10 personally went to the Parks and Recreation Commission
11 and offered them, on behalf of our Commission and our
12 Division, monies to manage Anza-Borrego State Park to
13 do the proper signing so we can get control on that.
14 We work with the Department of Parks and Recreation.
15 We're part of the Department of Parks and Recreation.
16 So our charge is to manage off-highway vehicle programs
17 in the State of California. That is what our charge
18 is, regardless of where the boundaries are, that is
19 what our charge is.

20 COMMISSIONER THOMAS: Our charge is what the
21 Legislature says it is.

22 CHAIR SPITLER: Deputy Director Greene.

23 DEPUTY DIRECTOR GREENE: If I may, if you also,
24 Commissioner Thomas, look under 5090.32 the
25 implementation of all aspects of the program, if you

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1 look under system, it includes state vehicular
2 recreation areas, as well as State Park unit areas
3 within the State Park units. I think when we have
4 members of not just the OHV community, but keeping in
5 mind that we are charged with providing opportunity.
6 When we've got members of the access community calling
7 us and saying there's a problem, can you come look, and
8 we are in dialogue with the management up there as
9 well, and as I say I saw yesterday, Chairman Spitler,
10 one of the members of the environmental community who
11 was here yesterday from the Tolowa area and we met with
12 her as well in trying to get an understanding of both
13 sides and what are some of the issues that are up
14 there. But just as we work with the BLM and the Forest
15 Service and the counties, these are all issues that are
16 statewide pressing on us as we're trying to balance
17 providing opportunity in a state that continues to grow
18 at a phenomenal rate.

19 CHAIR SPITLER: Perhaps, I think we've probably
20 exhausted this one, as well. I think there's intense
21 interest in the Commission in this issue, so perhaps
22 you could provide us a complete report for January, and
23 we'll agendize this for discussion in January so the
24 Commission can take any appropriate actions on it.

25 COMMISSIONER THOMAS: And help us understand

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1 what you view the program to be and what the
2 legislative authority for that program is.

3 CHAIR SPITLER: Okay. Are there any other
4 questions for Deputy Director Greene on her report?

5 So we need to take a five-minute break, and
6 we'll come back and do the federal government reports.

7 (Break taken in proceedings.)

8 CHAIR SPITLER: If we could grab our seats. The
9 next item is federal government reports, Ms. Kathy
10 Mick.

11 COMMISSIONER WALDHEIM: Mr. Chairman, if the
12 Chair would allow me to make one comment, please, for
13 the record because I'm leaving in ten minutes, and I
14 apologize, I have a prior commitment. Staff and the
15 Commission knew we had that when this was set for three
16 days, and I'm not about to break something that's going
17 to be fun for my city. So I hope nobody can chastise
18 me and a hold it against me, as some people are already
19 starting to do.

20 On the policies that you're going to read this
21 afternoon, I fully ask the public and the Division to
22 participate and put in the input. I've asked our
23 counsel to please not vote on these policies today,
24 take the public input, and we can schedule a meeting in
25 January. I would vote against any adoption of any

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1 policies at this meeting today, but definitely will
2 work on it in January once we have the public input,
3 and we can massage it, and then everybody is part of
4 the process. So that I hope this goes on record, and I
5 want to thank everybody for helping us. And I also
6 wish everybody a Merry Christmas.

7 CHAIR SPITLER: Thank you.

8 MEMBER OF THE AUDIENCE: Ed, are we invited down
9 to the Rose Parade?

10 COMMISSIONER WALDHEIM: I have 400 seats for the
11 Rose Parade. Anyone who wants to come, I have the
12 tickets. You just need to come and let me know.

13 KATHLEEN MICK: Good morning, Chair Spitler,
14 Commissioners, Deputy Director Greene, Division staff,
15 welcome to the superintendents and all of the members
16 of the public who are willing to stand in for three
17 days of these meetings which have been exciting, to say
18 the least.

19 I'd like to start out first by mentioning in the
20 materials I've handed out to you, the first packet that
21 said, "In Brief" is the presentation about the route
22 designation. And unfortunately due to the meeting
23 changes, Dr. Farrington had a prior engagement that he
24 had scheduled for over a year, so unfortunately he was
25 not able to be with us today. So you can look that

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1 over. If you have questions, I will do the best I can
2 to answer them, or at least take them back to him for
3 him to answer at another time. The other thing is that
4 at one of the subcommittee meetings, there were a
5 couple of questions that were asked by the Chair of the
6 Commission. And so at the end of the report, I will
7 address those.

8 So I'd like to start out by saying that I've
9 only been in the job for a little over two months,
10 taking over for Rich, with everything that he had going
11 is challenging to say the least, along with the
12 non-motorized program. But we're going to do the best
13 that we can to create a vision from the regional office
14 about the motorized program, as well as the
15 non-motorized program. And the Forest Service is happy
16 to share that with you, take input from the
17 Commissioners, which I've spoken to several of you
18 about already.

19 Our new Deputy Regional Forester Tom Tidwell,
20 who some of you met on Thursday and met at the meeting
21 that got cancelled, is very engaged in the OHV program
22 and is very supportive and would like to meet with
23 Commissioners individually and hopefully at another
24 meeting collectively to talk about the regional
25 forest -- the new regional forester's vision on

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1 partnerships and where they see the agency going.

2 So with that in front of you, you have another
3 packet that I handed out that's got some pink pages in
4 it. And in there is the summary report that I provided
5 you with the little color picture on the front. There
6 is a summary of -- there's a picture of what the Inyo
7 is doing in terms of over snow education, they're
8 posting those posters out at some of their kiosks and
9 in businesses all over the Mammoth and Bishop area to
10 educate folks about wilderness issues.

11 And then there are some two packets that start
12 out with a letter, one from February, the other from
13 March, and they talk about the overflights. The Inyo
14 helps us out by -- Jerry Simino down there helps us out
15 by coordinating the overflights for most of the Sierra.
16 And one of the things that we'd like to do this year
17 with some of the funding that you graciously gave us on
18 the Consent is to hopefully work with some of the
19 northern forests to expand the overflight program. A
20 good start of that will be some of the funding that you
21 gave at the end of the day yesterday to the El Dorado.

22 So with that, there's also a copy for you of the
23 new motor vehicle rule that the Forest Service
24 instituted. As of yesterday it became in effect, and
25 it was published in the Federal Register, and now has

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1 come into play, and then the intricacy of those pieces
2 of the policy will come into play as routes become
3 designated.

4 Last year for the 2004/2005 season, there were
5 four overflights that actually were able to take place,
6 and they were very successful. They covered the Inyo,
7 the Stanislaus, Sierra, Sequoia, Yosemite National
8 Park, and California portions of the Humboldt-Toiyabe,
9 and actually when they're flying over they sort of
10 cover some of the Nevada stuff as well, inadvertently,
11 I'm sure, because we don't want to find California
12 funds in Nevada.

13 We're also working on developing a regional
14 approach to restoration and how we integrate that with
15 what's going on in route designation; been to a couple
16 of meetings, the stakeholder round table; the public
17 lands access meeting down in San Francisco with the
18 snow community; went to California Nevada Snowmobile
19 Association convention, which was really great to work
20 with those folks and get them engaged. Fred Wiley and
21 Jay Dober do a fantastic job of coordinating with our
22 agency and are very willing partners to help us with
23 issues over the snow, particularly the wilderness
24 intrusions, so it's been really, really great. And,
25 Fred, I thank you for that.

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1 And then Diana Craig has been really working
2 extremely hard as our regional ecologist and also she
3 has been serving as the regional biologist, which is a
4 position they just recently funded, and she's been
5 working on OHV issues, non-motorized trail issues, on
6 the route designation coordinating with U.S. Fish and
7 Wildlife for the problematic agreement to help with
8 route designation, as well as Noah Fisheries, and then
9 also coordinating not only the problematic monitoring
10 but the four studies that we have going. So she's been
11 keeping probably busier than one person should.

12 I'm not going to go into detail about the key
13 points of the wildlife projects because Diana is much
14 more familiar with those than I; however, if you do
15 have questions, if you don't have them today, because I
16 know you just got these materials, feel free to e-mail,
17 either Diana or I will provide any and all information
18 to you. The most exciting part about the studies that
19 I will point out is the Martin study. The fieldwork
20 has been completed, and so now Dr. Solinsky is working
21 on his report, which will be very exciting to get that.

22 Also in the packet with the picture are some
23 bullets about the route designation program that
24 Dr. Farrington is overseeing. And, again, if you have
25 questions, I'll try and answer them, but it would

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1 probably be better to just take those back for him to
2 answer at another time. So with that, that concludes
3 the more formal part of the report.

4 And just specifically at the subcommittee
5 meeting, Chair Spitler, you asked about restoration and
6 of the 19 national forests in California, and we
7 include the California portions of the Humboldt-
8 Toiyabe, six of the forests do not apply for
9 restoration funds, and one forest was excluded from the
10 process, that was the Sierra because they didn't meet
11 the regulations, so they didn't get anything
12 considered. I do believe they had some restoration in
13 there.

14 So what we'd like to do is start to work --
15 we've already begun to work on an interim strategy with
16 our regional hydrologist, our regional soil scientist,
17 the Rhodes folks, and then we're going to begin to
18 engage the forest supervisors and the forest to look at
19 an interim strategy for restoration and how do we deal
20 with some of the things that are out there on the
21 ground in terms of hill climbs and meadows and things
22 like that, as well as looking at -- as well as looking
23 at some of the roads that already have decisions on
24 them, past decisions for decommissioning but have never
25 been implemented.

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1 And it is a tricky balance because we have route
2 designations occurring, and so how do we work with
3 restoring, particularly decommissioned and restoring
4 roads, when the whole route designation process is
5 going on. So we're looking at ways that we can do that
6 without upsetting the delicate balance of the route
7 designation for motorized use, as well as the potential
8 for recreation opportunity for non-motorized users.
9 Because the route designation is just looking at
10 motorized, but there may be some routes that other
11 recreationists are using. And so if they're not
12 designated for motorized use, we don't want to assume
13 closure because there may be equestrians or mountain
14 bikes or hikers that are using some of these routes.
15 So we're beginning to look into that, and the deputy
16 regional forester is very engaged and we're going to be
17 holding some meetings next week to really start looking
18 at the stuff and then really kick it off in January.

19 So with that I'll take any questions.

20 CHAIR SPITLER: Commissioner Prizmich.

21 COMMISSIONER PRIZMICH: I mentioned this before,
22 and it's worth mentioning again. You brought up aerial
23 overflights. And I would encourage U.S. Forest, BLM,
24 and the Division to seek out a partnership with local
25 law enforcement. Almost all of the local law

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1 enforcement, particularly in the rural counties, have
2 aerial squadrons which are private individuals who have
3 connection to the local sheriff's office and are more
4 than happy to utilize their planes on overflights. We
5 use them quite regularly. The cost on that would be
6 much less, you know, in terms of -- generally speaking,
7 it's only the gas that they're concerned with. They
8 love to fly, and it creates a marvelous partnership
9 between either forestry or BLM, you know, the Division
10 and the locals in a cooperative effort. And I made
11 this offer before. Each individual county is going to
12 make their own decision with regard to that, some may,
13 and some may not. But it's a marvelous opportunity for
14 a low cost I think effective means of overflights.

15 KATHLEEN MICK: And so are these aerial
16 squadrons part of the county sheriff's operation?

17 COMMISSIONER PRIZMICH: Generally speaking,
18 associated with the county sheriff.

19 KATHLEEN MICK: I will certainly take that back,
20 and I know that our Director Marlene Findly and our
21 regional forester -- or deputy regional forester Don
22 Tidwell have been meeting with the Western States
23 Sheriffs Association and they're trying to get better
24 dialogue --

25 COMMISSIONER PRIZMICH: I think it's a more

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1 personalized approach. Western State Sheriffs
2 Association is a group of a number of sheriffs. I
3 think individual forest supervisors would -- it would
4 behoove them to make contact with the local sheriffs
5 and explore some of these ideas, rather than deal with
6 a group like the Western State Sheriffs. That's far
7 flung.

8 KATHLEEN MICK: I appreciate that. I think part
9 of it is that unfortunately some of the relationships
10 between the counties and the Forest Service are not
11 what they should be.

12 COMMISSIONER PRIZMICH: Each one is going to be
13 different. It's an opportunity I'm throwing out there.

14 KATHLEEN MICK: I think it's a great idea. Any
15 way that we can stretch the dollars and seek out
16 efficiencies, we can have more coverage, more flights
17 will occur, and more boundaries will be enforced.

18 CHAIR SPITLER: Commissioner Thomas.

19 COMMISSIONER THOMAS: In dealing with the
20 El Dorado, the question of route designation and
21 closures comes up, and I want to ask you if
22 hypothetically you have a non-roaded area that has an
23 illegal trail, there's no -- route designation is not a
24 barrier to putting barriers or boulders and blocking
25 those trails in non-roaded areas, is it? I mean are

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1 you -- you talk about this delicate balance between
2 route designation and closure or restoration. If it's
3 already a closed area, it's already an illegal trail in
4 a non-roaded forest plan area, you're not going to
5 withhold or pull back from tearing that trail up, are
6 you?

7 KATHLEEN MICK: Let me clarify what I meant, and
8 see if that answers your question. What I meant in
9 terms of the delicate balance is that we have an
10 inventory that's been done or is about to be completed
11 on most of the forests. And so with that inventory,
12 most of those routes are being -- are currently being
13 used because the forests were open. And so there's a
14 couple of things that come into play with considerable
15 adverse effects, resource damage, and those types of
16 things, so we're trying not to mix what was normal
17 regular Forest Service business that should have been
18 taken care of with the route designation process. So
19 more specifically I think if it's illegal use, then
20 it's a law enforcement question, and the forest would
21 hopefully deal with that.

22 COMMISSIONER THOMAS: Well, can the region work
23 to clarify the problem that emerges when a forest says,
24 no, I can't restore that illegal trail because there's
25 a route designation process underway? I mean if an

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1 area is non-roaded already, why would you not continue
2 to wipe out illegal routes in non-roaded areas, restore
3 them? Why wouldn't you restore them?

4 KATHLEEN MICK: I guess first I need to know
5 what you're terming to be non-roaded area. Are you
6 talking about roadless areas?

7 COMMISSIONER THOMAS: No, forest plan designated
8 non-roaded areas, forest plan, land use plan. You
9 know, the forest plan says non-roaded. You've an
10 illegal route down the middle of it -- actually, it's
11 the route from Highway 88 to Lovers Leap that runs
12 through the middle of the non-roaded areas. Now, the
13 forest is saying, well, gosh, we don't know if we can
14 restore this because there is a route designation
15 process. So my question is:

16 Will you provide guidance in an area that was
17 legally roaded and open and people were riding legally
18 or even in marginal areas where it was ambiguous, that
19 would be one thing, but we're not talking about. We're
20 talking about --

21 KATHLEEN MICK: I understand what you're getting
22 at. Basically what happened is in the forest plan,
23 they designated an area that was either non-motorized
24 or some other type of --

25 (Simultaneously speaking, Reporter interrupted.)

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1 KATHLEEN MICK: Semi-primitive or non-natural --
2 near natural. And what ended up happening is that a
3 particular forest didn't ever follow those land
4 allocations up with the forest order that allowed a
5 mechanism to have enforcement.

6 COMMISSIONER THOMAS: No, they actually had a
7 forest order, but it was just ignored.

8 KATHLEEN MICK: Unfortunately, I can't speak to
9 the intricacy of what's going on in the El Dorado
10 because I'm just not that versed. I'm trying to speak
11 in generalities.

12 COMMISSIONER THOMAS: So am I.

13 KATHLEEN MICK: So in terms of that, there have
14 been routes in areas that in a forest plan were created
15 because there wasn't any forest order or, you know,
16 just illegally. And so I think that the forests are
17 taking steps under Mr. Farrington's leadership to
18 address that.

19 COMMISSIONER THOMAS: Well, how will you address
20 it? Will you issue guidance to the forests that will
21 allow the forest to apply for restoration grants, so
22 that they can remove that?

23 KATHLEEN MICK: I can take that question back
24 and get it answered for you, but I'm not prepared to do
25 that today.

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1 COMMISSIONER THOMAS: Okay. That's an important
2 question, and we would appreciate an answer.

3 KATHLEEN MICK: Okay.

4 CHAIR SPITLER: Okay. Are there other questions
5 from the Commission for Ms. Mick? Commissioner
6 Anderson.

7 COMMISSIONER ANDERSON: I'm looking at your --
8 this one.

9 KATHLEEN MICK: That's Rich's paper, and I'll do
10 my best.

11 COMMISSIONER ANDERSON: I'm on the page showing
12 route designation process, this one, so we get on the
13 same page here.

14 KATHLEEN MICK: Okay.

15 COMMISSIONER ANDERSON: I'm just trying to
16 understand the four that have gone all the way to the
17 top at five, does that mean that they are -- their
18 final step will be issuing forest orders? Are they
19 really that far, those four forests?

20 KATHLEEN MICK: I'll ask that question and get
21 back to you. I know that those four forests have just
22 finished with their new revisions of their forest
23 plans. I'm not -- having been gone a year, I'm not
24 familiar -- I know what was going on before I left.
25 Now that I'm back, I need to catch up on that. I think

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1 that would be more appropriately answered by
2 Dr. Farrington.

3 COMMISSIONER ANDERSON: So if he could explain
4 this chart a little bit because the implications of the
5 graph is that all of the forests have finished step
6 one, and two of the forests have concluded step three,
7 and the El Dorado is finished with four, and four of
8 them, it says reviewing, and I'm not quite sure what
9 that means. So if we could have him circulate to us a
10 little narrative that would go with this and describe
11 it.

12 KATHLEEN MICK: I do know that those four
13 Southern California forests had, aside from what was
14 going on under their forest plan revisions, the
15 inventory work as part of the project funded by the
16 Commission and the Division did take place on those
17 four forests. That's one step has been an effort that
18 has occurred. Now, whether they're all -- I mean I'm
19 trusting the chart to say that if the inventory is
20 complete, that it is. So I know that at least that
21 far, that the inventory took place, aside from what
22 happened on the forest plans. But in terms of further
23 explanation, I'll have him provide that.

24 COMMISSIONER ANDERSON: Thank you.

25 KATHLEEN MICK: You're welcome.

1 CHAIR SPITLER: Commissioner Thomas.

2 COMMISSIONER THOMAS: One more, aerial
3 overflight and wilderness intrusion by snow machines.
4 Is it the policy of the Forest Service today that there
5 has to be signage on all boundaries in order to cite
6 for violations? The reason I ask the question is I
7 heard inconsistent statements yesterday, some forests
8 saying, well, we can't enforce because we've got to
9 have the signs, and the signs keep getting taken away
10 or the snow barriers, and another group saying, we were
11 enforcing, so I'm confused. What's the rule?

12 COMMISSIONER PRIZMICH: I don't know what your
13 rule is. It may be driven -- as a suggestion, it may
14 be given somewhat from the magistrate relative to what
15 his requirements are, and some magistrates are more
16 prickly about that than others. That's just a
17 suggestion.

18 KATHLEEN MICK: Yes, Commissioner Thomas, I can
19 look into that for you. I mean I used to be an FBO,
20 and I haven't been for years. And I'd prefer to get
21 with Gary Barnett who deals with the magistrate on a
22 regular basis to get that answered. But I just know,
23 you know, off the top of my head, when you're talking
24 about over the snow and you're just out in the woods,
25 and there aren't any -- and unfortunately some of the

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1 wilderness boundaries aren't at a creek or at the top
2 of a crest or something, so they're a little bit
3 difficult for a person to know, unless there is a sign.
4 So I don't know what the strict requirements are, but I
5 would be happy to find that information out for you as
6 to how they're interpreting it in the court.

7 COMMISSIONER THOMAS: Just let us know what the
8 policy is of the forest, if it's differential or a
9 unified policy.

10 KATHLEEN MICK: In terms of the enforcement?

11 COMMISSIONER THOMAS: Yes. Are signs required
12 at all wilderness boundaries or what is the policy?

13 KATHLEEN MICK: I do know one thing that will
14 make you happy. We purchased a whole lot of new signs,
15 and we're getting them up this winter. And that's at
16 least a start.

17 COMMISSIONER THOMAS: That's a start.

18 CHAIR SPITLER: Okay. Other questions for,
19 Ms. Mick?

20 COMMISSIONER BRISSENDEN: If you could carry
21 this back to Rich, what is acres of off-use route
22 areas?

23 KATHLEEN MICK: Where are you, Commissioner?

24 COMMISSIONER BRISSENDEN: I'm on OHV route
25 inventory. Just curious, there's only 4.3 acres out of

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1 214,000 on the Carson. I'm not certain what that's
2 referencing.

3 KATHLEEN MICK: Okay. I'll get that. So it's
4 the acre inventory you're interested in?

5 COMMISSIONER BRISSENDEN: I have some questions
6 about miles, GPS to date. I'm sure it reflects the
7 routes to 19 forests, but 104 seems pretty minimal.

8 KATHLEEN MICK: Yes, that's the miles that
9 they've done to date. So I can get a clarification on
10 that for you. As I understand the chart, from -- the
11 lists go back 18 months ago, that particular column was
12 the number of miles that they collected during the
13 inventory process of GPSing. So what you're saying is
14 that 104 seems low to you, and you'd like clarification
15 on that for the Carson Ranger District.

16 COMMISSIONER BRISSENDEN: I want something
17 showing their hundred percent inventory.

18 KATHLEEN MICK: The step that may not have
19 occurred is the inventory validation, so that's where
20 the forest and user community comes together and
21 validates that inventory, to share the places where
22 they've been recreating that the folks that were doing
23 the GPS may or may not have found. Because what they
24 tried to do was, you know, drive every road and find
25 everything that it looked like it was receiving use,

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1 and then GPS it. And so there is the possibility with
2 all those hundreds of thousands of acres they could
3 have missed something. Or it sounds like in your view
4 they might have missed a lot of something.

5 COMMISSIONER BRISSENDEN: Just questioning.

6 CHAIR SPITLER: One final question: Are the
7 four southern forests included in the route
8 designation? I've heard four conflicting reports.

9 KATHLEEN MICK: I'll ask that question and have
10 Rich get back to you. I know for a fact they were
11 included in the inventory part of it.

12 CHAIR SPITLER: Thank you.

13 KATHLEEN MICK: You're welcome.

14 CHAIR SPITLER: Thank you. We need to pause on
15 the agenda and take the public comments on items not on
16 today's agenda before we hear from Mr. Keeler. So
17 we'll do that now.

18 Now if you haven't already filled out a blue
19 form, if you want to comment on items not on today's
20 agenda, if you could do so. Again, these are just
21 items that we won't be discussing today.

22 Tom Tammone, followed by Pete Conaty.

23 Mr. Tammone.

24 TOM TAMMONE: Thank you for taking comments on
25 the proposed Commission policies.

1 CHAIR SPITLER: Not at this time. That's an
2 agenda item, we will be taking comments on in a moment.

3 TOM TAMMONE: We're taking non-agenda items
4 right now?

5 CHAIR SPITLER: That's correct.

6 TOM TAMMONE: Anyway, I just want to make more
7 comments about the Sound Summit. I was there, and it
8 was a very interesting thing. And one of the points
9 that really came out that I thought needed to be
10 brought up here was we needed to be more active, rather
11 than just waiting for regulations to be formed and all
12 kinds of people to start complaints; basically we have
13 to be responsible good stewards, and we have to monitor
14 ourselves. When we know there's a noise problem, we
15 have to get out there and deal with it. It just makes
16 sense, and it's just simple common courtesy. Thanks.

17 CHAIR SPITLER: Thank you. Pete Conaty,
18 followed by Don Klusman.

19 PETE CONATY: Good morning, I guess what I'm
20 going to talk about is a general atmosphere --

21 CHAIR SPITLER: I'm sorry, would you state your
22 name for the record?

23 PETE CONATY: Pete Conaty, speaking as a private
24 individual and not representing any of my off-road
25 clients.

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1 You know, it seems like this whole meeting has
2 been like either Alice in Wonderland or the Ivory
3 Tower. I mean I sit hear and I hear
4 Commissioner Thomas say I don't know anything about
5 Riverside, when you got a report that thick when
6 Riverside started, that thick; most heavily studied
7 report the off-road Commission had ever done.

8 It seems to me that the Chairman of the
9 Commission is trying to expand the power of the
10 Commission. And in 20 years of state government
11 experience, a part-time Commission will never run a
12 full-time Division of state government. It won't
13 happen under any administration. Regardless,
14 unfortunately, of what is in the Resources Code,
15 because there are many inconsistencies in a lot of
16 codes, and it's not like the criminal codes or the
17 judicial codes. You can find lots of things in there.
18 I just went through a water board election landowner
19 voting that conflicted totally -- the water code
20 conflicted totally with the election code.

21 But it seems to me the shared vision thing is --
22 you know, the vision is stated in your mission
23 statement about what you're supposed to be doing:
24 Finding opportunities for off-road parks in the State
25 of California. I interpreted from your comments about

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1 talking to Tolowa Dunes, that you were offended because
2 they were trying to keep off-roading going there,
3 Mr. Spitler. You acted like they were doing something
4 they shouldn't be doing. So I would seriously consider
5 your commitment to this off-road program.

6 This is one of the few Commissions under the
7 resources agency where the Governor does not have the
8 majority of the appointments, and that needs to change
9 and has to change if the Commission is to survive.
10 Budget information, you get budget at the same time
11 everybody in the general public does. Governor puts
12 out his budget around January 6. He has a State of the
13 State speech. He makes -- it is released on
14 January 10th, and it's on-line, and you can pull up the
15 information just like any other private citizen. It's
16 there. So don't, you know, say I want four years of
17 information. Don't overburden them with a lot of BS
18 because they're trying to run a program, okay?

19 And Chairman Spitler made the comment, oh, we
20 can't put things on hold while we're waiting for the
21 tax study. When you personally went out and lobbied
22 against an agreement that the stakeholders had made by
23 both sides to give the program a two-year extension.
24 That deal was done and you undid it. That's all I have
25 to say.

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1 CHAIR SPITLER: Thank you. Don Klusman,
2 followed by John Stewart.

3 DON KLUSMAN: Boy, throw me out. That's a hard
4 act afterwards. Don Klusman, California 4-Wheel Drive
5 Association. I just want to make some general comments
6 on the last three days. First of all, this morning, I
7 was very disappointed sitting in the audience, as a
8 representative of anything, whether it be motorized,
9 non-motorized, or private citizen to see bombs being
10 thrown back and forth between a Commission and a
11 Division that's supposed to work together. There's
12 some personal attacks here. It's got to stop, folks.
13 If we're going to work together and make this program
14 work, we need to let bygones be bygones. What happened
15 in other administrations happened in other
16 administrations. You can't hold the boss of a new
17 Division accountable to what happened before. It was
18 nothing that this current Division had anything to do
19 with. As you've noticed the Division staff has changed
20 dramatically, and there is reasons for that. We don't
21 know them all. Anyway, enough of that.

22 The last two days we've spent on grants. I
23 think you guys did a wonderful job with what you had to
24 work with. The only problem is I think you missed the
25 boat. It was one Commissioner's -- and unfortunately

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1 he's not here -- mission to make sure that you did not
2 overfund anything, that you had a balanced line item
3 when you sent it to the Division, to the Legislature
4 now. First time that's ever happened in the history
5 that I know of this Commission. There's going to be
6 items that probably cannot be funded for one reason or
7 another, environmental reasons, environmental
8 documentation or the project changes between now and
9 time the agreement is done. Instead of changing the
10 scores so that you had all 90s or 80s or something like
11 that, you should have adjusted the scores -- this is in
12 my opinion -- so that you had a float of scores, and
13 went ahead and funded the poor guy that had a 46
14 percent there instead of giving -- approving, say, the
15 \$4,000 that he might have got, you guys zeroed it.
16 Now, more than likely, that \$4,000 would have never got
17 to him. Yes, it would have fell off the end, but
18 that's not your fault that it fell off the end. It's
19 the fault of that there wasn't enough money to go
20 around.

21 But the way that it was done in the last two
22 days, is you gave a bad taste in a lot of the agencies'
23 and even the counties' mouths that my grant wasn't good
24 enough so they just zeroed it. The grant may have been
25 mediocre, and it should have been dealt with on that

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1 mediocre frame of mind, rather than saying, well, we
2 can't fund it because we don't have the money, so we're
3 going to zero it. Now, to me looking at if I was an
4 applicant, if I got a zero, why the hell do I even
5 bother to do anything for next year. And that's going
6 to hurt the public of California, where it be
7 environmental, where it be motorized, where it be
8 anywhere. There was a lot of good grants. I say good,
9 they were not excellent. There was a lot of good
10 grants that were zeroed in the last two days that they
11 shouldn't have been zero in my opinion. They may have
12 not got funded, and they probably shouldn't have got
13 funded. But to make everything either a yes, we either
14 red light or green light is two different things.

15 And, you know, I argued with Commissioner
16 Waldheim about that for days. And he insisted on that
17 you guys had to give a balanced budget because
18 otherwise there would be a cutoff line. So be it,
19 there's been a cutoff line for the last 23 years.
20 There have always been grants that have not been funded
21 because we've run out of money in the last ten years.
22 But that's changed now. So now I guess we -- you
23 either have to have an excellent grant or you're going
24 to have a junk grant, and I don't think that's right.
25 Thank you.

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1 CHAIR SPITLER: John Stewart, followed by Bill
2 Dart.

3 JOHN STEWART: John Stewart, California
4 Association of 4-Wheel Drive Clubs. Good morning
5 Commissioners and Deputy Director and Division staff,
6 last weekend in San Francisco, the American Council
7 Snowmobile Association hosted a conference. It was a
8 very interesting conference on the part -- it brought
9 out demographics of the sport of recreation, what is
10 it. And we've heard continuing words about, well,
11 we've had explosive growth of population, increased
12 demand. The U.S. Census Bureau has out a publication,
13 a study that was done, entitled, "Mapping Diversity."
14 I think it's very important that this Commission as
15 they look forward to the future obtain a copy of that
16 study and actually read it, look at the charts in
17 there, look at how the population is shifting to
18 various areas from the suburban areas to the rural
19 areas. They are bring -- the people moving into the
20 rural areas are an older generation. They are bringing
21 into the rural areas, their suburban ideas. These are
22 challenges and they will create conflicts for the
23 future of the program. These are challenges that you
24 as the Commission will have to address when taking
25 public comment and providing overall, overarching, or

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1 general guidance to the Division for how to manage an
2 OHV program for the State of California.

3 There's also another interesting fact within
4 that Mapping Diversity study. This shows that there is
5 a shift of population in ethnic groups, and I would --
6 maybe if you look out at the people in this room and
7 that have been here the past few days, they are really
8 not representative of the population of the State of
9 California. This program and some of your decisions
10 have not really reflected the ethnic diversity and the
11 age diversity that is out there.

12 We heard comments about, well, we can't allow
13 six year olds and fund to have six year olds on a
14 training course. Well, guess what, the parents out
15 there are the ones that are responsible for that. They
16 are putting kids, their kids on these machines. You
17 cannot legislate the morality or the ethics of that
18 issue. That is something that the parents have to
19 contend with.

20 Now, for the safety factor, it is a
21 responsibility of the Commission and a well-managed
22 program to provide for an education and training in
23 order to teach the environmental ethics, in order to
24 teach safe riding habits. Because they're going to be
25 out there, they're going to do it, and to that extent

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1 you, the Commission and the Division, and we, the
2 members of the recreating public, have got to work
3 together in order to ensure that our sport is safe and
4 it is something that meets the demands of the public.
5 Thank you.

6 CHAIR SPITLER: Bill Dart, followed by Sandra
7 Jerabek.

8 BILL DART: Bill Dart, representing the Off-Road
9 Business Association, and I won't make -- get too broad
10 on comments about yesterday and the day before process.
11 I did see that we need to do some more fine tuning on
12 the allocation system, the scoring system. It did have
13 an appearance of being arbitrary and capricious. The
14 criteria are supposed to be used by everyone in
15 thoughtful deliberation, but 14 times there were polar
16 opposites from one scoring to another. It's hard to
17 explain those kind of -- when one reviewer's unbiased,
18 objective civil servant comes up with a zero and it
19 turns into a 100 percent funding on the other side.
20 It's hard for us to understand how those kinds of
21 decisions are made.

22 Fifty-seven times there were discrepancies of 30
23 percent or greater between the two scoring
24 recommendations. It's hard to understand exactly the
25 process. We have trouble understanding when public

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1 comment is unanimous from both the conservation
2 community and OHV public and yet remarks are made that
3 based on public testimony we'll zero this grant. When
4 scoring criteria is -- just this one example, when a
5 grant is given a 19 out of 20 points for volunteer
6 work, when they just told you they didn't have a
7 volunteer program, they got a higher score than the
8 biggest volunteer program in the state on the San
9 Bernardino National Forest, and we don't understand how
10 that works. So we need better clarity in the process
11 and how this is done.

12 We need better opportunity for public comment.
13 The way it's structured today is that where the
14 agencies, the applicants are supposed to ask for --
15 have a public meeting to take comment at the beginning,
16 but at that point oftentimes those grant aren't even
17 flushed out. It's just an idea or we're going to apply
18 for money, what do you think. So we don't know what's
19 going in at that point.

20 When we do get them out and we have the
21 subcommittee meetings, it's -- you know, input is
22 taken, but there is no product that came out of that
23 meeting, there was no action taken, no -- used to be we
24 would get a list of recommendations that go from the
25 subcommittee level to the full committee, and we didn't

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1 get that. So we still don't know where we're headed
2 until after we -- and then after we give you comment,
3 then we learn where we're really going. That just
4 seems like we need to fine tune that so there's a place
5 in the middle where everybody knows where everybody is
6 headed, and they can consider each opinion and respond
7 to thoughts of each side.

8 So in this case, we also -- you know the
9 subcommittee came out with no public product, but they
10 did come out with a product. They developed a list. I
11 have a copy of it, where the recommendations they came
12 up with were already out, but no one in the room here
13 that I know of, really that was shared with. So we
14 don't understand -- you know, it's a desire for public
15 input and involvement at one point, yet behind the
16 scenes lists are developed that are not shared at all.

17 So the topic of restoration is also, of course,
18 a thorny one. We have a lot of money dedicated to it.
19 We want to do the right thing and fix legitimate
20 problems out there, but we couldn't allocate all of the
21 money. It was clear that even with, you know, some
22 grants some didn't think were very good quality -- and
23 in fact, ten times the Division recommended zero and
24 the Commission recommended full funding. In every
25 single instance, whether it be allocation or the

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1 recommendations were raised to the maximum or near
2 maximum each time. And so it's -- again, we don't
3 understand how that process works, you know, what
4 justifies those things.

5 We had 900,000 left over approximately of the
6 restoration. We would sure like to see some way to
7 redirect that to programs that really need it like
8 trail maintenance, you know, protecting our existing
9 opportunities out on the ground.

10 So, anyway, we don't think the solutions offered
11 by the Chair to remove any barriers to scoring, having
12 a role in allocation of funding, or to violate the law
13 and give those restoration grants to nonprofit
14 agencies, which is not allowed by law to receive
15 restoration grants, we don't think that's the right way
16 to go. We have had a chance to just briefly review the
17 review of your policies by --

18 CHAIR SPITLER: Mr. Dart, if I could ask you to
19 conclude your comments.

20 BILL DART: Thank you. We really find that that
21 was a remarkable piece of work that should be really
22 closely reviewed before further action. Thank you.

23 CHAIR SPITLER: Thank you. Sandra Jerabek.

24 SANDRA JERABEK: Thank you, Commissioners and
25 staff for the opportunity to address you. Can you hear

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1 me all right? My name is Sandra Jerabek, and I live in
2 Del Norte County, which is the northwesternmost county
3 in California on the coast. I'm happy to be here, and
4 I appreciate all of the hard work that you're trying to
5 do, and I wish you the best of luck with it.

6 I really appreciate the grants you made
7 yesterday to further riding opportunities on our
8 national forest in the Smith River National Recreation
9 area. I think that is indeed an excellent focus for
10 more riding opportunities and enhanced riding
11 opportunities. I'd like to address briefly the
12 situation with Tolowa Dunes State Park, and also
13 identify myself as one of the quote/unquote
14 environmentalists that Daphne and Phil met with up in
15 Del Norte County during their recent visit.

16 Certainly, I have conservation and restoration
17 concerns. I am also a developer of nature and heritage
18 tourism and cultural tourism, and one of the primary
19 developers of this in our county. And that is a very
20 important economic activity for us. And I'm sure you
21 can appreciate that nature heritage and cultural
22 tourism, I would say especially at Tolowa Dunes State
23 Park are in conflict with the illegal off-road vehicle
24 use that has been allowed by State Parks to accelerate
25 in that park in the last four years.

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1 I'd like to speak quickly on some points of
2 information. We have a very small, rural and poor
3 county. We have about 25,000 people, and we don't have
4 a lot of law enforcement resources in the park or in
5 the Department of Fish and Game. A saying about our
6 county is that there is no law north of the Klamath.

7 I think what we should do is be very careful not
8 to reward illegal activity. And I have talked
9 extensively with the State Parks Ranger Dick Goss, who
10 was at Tolowa Dunes State Park for about 22 years
11 during the time that it was a project. It became a
12 park about four years ago. And Ranger Goss has told us
13 and put in writing that towards the end of his career
14 in the park, he was writing tickets for 125 bucks a
15 person, \$125 a person when he caught them riding in the
16 park in the Dunes. He also admitted that he did -- he
17 was forced to allow, quote/unquote, people to ride on
18 the wave slope because he just didn't have the
19 resources to keep up with everything. But he assured
20 us that he pretty much had people out of the Dunes, and
21 that \$125 was no longer a cheap ride. So I think this
22 is all about ticketing and enforcement.

23 And just briefly I want you to know that during
24 the last four years since the park was designated, they
25 stopped writing tickets and they switched to public

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1 education. And the ranger told us he was the biggest
2 joke on the beach. I think we don't want to reward
3 illegal activity. I think there are riding
4 opportunities in Del Norte County, and I support them.

5 And I just want to show you very quickly this
6 Forest Service map, and I will be putting most of this
7 information into the record here with your permission.
8 May I approach? I'm just going to show you just really
9 quickly, this is a map of the Smith River National
10 Recreation Area. And in orange and in pink on this
11 map, you'll see the squiggly lines, those are low grade
12 roads and actual trails where ORVs are told to ride by
13 Forest Service staff, and that's who marked this map
14 for us.

15 CHAIR SPITLER: If I could ask you to head
16 toward conclusion of your comments.

17 SANDRA JERABEK: Sure, there are hundreds of
18 miles of low-grade roads in the forest, and there are
19 at least 30 miles of specific trails for ATVs and
20 motorcycles, and dirt bikes. We want to enhance this
21 riding opportunity. With your grants we'll able to do
22 that. I'm personally involved in that effort.

23 And I also would like to say in closing that the
24 Division -- or the crack in the State Parks Department
25 between State Parks management staff and the OHV

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1 Division has become a very public local conflict in our
2 county, and I think that's very unfortunate. And I
3 hope you can all work, board and staff, to stop the
4 private flow of information. It is in conflict with
5 the two the departments or divisions. Thank you very
6 much.

7 CHAIR SPITLER: Thank you for coming. Anyone
8 else wish to comment on an item not on today's agenda?

9 Mr. Keeler, BLM government report.

10 JIM KEELER: Commissioners, Chairman Spitler,
11 Deputy Director Greene, and Commission staff, I
12 appreciate the opportunity to speak before you once
13 again. I think this is the first time we've had this
14 report in seven months. There's a great deal more to
15 say than I ever really have an opportunity to say, and
16 I always am looking for a venue to somehow communicate
17 this information better.

18 What I started doing when I came was to build
19 these bullet statement reports in hopes that it would
20 pique interest in further information on stuff. I'm
21 not going to go through the whole report today, but I
22 did give you a copy of that on Thursday, and I would be
23 delighted to answer any questions or deal with any of
24 these issues that have come up. What I'm going to do,
25 though, is just go through it very quickly and just hit

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1 some of the things I think are important to highlight.

2 I did I think want to comment to Sheriff
3 Prizmich that one of the things I noticed in the last
4 two days was that the competitive arena we're in
5 sometimes in a grant process, doesn't necessarily allow
6 a good focus for us to explain how well things can work
7 on the ground. And Imperial County is an excellent
8 example of really good cooperation between federal law
9 enforcement and county law enforcement. Even though
10 you might not have seen that in the presentations,
11 that's an astounding program they have. Another one is
12 Kern County, where the BLM of Kern County and Cal City
13 are working very closely together and kind of
14 overlapping really well. And I think that that's
15 really an outcome of the OHV program that provided
16 money and brought us together. So you may not see it,
17 but I think some of the things that you're advocating
18 are really happening.

19 Going on, there's in appendix one, that just
20 shows for the California Desert District, it's a little
21 snapshot of all of the activities that we have handled
22 over the Thanksgiving weekend. Also, in the California
23 Desert District, you know that Linda Hanson, the former
24 district manager, retired and Rob Roudabush, who was
25 here the other day, was here for a couple of months as

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1 an interim. In January, Steve Borchard will be
2 reporting to the office in Reno Valley and take over
3 the program. I'm sure you're going to see a lot of him
4 there. I got to know him when I was -- we were both
5 working in Washington together, but he's actually a
6 Northern California guy that came from UC Davis and has
7 worked through the system to Washington to where he's
8 been the rivers and range program assistant group
9 manager for the last couple of years, and then he's
10 just been on a congressional fellowship. So he's
11 bringing a lot of horsepower back to the desert, and I
12 think a really good attitude for change.

13 Going on to page two, there is quite a report
14 here on the activities in Hollister, and there's a
15 great deal going on with the Claire Creek management
16 area, as you probably all do know. We had to close it
17 over the summer because of concerns about the airborne
18 asbestos that comes from the native soils there. We
19 reopened it October 16th. We're looking at the
20 possibility of a fee program down there. I think after
21 the first of the year, we're going to start some
22 discussions on that. We've been -- had difficulties
23 over the years funding an adequate level of staffing
24 and management to run what's a very popular area in a
25 very difficult location, and is one of the few

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1 opportunities really of its type that's available for
2 that Central California and sort of southern Bay Area
3 country.

4 Implementation planning has been completed for
5 the road and trail designation, which should be able to
6 be performed as the -- when the decision record is
7 signed, which we're hoping to do by January. So we're
8 ready to go. We've not stopped doing things, but as
9 soon as we sign the decision, we've got an entire
10 strategy for putting that route network on the ground
11 in a more solid fashion. They've started doing a great
12 deal of the work on the Nor Cal restoration grant.
13 There is more information on that.

14 Ukiah, jumping up north a little bit -- I don't
15 know if you met her, but Jamie Newlands, who used to be
16 in Klamath has moved to Ukiah now as the OHV
17 coordinator there, so you'll be seeing a lot more of
18 her. Ukiah's Resource Management plan is out for
19 public comments, which are due in writing by
20 December 15th. So that's on-line. It's available if
21 people want to look at that. It does cover all of the
22 public lands essentially from the Mendocino County line
23 down through Lake County and sort of that central stuff
24 all the way out to the coast. There's not a great deal
25 of OHV opportunity in that except for Cobb Mountain,

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1 and then we're doing a little bit adjacent to the
2 Mendocino National Forest.

3 Redding just completed a 91-acre acquisition,
4 which just about used up the remaining funding they
5 have. The goal there is to connect better between the
6 BLM lands and the rest of the Chappie Shasta
7 off-highway vehicle emphasis area there that
8 unfortunately the major access to was across Shasta Dam
9 and is now very much regulated. It's a much more
10 difficult place for people to access because of
11 national security interests.

12 Going on, I'm going to go through Arcata, just
13 wanted to mention that BLM, the Forest Service, and
14 Federal Highways collaborated and established a new
15 position for the back country byway program
16 coordinator, which is located, of all places, in
17 Duluth. But the person they hired to coordinate that
18 program and work with the foundation for the back
19 country byways is a guy named Mark Conley, who you
20 might remember from previous days here. He's now moved
21 his family in the middle of December to Duluth, but.

22 COMMISSIONER THOMAS: What did he do wrong?

23 JIM KEELER: He's actually delighted. He's an
24 East Coast guy to start with. It's a great opportunity
25 for him. I have a feeling it may be a great

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1 opportunity for us because the back country byways
2 program is another link to Federal Highways funding,
3 and it really kind of emphasizes the connection between
4 local community development and the need for managed
5 access and sort of eco-tourism modeling stuff. So
6 there may be some things that Mark can do given his
7 knowledge. So I'm certainly happy to help you or
8 anybody interested in that program or Mark to get ahold
9 of him for that stuff.

10 Then going on there is appendix one, is this
11 activity report from the California Desert. Also
12 wanted to mention that Jim Weigand reported a lot of
13 his accomplishments for us in this thing, and then
14 decided that last night he wasn't tired enough at 7:00
15 so he went back and put together a little paperwork for
16 you guys about some of the questions he got asked
17 yesterday. And before I turn over the microphone to
18 him, just on a personal note, in 17 years of working in
19 the OHV management business, this is probably for me
20 been the most challenging year I've ever had. I much
21 prefer to work in the proactive mode, and for some
22 reason, I've been totally reactive all year, and it's
23 just really frustrating. I'm sure -- I came back to
24 California from the Washington office just because this
25 program is so interesting and there is so much

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1 dedication and passion from all sides into it and some
2 resources to work with.

3 And I hope that -- if I do a New Year's toast
4 that it would be something that I hope that we continue
5 to be as productive as we've been, but I hope it gets a
6 whole lot easier because I think there is a lot of good
7 feeling. So I just wanted to express, I guess, a happy
8 Christmas to you all and a much happier new year. So
9 Jim will take over, and then we will both be available
10 for questions.

11 JIM WEIGAND: I wanted to speak -- sorry, Jim
12 Weigand, ecologist, BLM. I wanted to speak just very
13 briefly, Chairman Spitler asked yesterday that I
14 prepare a brief. I've handed that to each of the
15 Commissioners and members of the Division here. And
16 please ask me any questions about the information or
17 other questions that you might have, and I will be glad
18 to talk about that. I did want to highlight the
19 restoration project that's just beginning in Hollister
20 in the Claire Creek Management area. It is the largest
21 restoration project ever undertaken on serpentine soil
22 in the world. So we're doing something that has been
23 replicated about four times on much smaller settings in
24 places very far away from California. So please I'll
25 answer questions.

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1 But in a matter related to restoration, I want
2 to thank the Commission and the Division for helping us
3 to fund two soil surveys fully for the Johnson OHV
4 Recreation Area in San Bernardino County and then a
5 slightly smaller work for the Schumawavy Wash
6 Recreation Area, also in San Bernardino County but at
7 the Colorado River. And I'd like to give these to
8 Deputy Director Greene for the OHV library in
9 Sacramento.

10 COMMISSIONER ANDERSON: Get them off your desk.

11 JIM WEIGAND: And please we're here for any
12 questions. Please visit us, either anonymously or
13 informally or formally. We're thankful for your great
14 support, but we're also accountable to you. So you
15 need to call us any time.

16 JIM KEELER: He's speaking for himself here.

17 COMMISSIONER ANDERSON: I have a question on
18 these. The funding for these comes from the list that
19 you have in the briefing. Are those linked to
20 individual grants or are those part of the state grant
21 or a mix?

22 JIM WEIGAND: It's a mix. In previous years, we
23 had a Northern California grant and took all of the
24 Northern and Central California BLM offices, and then
25 there was a Southern California CDD grant. This year

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1 in 2006, we've broke it into individual field offices
2 because we were uncertain whether we could adequately
3 portray all of the information needed if we put all of
4 our grants together into one large northern and one
5 large southern restoration grant.

6 COMMISSIONER ANDERSON: Thank you.

7 COMMISSIONER PRIZMICH: Duluth is a fond memory
8 to me. That was the first marathon I ran after my
9 cancer surgery, and I couldn't have picked a worse
10 place to run a marathon. I'm glad that's done.

11 I also want to comment to you the same thing I
12 did relative to Kathy Mick's, aerial overflights. I
13 would encourage -- and not that I can commit any
14 sheriff to do anything, I get reminded of that all the
15 time and I remind others who try to commit me to
16 things -- but there is an opportunity there via the
17 aero squadron for cheap relatively effective
18 overflights. Should you attempt to take advantage of
19 it, I would encourage that.

20 JIM KEELER: Thank you, sir.

21 CHAIR SPITLER: Commissioner Thomas.

22 COMMISSIONER THOMAS: Jim Keeler, at the risk of
23 being informed about more problems, why was the year so
24 much of a challenge? Was it something internal, I
25 hope?

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1 JIM KEELER: I don't mean to be cavalier about
2 it. Just between the pressure, I guess, that the audit
3 put on everybody to deal with past stuff, and the
4 pressure for developing new regulations under a lot of
5 pressure and trying to move 17 different offices into
6 writing grants for that and respond to all of the
7 issues, and time changes and all of the things that
8 happened this year, is what I was trying to refer to.

9 COMMISSIONER THOMAS: So the grant process put
10 you under a lot of pressure.

11 JIM KEELER: I guess I would say it did.

12 COMMISSIONER THOMAS: Okay. I just wanted to
13 understand. Thank you.

14 JIM KEELER: Yeah, the frustrating thing for me,
15 the parts of my life that I really look forward to, are
16 where I can trace achievements. And somehow I just
17 felt like I was running numbers and running back and
18 forth, but anyway.

19 COMMISSIONER THOMAS: There is a reason we're
20 not accountants.

21 JIM KEELER: Yes, particularly.

22 CHAIR SPITLER: Other questions for Mr. Keeler
23 or Dr. Weigand? Okay. Hearing none.

24 COMMISSIONER THOMAS: Thank you very much.

25 CHAIR SPITLER: Thank you. Okay. We're on to

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1 the action portion of today's agenda.

2 First action item is the proposed policies and
3 criteria. I just want to make sure everyone is
4 operating under the current policies and criteria.
5 There were some revisions made, so if you have copies
6 that have a strike out and italicized versions
7 throughout various locations, those are the current
8 ones that should be available.

9 COMMISSIONER THOMAS: In our book, we have
10 proposed Commission policies. Are you saying there's
11 something that's been handed out since then?

12 CHAIR SPITLER: You should grab one of the
13 handouts that were passed out this morning, maybe,
14 Vicki, if you might grab some of those for those who
15 don't have them available.

16 COMMISSIONER ANDERSON: It looks like Chairman
17 Spitler's, but it no longer says by Chairman Paul
18 Spitler on it.

19 COMMISSIONER THOMAS: Okay. Maybe I missed
20 that.

21 CHAIR SPITLER: We will get those. Those are
22 coming from the front.

23 How I would propose to fashion this discussion
24 is to address these separately, the policies and the
25 scoring criteria separate, although they are obviously

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1 interrelated. Maybe I'll just kind of introduce the
2 item, and then we can discuss how to proceed.

3 The policies that I propose are -- the public
4 needs new copies. Perhaps just notify Vicki here, who
5 can provide them for you.

6 The policies I proposed are responsive to some
7 of the questions and concerns about this year's grant
8 process, and it is an effort to make some slight
9 modifications to the grants process that was utilized
10 this year, to respond to some of the concerns that were
11 raised along the way, and make sure that the process
12 runs, I hope, more smoothly in the future. The
13 policies are -- largely there's two sections, one
14 addresses the grants process, one addresses other
15 program elements.

16 I'll start with the competitive grants program
17 portion. The proposal adopts largely the process that
18 was utilized in the current year with a few key
19 differences, one is that there's a -- the grants will
20 still receive a score, and it will be ranked on a
21 competitive basis against other grants. The score will
22 translate to a funding level. I did add a funding
23 level, which was lower than the current funding level,
24 the lowest funding level that was utilized this year,
25 which was 45 percent, I added a lower score, 40 to 49

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1 grants get 75 percent less than current funding level.

2 Also added the ability of the Commission to
3 establish funding targets within grant application
4 categories, which I think is an important thing needed
5 to make sure that for some application categories -- or
6 excuse me, for some of the larger funding categories,
7 meaning conservation, enforcement, restoration, and
8 non-CESA, can include a variety of application types.
9 I think it's important that the Commission have the
10 ability to establish, say, funding targets for trail
11 maintenance, which is covered in the non-CESA category
12 but is lumped together with other project types in that
13 category.

14 The proposal on the competitive grants program
15 also includes a number of elements to address some of
16 the issues that came up this year, such as where the
17 Division funding recommendations were lower than the
18 targets established by the Commission, how we address
19 that issue so that at the end of the day we don't have
20 projects that we're considering with no funds left in
21 that category and also where the eligible applications
22 are less than Commission allocations for particular
23 funding category, which also arose this year under
24 restoration.

25 The proposal on the competitive grants program

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1 also calls for more public review of the Division
2 funding recommendations to address concerns that have
3 arisen this year about inadequate opportunities for the
4 public to participate in the funding recommendations
5 process.

6 So how I would propose to proceed here is to
7 address the policies first, and address them in two
8 parts, or potentially three parts, the first being the
9 competitive grants program, the second being the other
10 policies, and finally the proposed desert riparian area
11 policy. After we address that, we can address the
12 criteria, and I'll save my introduction of that item
13 until we get to it.

14 Sound like a reasonable way to proceed?

15 COMMISSIONER THOMAS: Mr. Chairman, before you
16 open the public hearing, would it be appropriate for us
17 to ask you some questions about how the proposal is
18 constructed so that we can understand better the nature
19 of your proposal. I can wait until after the public
20 hearing.

21 CHAIR SPITLER: Why don't we do the public
22 comments and then we'll go ahead and have a Commission
23 discussion on that.

24 So we'll start with public comments on the
25 proposed Commission policies regarding the competitive

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1 grants program. Nick Haris followed by Pete Conaty.

2 NICK HARIS: Hello again Commissioners, Nick
3 Haris, American Motorcycle Association. I'm glad
4 you're breaking these into three, it's going to make it
5 a little easier to comment.

6 I guess my first comment off the bat, it seems
7 like we're getting new things on a very regular basis,
8 and I think I have the most current versions, but I've
9 seen strike outs. I'm looking at some of the other of
10 these three different things. I guess my first comment
11 is I feel like this is not a bad idea, but it's very
12 quick, and I would prefer -- I don't know if the plan
13 is to vote on this all today and adopt it, or if the
14 plan is to take comment and then potentially do this in
15 January I think is when you normally have your public
16 meeting, where you set the priorities for the following
17 year, and I would think that this would be very
18 appropriate to bring up today and vote on potentially
19 at that meeting.

20 As far as specifics in it, honestly this is --
21 it's just really hard to kind of digest it all. I've
22 read some of the response from the Division, and I
23 guess I would at this point like to say that most of
24 their comments, I'm very comfortable with some of the
25 issues they raised. I'm just not sure if all of this

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1 is legal, if all of this follows along. And it's very
2 difficult for both the public, I think, and for
3 potential applicants to comment on such new
4 information. I did download this about a month ago,
5 but it seems like a lot of what I've looked at has
6 changed. I'll finish my comment on that. Thank you.

7 CHAIR SPITLER: Okay. Thank you. Bill Dart,
8 followed by Bruce Brazil. Excuse me, sorry, Pete
9 Conaty, followed by Bill Dart and Bruce Brazil.

10 PETE CONATY: Yes, sir, I object to the lack of
11 ten-days' notice on the changes that you made to your
12 recommendations. That seems to be totally
13 inappropriate. I also think that it's inappropriate to
14 vote for it today. There ought to be three meetings,
15 at least wait and vote on it at the January meeting,
16 which is the annual meeting where the public is
17 supposed to provide public input. And if you're going
18 to make changes, you need to notify the public, and not
19 do it in the dark of night. Thank you.

20 CHAIR SPITLER: Thank you. Okay. Bill Dart,
21 followed by Bruce Brazil.

22 BILL DART: Bill Dart representing the Off-Road
23 Business Association. And you know this is a very,
24 very complex issue. There's a lot at stake here from
25 everybody's side. I simply cannot respond. It's

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1 supposed to be four minutes, it started at three here.
2 I can't respond in three minutes to really a document
3 that I've just been handed this morning. It's
4 incomprehensible how we would do business this way
5 today. We will be prepared to provide detailed comment
6 on it, but in a cursory review document provided by the
7 Division of their analysis here, I would have to say
8 this is a very remarkably accurate document. So I just
9 can't see how we could hope to even think about taking
10 action today on such matters of importance that require
11 thorough analysis, that there are questions of not only
12 the appropriateness of some of the proposals, but the
13 legality seems to be -- I'm not a lawyer. I don't
14 profess to have definitive legal knowledge. But as a
15 layman, it certainly looks illegal to me. I think we
16 need to put this on our front burner for thorough
17 analysis using all players to have a chance to work
18 with you, develop these policies. Historically this
19 Commission has taken the time to provide three meetings
20 in a row with a review and acceptance of public
21 comments before any action was taken on such matters of
22 importance.

23 I just heard complaints that Division moved on a
24 fast track with emergency regulations. We at least had
25 five days to look at those. We've only had five

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1 hours -- or less than that. It's just unreasonable to
2 expect quality comments on this kind of notice or to
3 operate in this kind of seemingly arbitrary and
4 capricious manner. Thank you.

5 CHAIR SPITLER: Thank you. Bruce Brazil,
6 followed by Don Klusman.

7 BRUCE BRAZIL: Bruce Brazil, California Enduro
8 Riders Association. Like the previous speakers have
9 said, I do believe this would be in violation of the
10 Keene/Bagley Act for improper notification of the
11 public on the contents.

12 And that aside, I also feel that it would be
13 improper for the Commission to proceed with this sort
14 of a document or policy. 5090.23 of the code states:
15 "The Commission shall establish policies for the
16 general guidance of the director and Division regarding
17 all aspect of the system and program." This is going
18 in and actually trying to detail the activities of the
19 Division. This is not general guidance. Thank you.

20 CHAIR SPITLER: Thank you. Don Klusman,
21 followed by John Stewart.

22 DON KLUSMAN: Don Klusman, California 4-Wheel
23 Drive Association. I, too, would ask the Commission to
24 postpone voting on this. I applaud the efforts of
25 Commissioner Spitler to take on this project and to

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1 give us what we've got. But, again, receiving the
2 corrected copy today is hard for me to give you
3 substantial comments to it.

4 The other thing that I'm wondering here is,
5 we've heard from the Division that we are under
6 emergency regs, and that permanent regs are in the
7 process of being put together. I would encourage the
8 Commission to work with the Division so that we've got
9 those permanent regs somewhat nailed down before the
10 Commission decides on a policy. Here again, we're
11 talking about working together. Now, if you see fit to
12 pass these policies and they're in conflict with the
13 new regs, we're right back to square one again in that
14 something has to be changed. Thank you.

15 COMMISSIONER THOMAS: I have a question for Don.
16 Don, did you see the December 8th memo from the
17 Division staff to the Commission?

18 DON KLUSMAN: Yes, I did.

19 COMMISSIONER THOMAS: Did you see their comment
20 about how they're going to work with us on regulations,
21 that was paragraph six.

22 DON KLUSMAN: Yes.

23 COMMISSIONER THOMAS: That they said you have no
24 more rights than the average public to work with us in
25 the area. Is that the kind of cooperative relationship

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1 you want -- we should be fostering?

2 DON KLUSMAN: No.

3 COMMISSIONER THOMAS: Isn't that a good example
4 of why we really need policies because we're being told
5 by the people we're supposed to be setting general
6 policy for that they have no more rights to participate
7 in specific policy or general policy? Isn't that a
8 problem?

9 DON KLUSMAN: That is a problem, and that is
10 something that needs to be worked out between the two
11 entities. But I also feel that it is not conducive to
12 the public for the Commission to pass a policy that we
13 haven't had time to even give you substantive comments
14 on.

15 COMMISSIONER THOMAS: I understand that point.

16 DON KLUSMAN: Thank you.

17 CHAIR SPITLER: Thank you. John Stewart,
18 followed by Tom Tammone.

19 JOHN STEWART: John Stewart, California
20 Association of 4-Wheel Drive Clubs. You know, I agree
21 with and have to leverage off the previous speakers
22 that it's kind of disconcerting to walk in in the
23 morning and find out that what was originally posted on
24 the website is now a defunct document, in fact, it was
25 changed. And I have some hope that while, gee, maybe

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1 this changed document would actually be grammatically
2 correct, have correct spelling, and actually have a --
3 well, if you look at item scores 89 to 89, to receive
4 25 percent, some obviously erroneous statements in it.
5 The new document still reflects these problems.

6 So overall there are very far-reaching items in
7 here. With the improper language in there, how can we
8 even be expected to believe that or make substantive
9 comments because you correct the grammar, punctuation,
10 you're going to change the meaning of the document
11 itself. So to that extent the document is really not
12 worth looking at or really commenting on.

13 And if you do step back and overlook those
14 obvious errors, overall these are -- you know, the
15 Commission is chartered with providing general guidance
16 and general policy for the Division. These are
17 specific regulatory issues on administrative issues and
18 regulatory issues that statute reserves for the
19 Division to do. I don't have time to really go through
20 a complete civics 101 lesson, but I hope everyone
21 really has looked at the California legal process and
22 how regulations are held, statutes are passed by the
23 Legislature, how the appropriate government body is
24 then chartered with turning those statutes into
25 regulations, and how commissions are set up with an

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1 oversight and a fiduciary duty to be the -- for lack of
2 a better word, the judicial adjunct, the judicial
3 review that is going to look at the appropriate
4 government Division and balance that with public
5 comment and public opinion.

6 But coming up with these particular regulations
7 as they sit, they are completely in violation of
8 several points of not only state law, but federal law.
9 And on the federal is it within the proposal for the
10 desert riparian, you want to look at the fact are you,
11 in fact, mandating the language you see --

12 CHAIR SPITLER: Mr. Stewart, excuse me. We're
13 actually just addressing right now the proposal on the
14 competitive grants. I'm sorry to interrupt you, but we
15 are going to have separate comment on that.

16 JOHN STEWART: I'll save those comments for that
17 time. But the point here is that in reality that these
18 regulations, especially within this first section,
19 establish some highly questionable points of where the
20 Commission is actually looking to have the Division
21 violate statute, and that's my belief on that. Thank
22 you.

23 CHAIR SPITLER: Thank you. Kathleen Mick.

24 DEPUTY DIRECTOR GREENE: Chairman Spitler, just
25 for clarification purposes, just members of the public,

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1 the new revised, new proposed proposal that you had
2 sent in was, in fact, put up on the web on -- I believe
3 it was on the 7th, just so you know.

4 CHAIR SPITLER: Thank you. Kathleen Mick.

5 KATHLEEN MICK: Good morning, Kathleen Mick.

6 CHAIR SPITLER: Did I do it again? Go ahead.

7 Mr. Tammone, I'm sorry, we'll have you next. Forgive
8 me.

9 KATHLEEN MICK: Kathleen Mick, U.S. Forest
10 Service. In looking through the policies, I don't know
11 whether they're comments or questions, but I'll just go
12 ahead and go through them.

13 On the second page, Item G, just trying to
14 figure out a way to maybe have the Commission and the
15 Division work through that, hoping that we would have
16 scores that would reflect good quality work and
17 hopefully that's what folks are submitting. So hoping
18 that that comes out, and there might not be a need for
19 that one.

20 Then looking at Item I, just wondering if the
21 application categories -- I know we're not discussing
22 the criteria, but there is a little bit of the
23 crossover just in terms of how some of the criteria are
24 specific looking at not only having application
25 categories, but it seems like there is a desire for

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1 specific types of applications, and we would want to
2 have a little clarity on that so we would be able to
3 address our efforts to the best of our abilities.

4 And then on item two on the third page, just
5 looking at that, you know, we're simple people in the
6 Forest Service. So we're hoping for not too much
7 change just in terms of we just changed to trail
8 maintenance, trail conservation, trail reroute and how
9 that's going to do, and then it seems like item two
10 wants to go back to some of the work being applied for.
11 What triggered my mind would be a resource management
12 application. And so hoping to find a way to smooth
13 that out so we wouldn't have too much change because we
14 get pretty confused with that. And then just looking
15 at item ten.

16 CHAIR SPITLER: Ms. Mick, I'm sorry to
17 interrupt. We are actually just doing comment on the
18 first two pages on the competitive grants program. The
19 other policies we will have a separate comment period
20 on that.

21 KATHLEEN MICK: Okay. I can do that.

22 And then just back on the first page, I missed
23 it, Item C, under looking at, "The Division shall
24 ensure," I would just need clarity on that because
25 under competitive process, I'm not sure how that would

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1 occur. So just some -- to have that explained. Other
2 than that, I'll leave my other comments for when we
3 move onto the rest of the stuff, but we will work with
4 it.

5 CHAIR SPITLER: Okay. Thank you. Mr. Tammone.

6 TOM TAMMONE: Yeah, first of all, Tom Tammone,
7 California Trail Users Coalition. First of all, I
8 would like to join our speakers and their concerns that
9 we're acting too hastily here and this could possibly
10 be a violation of the Keene/Bagley Act. I don't want
11 to open a can of worms up for myself. I might wind up
12 having to drive back out here again in two weeks.

13 It's too hasty. I believe you should have at
14 least a series of some workshops to make sure we're
15 getting public input on this, and possibly this should
16 actually be all part of the process of drafting new
17 regulations. I like that we do see some healthy
18 dialogue being exchanged between staff and the
19 Commission. I like that. We all need to check our
20 egos at the door here and get a job done.

21 Anyway, this is just not the time to do this.
22 As low as my resources are, I, in particular, don't
23 look forward to driving 900 miles several times again,
24 but we're just not ready to do this. Thank you.

25 CHAIR SPITLER: Anyone else to comment on the

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1 proposed Commission policies regarding the competitive
2 grant program? Mr. Wiley.

3 FRED WILEY: Good morning, Commissioners, Fred
4 Wiley with the California Nevada Snowmobile
5 Association. After sitting through this process for
6 the last couple of days, I only have one question. I'm
7 really curious as to how much of the public comment the
8 Commissioners are really going to consider when they
9 look at this process. We come here and spend a lot of
10 time and a lot of money and a lot of effort.
11 Oftentimes, we feel as though our comments have little
12 to do with what decision process is going on here. So
13 I really implore the Commission to make sure that they
14 take into consideration the overwhelming public comment
15 on this process. Thank you.

16 CHAIR SPITLER: Thank you. Any other members of
17 the public to comment on the proposed policies
18 regarding the competitive grants program?

19 Okay. Perhaps, we could just hear from Deputy
20 Director Greene, who has issued a long memorandum in
21 response.

22 COMMISSIONER THOMAS: Close the public hearing.

23 CHAIR SPITLER: Public hearing is closed.

24 Deputy Director Greene, would you like to
25 summarize your memorandum?

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1 CHIEF JENKINS: I can begin addressing that. So
2 we received these proposed policies. A lot of work and
3 effort obviously went into this, and we really
4 appreciate the continued interest of everybody that has
5 given us input on this and recognizing that the
6 Commission has some specific needs to, you know, have a
7 system that works within the criteria you would like to
8 be able to implement.

9 As we looked at the recommendations that were
10 provided, what we were looking for or what we were
11 trying to sort through was kind of where we can take
12 these things as general policy guidance and not violate
13 the administrative procedures that we're going through
14 with the Office of Administrative Law. In our
15 desire -- and I think it's been expressed by many
16 members of the public, is that as we move forward from
17 the emergency regulations into permanent regulations,
18 that the entire community of enthusiasts and concerned
19 folks about all of the aspects of the program have an
20 opportunity to have input into this process.

21 So just going into the open-ended discussion
22 with our concern that we needed to look at how this
23 process, how this proposal -- these proposed policies
24 would mesh with that administrative law process that
25 we're going through that requires public meetings and

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1 the 45-day notice, and all those other things.

2 So that caveat being said, as we began looking
3 then specifically -- I don't know if you wanted to go
4 through -- I didn't know if you wanted to go through
5 item by item, or just talk in generalities and have a
6 back and forth. I don't really know what format you'd
7 like us to address this in.

8 CHAIR SPITLER: Just your general comments would
9 be fine.

10 CHIEF JENKINS: Well, I think that basically
11 summarizes where we're at is that we're looking for
12 general guidance on this. There are elements of
13 general guidance throughout here that are quite useful
14 as we try to understand what it is the Commission
15 wants; however, it is mixed in with some very specific
16 things that we're going to have to consult with
17 administrative law -- Office of Administrative Law to
18 try to determine where some of these things may
19 actually violate the administrative processes that we
20 have to go through.

21 CHAIR SPITLER: Okay. Maybe we will go ahead
22 and open up Commission discussion on the proposed
23 policies regarding the competitive grant program.

24 COMMISSIONER ANDERSON: Let me start with the
25 preface, we've been throwing around the term

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1 competitive grant program, but there are lots of
2 different ways to compete. In the staff's commentary,
3 they had incorporated some focus to that competitive
4 nature. But I would like language which reflects that
5 the competitive nature of the grant process should be
6 based upon support for the overall program goals. And
7 I know we haven't agreed on any overall goals, but at
8 least some language which could be referred to at the
9 point when we actually have goals, but we could -- we
10 could have competitive grants on and not have the
11 grants actually mesh with what the program goals are
12 and how we expect to achieve them. It might invite
13 applicants who come with projects for butterfly
14 restoration areas or, you know, pick something, which
15 doesn't mesh with the program goals. And so I would
16 urge, whoever ends up drafting this language, to
17 include something that says that they would be ranked
18 in a manner which would support the overall program
19 goals for the OHV program.

20 I think that there may be applicants who come
21 along where portions of their grant application may be
22 in support and other portions of their grant
23 application may be what we would term extraneous or not
24 directed to the support of the program, and there
25 should be some way to evaluate the grant application in

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1 light of that.

2 CHAIR SPITLER: Thank you. Commissioner
3 Prizmich.

4 COMMISSIONER PRIZMICH: Thank you. First of
5 all, I'd like to thank you, Chairman Spitler, for the
6 work you put in here. But with that said, we've gone
7 through -- I've gone through two days of testimony and
8 actual practice with regard to the competitive grant
9 process. This was actually our first -- as a
10 Commission, our first experience with dealing with the
11 process, and we all have some -- or at least I do; I
12 can't speak for the other Commissioners obviously, but
13 I have some issues that have been ferreted out as a
14 result of what we experienced in these last two days.

15 And I personally would like to reflect on what
16 the experience has been over the last two days and how
17 I might have some suggestions on how to change the
18 competitive process. And I'm not sure I'm ready to
19 make a decision today with regard to these suggested
20 program changes.

21 So while I appreciate the effort on Chairman
22 Spitler's part, my area of concern is law enforcement,
23 and I have some -- I'm formulating some thoughts with
24 regard to how to make that process more equitable for
25 the law enforcement needs and for the Off-Highway

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1 Vehicle Commission and how they apply that. And I
2 frankly need a little bit more time to deal with that
3 and get some input from my constituents, some of them
4 who left here quite angry.

5 DEPUTY DIRECTOR GREENE: Commissioner Prizmich,
6 if I may ask a question. If it would be helpful, I
7 don't know, Chairman Spitler, if this is the
8 appropriate time, perhaps later if Division can follow
9 up with individual Commissioners also to try to get
10 your feedback in the next week or two as to what you've
11 seen or experienced here, so that as you flush it out
12 over the next couple of days and speak with some of
13 your constituents, as you've just alluded to, if that
14 would be a helpful process or not to you?

15 CHAIR SPITLER: I think that's an interesting
16 starting point. But frankly I think what I'm looking
17 for, and I won't speak for other Commissioners, but
18 what I've heard in the past and today other
19 Commissioners are looking for, I think part of what
20 drives some of these policies is a better partnership
21 between the Commission and the Division on establishing
22 program regulations, establishing the grant funding
23 scoring system and criteria, and, you know, overall
24 developing the program.

25 And so, you know, I appreciate your willingness

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1 to discuss with individual Commissioners their
2 individual concerns over the past couple of days, but I
3 think what would be much more helpful is a commitment
4 on your behalf to work with perhaps a subcommittee of
5 the Commission in shaping this program and potentially
6 bringing back a proposal that the Division staff and
7 the Commission subcommittee can agree to and recommend
8 to the full Commission for its consideration in
9 January. I think we started a little bit of that
10 process earlier this year, and we had a very rushed and
11 not completely thorough proposal that was presented to
12 the Commission, as a take it or leave it. And the
13 Commission, when the Commission was unable to reach a
14 decision on that, the Division instead went its own
15 way, did its own proposal without ever bringing it back
16 to the Commission, ever involving any Commissioners in
17 discussion on regulations or any other element to the
18 program.

19 And I think, you know, it would really go a long
20 way towards reducing the tension in this program
21 between the Division and the Commission if the Division
22 just made the commitment right now to work with a
23 Commission subcommittee to address the concerns of the
24 Commission as a whole and to bring a proposal back to
25 the Commission so that you don't have individual

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1 Commissioners suggesting one set of policies and the
2 Division suggesting another route, and, you know, the
3 train is passing in the night.

4 COMMISSIONER PRIZMICH: Chairman Spitler, if I
5 could respond to the question posed to me by Deputy
6 Director Greene, yes, I would appreciate contact. I
7 have been long an advocate of committees, I think I
8 made that real clear. And so I would also encourage
9 that. But I would welcome contact on the part of the
10 Division with me personally relative to my thoughts.
11 Thanks for the question.

12 CHAIR SPITLER: Deputy Director, did you want to
13 respond that suggestion?

14 DEPUTY DIRECTOR GREENE: No, I certainly would
15 welcome the idea of the Chair working with the members
16 of the Commission to identify a committee that we could
17 work with over the holiday period, as we are on a tight
18 time line, and just reiterate that last year I did
19 appreciate the involvement that Chairman Spitler, you
20 had with the process. And I, too, was disappointed
21 when the Commission as a whole voted down the work that
22 they had done over that eight-hour period. At the same
23 time recognizing, what I said earlier, was that we were
24 really faced with two choices.

25 I would welcome the opportunity to work with a

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1 committee, if you could identify a subcommittee that we
2 would work with within the next coming -- we are
3 under -- we have to recognize that it will take a
4 commitment, and I would welcome that opportunity.

5 CHAIR SPITLER: Maybe I could just pose the
6 question to you. What is the time line?

7 COMMISSIONER THOMAS: With this tight time line,
8 it sounds like something that is being imposed from
9 without. This is not something we've created. And
10 perhaps you can tell us what you mean by a tight time
11 line.

12 DEPUTY DIRECTOR GREENE: The tight time line
13 that I refer to is the idea that as we look at the
14 development of the regulations and really you look at
15 it as a book essentially with chapters, and that
16 we had -- the first stage was to the grant applicants
17 and the development of their application. And then
18 moving forward to the Division and the scoring that
19 needed to occur, and then final, the final chapter that
20 just occurred over this past two days, where we were
21 able to see how the implementation actually occurred
22 and what needs to then work to make a better process.

23 And so the tight time line is recognizing that
24 in the past OAL, you were able to work with emergency
25 regulations which could be adopted one after another.

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1 However, OAL in the past year has had some challenges
2 to that ability to adopt emergency regs, and so we are
3 getting a great deal of pressure to move forward in the
4 adoption of permanent regs, and then identify that
5 January date or another date whereby whichever year
6 adjustments could be made to the regulatory process.
7 However, it is a long period of time that you have to
8 work with OAL to get that accomplished. So just
9 recognizing that as we try and balance the emergency
10 regs, the continued adoption of the emergency regs with
11 the permanent regs, and then being able to work with
12 the agencies and the interested grant applicants to
13 also have that time line where monies could be -- they
14 can start to work within the process knowing what
15 they're going to be working with as they develop their
16 grant applications.

17 COMMISSIONER THOMAS: I'm concerned that the
18 tight time line becomes a train that apparently we're
19 being told has left the station, and if you don't get
20 involved, you're going to be hurting the program or
21 getting in the way of future grantees. When, in fact,
22 if you look at the legislation that creates our
23 respective duties, the concept of sound competitive
24 procedure, the entire regulatory structure that was
25 incorporated in the emergency regulations, is a

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1 construct. It's something that was built out of whole
2 cloth without legislative authority in a specific
3 sense. I mean there is a general legislative
4 authority, and within the bounds of government, you can
5 create a programs under general legislative authority.
6 But if you look carefully, there is no competitive
7 procedure in the legislative structure, and certainly
8 all of the categorization and targeting and allocation
9 of 45 percent versus 30 percent cutoffs and the rule
10 that you can't move a grant above the requested amount
11 or if you do go below a certain amount gets cut off, or
12 a fact that Category A can't be funded if Category B is
13 exceeded, these are all constructions that have been
14 imposed upon us through this regulatory process. And
15 yesterday, in fact, through a computer which was
16 telling us, no, no, no, you're inside a category,
17 you've got to make more points. And my observation is
18 that we are not, as policymakers, bound by this train
19 that someone else has set down the road.

20 Now that all being said, we can work together to
21 change the nature of this program so that it more
22 reflects the statutory responsibilities and maybe more
23 of a rational administration program, but it's going to
24 take the kind of subcommittee work that the Chairman
25 just proposed, and it's going to take a commitment on

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1 behalf of the Division that they're willing to make
2 major modifications in how they do business.

3 So if the train is out of the station, we might
4 say today, by God, we better adopt these
5 recommendations and policies right now because if we
6 don't, we're going to impact the funders in the next
7 cycle. So that argument that we have to hurry cuts
8 both ways. I would propose that we consider the
9 Chairman's recommendation, but only if the Division is
10 willing to work with us.

11 CHAIR SPITLER: So Deputy Director Greene,
12 perhaps I could just -- perhaps I could just put the
13 question to you again.

14 Are you willing to defer submission of proposed
15 regulations to OAL until after the January meeting, in
16 light of the proposal that we establish a subcommittee
17 to work with you on those regulations?

18 DEPUTY DIRECTOR GREENE: Yes, we will be
19 certainly willing to do that. If you could identify a
20 committee and we could get started next week, that
21 would be helpful.

22 CHAIR SPITLER: Okay. Thank you. Commissioner
23 Anderson.

24 COMMISSIONER ANDERSON: Yes.
25 Commissioner Thomas, in terms of the time line for the

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1 regulations, I concur that, you know, there's a tension
2 there between staying with the current regulations
3 versus adopting a new set that we're not totally
4 familiar with, comfortable with or whatever, I would
5 just say that from the perspective of the applicants,
6 we need to tell them which set they're going to be
7 applying under. And I see that deadline as probably
8 occurring before maybe the legal requirements to
9 satisfy Office of Administrative Law in terms of
10 setting permanent regulations. So I see the grant
11 applicants as wanting information as soon as possible
12 on how they're to proceed in preparing their grant
13 applications.

14 COMMISSIONER THOMAS: What would that deadline
15 be?

16 COMMISSIONER ANDERSON: I don't know. The staff
17 might be able to help or applicants.

18 DEPUTY DIRECTOR GREENE: I think that's why we,
19 as I mentioned earlier, that we have -- we had a
20 meeting last weekend, I think it was now, with some
21 members of the agencies to be able to identify some of
22 the points of where they felt the grants process was
23 helpful, where it provided them some clear guidance,
24 and then where is some of the room for improvement.
25 And so I know that there seems to be a lot, again, of

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1 energy about this program, and I welcome that if we can
2 make it for constructive change.

3 To that end, Julie, I think we have --
4 Commissioner Anderson, you bring up a very good point,
5 which is I think as -- we have to bear in mind that as
6 we make some of these changes, as we also heard, that
7 we last year did a workshop, I think that we've
8 committed to trying to do more workshops now that
9 people are aware of the competitive process. So to
10 perhaps do one in the south and in the north, and we
11 had some discussion more recently with the sheriffs as
12 well. But keeping in mind that we don't want to
13 dramatically change it so much that we then impact
14 those workshops and our ability to provide clear
15 guidance to the grant applicants or to turn something
16 up on its head whereby they're trying to learn
17 something completely new, I think that would be a
18 disservice to everybody involved.

19 CHAIR SPITLER: What's the date of those
20 workshops, roughly?

21 DEPUTY DIRECTOR GREENE: Until we can determine
22 the exact date of when we're going to put in the
23 permanent regs, we can't identify those workshops
24 because we're getting backed up.

25 CHAIR SPITLER: What's your target date, what

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1 month?

2 DEPUTY DIRECTOR GREENE: At this point in time,
3 I think we're looking at June for those target -- for
4 those workshops because we can't have the workshop
5 until the regs are approved because otherwise then
6 we're telling grant applicants to do something that
7 may, in fact, not occur.

8 STAFF HOM: Actually, the target date would be
9 actually the first week in July, assuming if you wanted
10 to postpone putting in the regulations after your --
11 after the January meeting, so we were looking sometime
12 in February. And then with 45-day comment period and
13 then also the public hearings, end of March, and then
14 Division has to respond to those comments as well, make
15 any necessary changes, and then OAL has 30 days, 30
16 working days to review. And so most likely we wouldn't
17 get approval of permanent adoption of regulations until
18 about the first week in July.

19 DEPUTY DIRECTOR GREENE: Then we're looking to
20 try to provide the grant applicants at minimum eight
21 weeks to be able to put in those grants, again,
22 recognizing, as Commissioner Anderson said, if it's
23 completely new then obviously you want to try to
24 provide more than you need to give staff the
25 appropriate time to do those evaluations, and then to

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1 be able to set up the following Commission meetings.

2 COMMISSIONER PRIZMICH: Chairman Spitler.

3 CHAIR SPITLER: Commissioner Prizmich.

4 COMMISSIONER PRIZMICH: If you're speaking -- I
5 think it's completely your choice, but if you're
6 seeking a member or volunteer for that subcommittee to
7 review these, I would be happy to volunteer.

8 CHAIR SPITLER: Okay. Thank you.

9 I think what I'd like to do if it's okay with
10 the Commission, I'd like to consider this. It sounds
11 like we have a pathway here to make this process work a
12 little better. Maybe we could -- we're at about time
13 to break for lunch, maybe we could break for lunch and
14 consider it, and we can close this one out after lunch.
15 Why don't we make it back at quarter of 2:00. Take a
16 break for lunch.

17 (Lunch break taken in proceedings.)

18 CHAIR SPITLER: Still discussing the policies
19 and granting criteria, Item 1(b) under new business.
20 Okay. Thank you.

21 I think I will at this point go ahead and
22 establish a subcommittee. Take up the deputy director
23 on her offer to work with the Commission subcommittee
24 on the regulations and cooperative agreements program
25 with the hope of bringing something back for further

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1 discussion and hopefully Commission action in January.

2 So I will appoint myself and Commissioner Thomas
3 to work with the Division on the regulations, and
4 hopefully we can work something out and come back with
5 the Commission action in January.

6 DEPUTY DIRECTOR GREENE: Just for clarification,
7 Commissioner Prizmich had early said something. Had
8 you guys figured it out, so it's Commissioner Thomas?

9 CHAIR SPITLER: That's correct.

10 DEPUTY DIRECTOR GREENE: Thank you.

11 CHAIR SPITLER: So at this point I think I'll
12 defer the action on the majority of the policies.

13 I do know that one of the policies is still up
14 for discussion, that's the desert riparian policy.
15 Perhaps, Commissioner Thomas, would you like to
16 introduce that policy?

17 COMMISSIONER THOMAS: Do you want to go directly
18 to that, okay? Commissioner Anderson wasn't done.

19 COMMISSIONER ANDERSON: Not that I can't give my
20 input to the committee, to the subcommittee, but I have
21 a couple of general comments on the funding
22 recommendations on pages one and two just briefly.

23 The only one under the first group that I'm not
24 quite certain about is (C), and I already told you
25 about the preface that I thought needed to be included

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1 concerning, what do you mean by competitive. Is it
2 competitive on the paperwork or competitive on the
3 program. And there is a tension there between having a
4 good program and having an application which reflects
5 that good program versus a good program and an
6 application that is inadequate. And there's obviously
7 some need for a threshold at which point the
8 application is not acceptable, but I would like the
9 weight, if you like, I wouldn't call it a balance, but
10 I'd like to have it weighted more towards the quality
11 of the program rather than the quality of the paperwork
12 and the conciseness or the elocution of the description
13 in the application.

14 And I understand that there's problems there,
15 and I don't quite know what it is, but I would put a
16 slight bias in the direction of the quality of the
17 assessment of the quality of the program that's
18 being -- and if you can't find that quality within the
19 application, obviously it's not there. But I would --
20 maybe that's -- maybe that fits under (G) where
21 there's -- I would be somewhat troubled, as in the
22 staff comments, that there may be applications which
23 are really mediocre in terms of both the quality of the
24 program and the quality of the application presentation
25 that really maybe don't deserve funding.

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1 COMMISSIONER THOMAS: Perhaps we could rely on
2 some additional criteria, past performance or some
3 reach beyond --

4 COMMISSIONER ANDERSON: I was going to get to
5 that.

6 COMMISSIONER THOMAS: Okay.

7 COMMISSIONER ANDERSON: And then in terms of
8 criteria, if you're going to not --

9 CHAIR SPITLER: Commissioner Anderson, what I
10 was planning to do was take up -- after we finish
11 discussion of the proposed policies, take up the desert
12 riparian policy, and then go to the criteria last.

13 COMMISSIONER ANDERSON: Okay. Fine.

14 CHAIR SPITLER: I think we're still able today
15 to take action on the criteria.

16 COMMISSIONER ANDERSON: Okay.

17 CHAIR SPITLER: More discussion of the proposed
18 policies? Okay. We look forward to having a report
19 back to the full Commission in January.

20 COMMISSIONER PRIZMICH: Are we going to talk
21 about -- are we just talking about the first portion?

22 CHAIR SPITLER: That's right.

23 COMMISSIONER PRIZMICH: Are we going on to the
24 latter part now?

25 CHAIR SPITLER: We'll defer the first portion

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1 and the second portion, we'll discuss the desert
2 riparian policy.

3 COMMISSIONER THOMAS: So we need to take
4 testimony on that.

5 CHAIR SPITLER: That's right. So we will go
6 ahead and do public comment on the proposed desert
7 riparian area policy.

8 Kathleen Mick followed by Jim Keeler.

9 MEMBER OF THE PUBLIC: Pass.

10 CHAIR SPITLER: Jim Keeler.

11 JIM KEELER: I'm a little unclear quite frankly.
12 Was this a policy you were planning on voting on today?

13 CHAIR SPITLER: Yes, it is.

14 JIM KEELER: I guess I have not had an
15 opportunity to take this to my management, but I
16 believe that this policy is pretty impacting on the
17 operations that we're trying to conduct and kind of
18 aimed specifically at us. So I feel like I would
19 appreciate an opportunity to come back with an official
20 response before any action is taken on this.

21 CHAIR SPITLER: Thank you. Nick Haris, followed
22 by Bill Dart.

23 NICK HARIS: Nick Haris, American Motorcycle
24 Association. Once again, I guess this is really the
25 first day I've had to review this, but I mean it's kind

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1 of like making a mountain area policy or something. I
2 mean if there is a specific violation, then I could
3 understand completely the Commission saying we're not
4 going to fund this. If you're going to pave over a
5 desert tortoise area -- whatever it is, you pick
6 something inappropriate. But to just say all desert
7 projects are bad seems to me to fly in the face of 25
8 years of grants. We've got many, many areas we funded.
9 What if it's a riparian area where you want to fix
10 something, you want to build a bridge, you want to
11 prevent something. Like I say, I haven't read all of
12 this in-depth, but to me it just seems like a very
13 far-reaching policy that which may have very negative
14 impacts on something you choose to fund six months,
15 there may be a grant brought forward that you think is
16 wonderful and you want to fund it, and then somebody
17 says, hey, you just passed this riparian area policy,
18 you can't fund that.

19 I'm just a little concerned, once again, that
20 this is very overreaching. And I also don't know where
21 it falls under any NEPA or California Environmental
22 Quality Act questions. I'm not an attorney. I'd would
23 like to hear some opinions from an attorney,
24 specifically the Attorney General's Office or Forest
25 Service BLM because it seems to me it's rather

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1 overreaching. Like I said, I haven't had enough time
2 to really review it. Thank you.

3 CHAIR SPITLER: Thank you. Bill Dart.

4 BILL DART: Bill Dart representing the Off-road
5 Business Association, and I agree with some of the
6 comments you've gotten already that we believe that
7 this is inappropriate for the Commission to get into
8 dictating trying to control use of federal lands.
9 Federal land managers have management plans, monitoring
10 programs that take all of these factors into
11 consideration. They are required by their own
12 regulations to protect certain values and natural
13 resources. And it should not be the purview of this
14 Commission to a lay group of volunteer appointees to
15 substitute their decisions for those of experienced
16 scientific land managers charged specifically with
17 exact management of these lands you're talking about.
18 So, again, I think that it's just inappropriate to try
19 to do this. It is far, far overreaching your
20 responsibilities to -- and you, of course, as
21 individuals are welcome to participate in any public
22 land planning process and provide your comments as
23 individuals, but not as a body. We don't think it's
24 your role to meddle with existing management plans.
25 Thank you.

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1 CHAIR SPITLER: Thank you. Pete Conaty,
2 followed by Bruce Brazil.

3 PETE CONATY: Pete Conaty, speaking as an
4 individual. First of all, I would dispute your facts
5 that they've lost over 90 percent of our desert
6 riparian areas. I mean where do you get that figure
7 from, Paul? You just make it up out of thin air. It's
8 like propaganda from the environmental extremists
9 organizations. You don't know what you're talking
10 about. The next thing is the desert belongs to the
11 federal government. 50 percent of the land in
12 California belongs to the federal government. The
13 federal government has laws. They handle this. You
14 are again trying to overreach the authority of this
15 Commission, and keep it up.

16 CHAIR SPITLER: Thank you. Bruce Brazil,
17 followed by Don Klusman.

18 BRUCE BRAZIL: Bruce Brazil, California Enduro
19 Riders Association, and like the previous speakers, I
20 have the same concept. It's not the duty of the
21 Commission or Division to attempt to manage the
22 stewards of our public property by withholding funds.
23 It is the responsibility of the stewards of our public
24 lands to control the use of said land through the
25 public legal process. And I believe usage of

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1 withholding funds would be a very legal technical --
2 maybe even Commissioner Thomas could give us a
3 definition of what would happen trying to utilizing the
4 withholding of funds to predicate the outcome. Thank
5 you.

6 CHAIR SPITLER: Thank you. Don Klusman.

7 DON KLUSMAN: Don Klusman, California 4-Wheel
8 Drive Association. I don't deal with desert much, but,
9 again, we just received this policy. To give you
10 substantive comments on it is real tough on the spur of
11 the moment, but I will give you a couple.

12 I would like to know where the 90 percent came
13 from. According to the -- of all the figures I've
14 seen, it wasn't even close to 90 percent. Now, maybe
15 if you go back from the beginning of time to date, you
16 could say 90 percent, because some of the cities have
17 built their damn towns in riparian areas.

18 To put that in a policy statement of this
19 Commission is unconscionable. You know, you're blaming
20 indirectly OHV for losing 90 percent of the riparian
21 areas in the desert, which didn't happen. I mean
22 Patton ran his tanks over most of it. And to say it
23 was our fault was one thing.

24 The other thing is all of these lands, whether
25 it be city, county or federal lands, have to go through

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1 either CEQA or NEPA to allow any type of usage, whether
2 it's motorized or non-motorized in an area. And then
3 when you do -- when you say you're going to withhold
4 funds that has anything directly or indirectly, how do
5 you define indirectly. Indirectly, okay, we put funds
6 out on a mountain somewhere indirectly, is that going
7 to affect the riparian area. Somebody can make the
8 argument, yes. That word indirectly, we won't and
9 can't live with because it's open to interpretation.
10 Thank you.

11 CHAIR SPITLER: Thank you. John Stewart.

12 JOHN STEWART: Good afternoon, Commissioners,
13 John Stewart, California Association of 4-Wheel Drive.
14 For Cal 4-Wheel, I do deal with the desert quite a bit,
15 and I'd like to point out that when you look at this
16 policy, this is a Commission, an appointed body that is
17 providing specific direct language or control language
18 that addresses resource protection, which is a mandate
19 of the federal agency managing these lands. The
20 federal agency, the Bureau of Land Management, has
21 recently completed or has almost assigned the last
22 recorded decision on a series of management plans for
23 this desert area. These management plans are part of
24 the overreaching or overarching NEPA policy, the
25 National Environment Protection Act policy.

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1 That policy indicates that ground disturbing
2 activities are supposed to be open to a full public
3 review. What you're saying here is these lands or
4 these things will not be done or will not happen
5 because -- you're prohibiting the public comment, the
6 public review of this. You're prohibiting -- or this
7 language would prohibit the agency from doing its duty
8 and actually probably bind the agency in if they were
9 to abide by this policy and to turn around in violating
10 the federal and their federal mandate by managing the
11 resources, and any ground disturbing impact of their
12 resources has got to go through a public review, full
13 public disclosure process. And a part of that process
14 deals with talking to the public, seeing what the
15 impacts are, doing research, scientific research in
16 order to see what the problems are. If there is an
17 impact on wildlife, yes, there is a biological opinion
18 issued by the Fish and Wildlife Service. So there is
19 sufficient processes in place right now that will
20 provide protection for these areas. To come out with a
21 policy or fiat mandating these agencies from -- into a
22 certain particular position, kind of binds their hands
23 and is actually counterintuitive and counterproductive
24 to actually producing -- or achieving the desired
25 results.

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1 Then I have a question, maintaining a list of
2 priority desert riparian lands, well, are you now
3 getting into the federal land management business? No,
4 this is a recreation program, and it should stay as a
5 recreation program. We're managing a recreation
6 program for the state, for the citizens of the state.
7 Maintaining a list of priority desert riparian lands,
8 that's a land management agency issue. That is
9 something that the agency does and should be doing.
10 And as it's an agency issue, they're charged with
11 maintaining the health of it so -- and as for -- like
12 Mr. Klusman pointed out, indirectly impact, what is an
13 indirect impact? The language in this is something
14 that is unconscionable, and it's just something that is
15 directly contrary to managing a good recreation
16 program. Thank you.

17 CHAIR SPITLER: Thank you. Dave Pickett.

18 DAVE PICKETT: Dave Pickett, District 36,
19 Motorcycle Sports Committee and in this case
20 off-highway motor vehicle stakeholder.

21 I'm looking at the November 18th, 19th agenda,
22 that meeting was cancelled when myself as a member of
23 public -- of the public got to listen to attorneys
24 decide whether it was a legal or illegal meeting. But
25 the point that I'm bringing up on that November 18th,

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1 19th cancelled meeting is what we're talking about
2 right now, was not on that agenda, and now it is.

3 And from the testimony that I think that we're
4 hearing, it appears that this is a personal agenda
5 item, Mr. Spitler, that you're trying ramrod through
6 and not allow public, the public adequate time to come
7 back and address this. I would like to see this
8 suggested policy that you may or may not approve today
9 come to the OHV stakeholder round table for discussions
10 and allow the OHV community to work with the
11 environmental community, government agencies,
12 et cetera, at least discuss it. If you folks -- I'm
13 looking every one of you in the eye -- ramrod this
14 through, you're just asking for a war beyond -- I
15 can't -- this is incomprehensible. You have a BLM land
16 manager that you funded to run the OHV program on an
17 interface back and forth, and he's up here saying don't
18 put this thing through. I have to go with Mr. Keeler,
19 as a professional land manager's suggestion, and
20 request that this does not go through until they've had
21 adequate time to come back with some type of a report
22 from the field. Thank you.

23 CHAIR SPITLER: Thank you. Tom Tammone,
24 followed by Ryan Henson.

25 TOM TAMMONE: Tom Tammone, California Trail

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1 Users Coalition. I would like to basically echo all of
2 the concerns from the past speakers. I do believe that
3 all of the public processes that the federal government
4 has in place, the NEPA, the CEQA, are more than
5 adequate to determine if there are any issues with the
6 environmental damage or any further need to protect.

7 Any of these applications that have gotten
8 through to you on the present process definitely comply
9 with all of this. And in addition to that, any ground
10 disturbing activity to qualify for funds, you have to
11 commit a whip, which is already in addition to all
12 interpublic policies. The Division can elaborate on
13 this a little further, but I believe that's like an
14 85-page document that I wouldn't even want to go
15 anywhere near. So I think we're already putting enough
16 extra restrictions on top of everything else as it is.
17 Thank you.

18 CHAIR SPITLER: Thank you, Ryan Henson.

19 RYAN HENSON: Ryan Henson, California Wilderness
20 Coalition. Whether 90 percent or not have been lost,
21 riparian areas in the desert make up only a tiny
22 fraction of a very arid region just by definition.
23 They support a number of plant and wildlife species
24 and, of course, a lot of the archeological resources of
25 the desert are along water.

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1 I think a good example of a place where state
2 funds should not be spent for any purposes supporting
3 vehicle recreation is Furnace Creek in the White
4 Mountains. It does seem appropriate for you to
5 withhold funds for whatever reason from various
6 projects and to ask the feds to use their own resources
7 to construct routes after they go through their
8 environmental processes. You sort of do that all the
9 time. You have criteria, and you ask them to adhere to
10 them. And if they don't adhere to them, then you don't
11 fund them. So that's it. Thank you.

12 CHAIR SPITLER: Thank you. Anyone else from the
13 public wish to comment on this policy?

14 HEATH WAKELEE: Yes, Heath Wakelee, Audubon
15 Society. I support a priority list of riparian habitat
16 to be protected; however, that is at risk of not
17 listing a sensitive habitat. So what I would prefer
18 would be a definition of sensitive habitat, allowing
19 the Commission to make a decision as to whether or not
20 a particular habitat falls within that definition or
21 not. A specific list might limit the Commission.

22 I am also concerned that the definition where
23 you say, "indirectly channel of any existing desert
24 riparian botanical area," may also limit the Commission
25 in its decision if they decided to allow or open up a

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1 desert area for riding. Again, I would encourage the
2 Commission to state a policy based upon a better
3 definition and giving you more latitude. Thank you
4 very much. Heath Wakelee, Audubon.

5 CHAIR SPITLER: Anybody else? Any other members
6 of the public wish to comment on the proposed riparian
7 policy? I'll just make one comment, and then pass the
8 mike to Commissioner Thomas.

9 COMMISSIONER THOMAS: Is the public hearing
10 closed?

11 CHAIR SPITLER: Public hearing is closed.

12 The only comment that I'll make on the proposed
13 policy is that along with all of the other materials
14 from this meeting, the proposed policy was included in
15 that notice. And as we learned from the last meeting,
16 that notice was sent out in proper fashion and in
17 proper compliance with the requirements of
18 Bagley-Keene. So I'm not sure why there appears to be
19 the impression that the policies haven't been properly
20 noticed. It was sent out verbatim, along with all of
21 the other materials for this meeting at the same time,
22 so you've all had the opportunity to review those
23 policies.

24 Commissioner Thomas, did you want to introduce
25 the policy?

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1 COMMISSIONER THOMAS: Yes. Thank you for
2 handling the notice matter.

3 The best way to introduce the policy is to
4 identify its structure and to try to respond to issues
5 that could be, would or should be raised by the
6 Commission. The first paragraph of the preamble is
7 effectively identifying the intention of the Commission
8 in dealing with a desert riparian area, providing some
9 guidance as to why we think desert riparian is a
10 habitat different and unusual from other habitats.

11 The second paragraph, starting on the second
12 page of our book, beginning, "It is the policy of the
13 Commission," is a statement of the Commission's policy
14 vis-a-vis its grant duties under 5090.50 whereby we
15 make allocations and approve grant applications. So
16 it's a statement that indicates that the Commission
17 will not fund or support grants. It's not -- it's not
18 a statement that speaks to the duty of some third
19 agency to behave. It doesn't modify federal law. It
20 doesn't modify state law. It merely states policy that
21 affects the behavior of the Commission.

22 The last sentence of the -- which really should
23 have been in its own paragraph, states that the
24 Division shall not solicit or approve any grant or
25 cooperative agreement, et cetera. That section of the

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1 policy is designed to apply the general policy to the
2 activities of the Division and speaks to our capacity
3 as a policy agency for the Division. So what you have
4 is rationale in paragraph A, duty of the Commission in
5 paragraph C, and instruction for the policy body in
6 paragraph C.

7 There are a couple of points to make as to
8 language. The use of the word bed, bank and channel on
9 an existing desert riparian area. Bed, bank and
10 channel is now prohibited in state law and has been
11 prohibited in state law since 1961 that any citizen of
12 the state enter and modify the bed, bank and channel of
13 a riparian stream or ephemeral watercourse without
14 notifying the Department of Fish and Game and seeking a
15 permit or waiver for that activity. So really the use
16 of the word bed, bank and channel is just a restatement
17 of existing state law.

18 In addition, what we haven't stated is there is
19 the Port of Cologne Act and the Clean Water Act as it
20 applied in California through the water code and
21 nuisance law, which indicates at Penal Code 370 and
22 Civil Code 3479, that interference with the river in
23 its ordinary course and use is a statutory nuisance.
24 So we have nuisance law, Fish and Game law, water
25 quality law, all of which say you're not supposed to

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1 modify unreasonably or participate in the modification
2 of bed, banks and channels of watercourses.

3 So what we're doing here is, we're telling --
4 the Commission is saying it's unreasonable to fund an
5 activity which will modify unreasonably the bed, bank
6 and channel of a watercourse, state law, which will
7 create a nuisance, state law, or which will interfere
8 with the water quality. And then direct the Division
9 to follow that procedure.

10 The issue of does this prevent bridges and
11 overcrossings and the use of riparian canyons, the
12 answer is no because in fact the language of the policy
13 is maintain use in or through the bed, bank and
14 channel. So if you go over the top of the bed, bank
15 and channel of a culvert, that's not in or through.
16 Granted, you would get some regulatory permission to
17 put the culvert in, but you do that anyway. If you
18 have a low water stream crossing, that's permitted and
19 would be permitted if you put a concrete path in the
20 low water stream crossings all over the California that
21 are done on a regular basis under permit. So this
22 would not change the ability to cross the stream or
23 desert riparian watershed, but it would not allow
24 uncontrolled use, direct or indirect as -- well, it
25 would not permit the Division and the Commission to

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1 fund uncontrolled use of these desert riparian areas.

2 And in that sense, this is a very limited proposal.

3 COMMISSIONER ANDERSON: Question.

4 COMMISSIONER THOMAS: I think I'm done for now.

5 CHAIR SPITLER: Commission Anderson.

6 COMMISSIONER THOMAS: Thank you for your
7 patience.

8 COMMISSIONER ANDERSON: Commissioners Thomas or
9 Spitler, do you have a perception of a problem that
10 have we funded such things already in the past, that
11 you feel that we need this policy to reinforce what
12 you've articulated as other state laws?

13 COMMISSIONER THOMAS: That's a good question.
14 I've been informed by people that do lots of work in
15 the desert, that travel, cross-country travel in desert
16 riparian washes is a major cause of destruction and
17 problem, although my experience is limited to the
18 review of Furnace Creek, and I was there while the Inyo
19 Natural Forest was in the process of surveying what
20 they are calling a road through the middle of a bed,
21 bank and channel of a -- what ought to be by state law
22 a protected creek.

23 So I did see the actual survey marks of a new
24 road to be built by the Inyo National Forest through a
25 protected watershed.

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1 COMMISSIONER ANDERSON: My question was: Do you
2 think any of that is being funded through OHV Division
3 grants, department grants?

4 COMMISSIONER THOMAS: I'm not sure. I've not
5 been able to determine if that is the case. But we
6 certainly fund the Inyo National Forest for all kinds
7 of activities and have done so on a regular basis. I
8 don't know the extent to which Furnace Creek was funded
9 or not.

10 COMMISSIONER ANDERSON: I appreciate -- most of
11 you know that I'm a long-time desert activist. And
12 when I read it as desert riparian areas policy, my
13 perception of what the intent was was quite different
14 from what you have now articulated. Because my
15 perception of desert riparian areas is that many of
16 them don't have a bed, bank, channel because most of
17 the desert riparian areas are clustered around a
18 spring. And the extent of that spring is such that one
19 could hardly identify a bed, bank, and there may not be
20 any banks, there may not be much of a channel outside
21 of a wet area. And many of the impacts to those areas,
22 those small spring areas, are created by desiccation of
23 the spring area through basic species such as Orinda
24 tamarisk. So the loss of the wetland primarily from my
25 perception in the desert is not as a result of OHV

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1 activity. It is but because of invasive species, and I
2 work with groups that attempt to remove those, those
3 destructive invasive species.

4 And then my other question would be from what
5 you've just articulated relative to state law, other
6 state regulations and laws, is that it would not be
7 restricted to the desert, what you said, okay? Because
8 I can sort of run down like maybe five rivers in the
9 desert to which a river's policy, with an inactive
10 stream might apply. The Mojave, including the Afton
11 Canyon, the Amargoso, where the stream goes above and
12 below the ground, and in some cases are underground
13 with riparian areas above it, I'm not quite sure how
14 those would be handled. And obviously the Owens River,
15 the Colorado River, and let's say I think that's four.
16 And then I've just run out of desert rivers because I
17 can't think of any others where this would apply.

18 There certainly are canyons which may
19 intermittently have stream flow down them, but my
20 knowledge -- but to my knowledge, almost all of those
21 canyon areas where there are riparian areas are
22 protected through some other designation that the BLM
23 has in the desert wilderness, maybe wilderness area,
24 maybe some other preserve, because they're usually
25 identified as areas of critical environmental concern

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1 by the BLM and end up being protected.

2 So if you have some particular target areas
3 where you think that there's a problem, I would agree
4 that we should not have this kind of use in riparian
5 areas, and I would concur with that. My question is
6 whether or not we need this policy.

7 COMMISSIONER THOMAS: If I can respond to some
8 of your concerns. There are a number of good ones.
9 The reason for the priority list is to just deal with
10 the issues you raised. There are areas that have more
11 priority in protection and less -- and some are less
12 priority. And, of course, this is not a desert-wide
13 protection policy. This is a policy applied to our
14 grant program which is extremely limited. I mean we're
15 not talking about we don't fund restoration in the
16 Amargoso River, we fund off-highway vehicle programs.
17 So, again, we need to think of it in the context of
18 what we do which is pretty narrow.

19 Your first point -- I'll start and try to deal
20 in order of your points. The first point was how do we
21 know where the bed, bank and channel is, as I
22 understood your point. Is that where you're starting?

23 COMMISSIONER ANDERSON: Yes.

24 COMMISSIONER THOMAS: And the answer to that is
25 bed, bank and channel is a term of art and law,

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1 particularly in the law, and there's even underground
2 rivers that have bed, bank and channels. I actually
3 worked on the Mojave River adjudication, where we
4 delineated the bed, bank and channel of the Mojave
5 River, even though to the eye it looks flat, there is
6 actually a legal determined bed, bank and channel. So
7 there are underground flows. Rivers do flow
8 underground. This doesn't apply to that matter because
9 we're talking about use of -- surface use through the
10 bed, bank and channel. So it's not limited to the
11 issue you raised as to how do you tell can be dealt
12 with in the context of lots of legal documents and the
13 laws that have been brought over the last hundred
14 years.

15 As to invasive species, I think that this policy
16 really bears on that. That's someone else's land use
17 issue. I agree with you, invasive species is a major
18 deal, but that's not this policy.

19 As to river's policy, it would be nice to have
20 river's policy, but that's again not this. The
21 Amargoso River, the Mojave, the Owens -- I worked on
22 the Owens as well, I worked on the Amargoso, and this
23 policy doesn't apply to -- it's not a river's policy.
24 It's only a grant funded policy for our agency -- grant
25 funding policy for our agency.

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1 And then I think -- I think I've covered
2 everything that you -- oh, no, I think I -- didn't I
3 cover everything you brought up?

4 CHAIR SPITLER: Why don't I just add, it sounds
5 like, Commissioner Anderson, your comments suggest that
6 the actual effect of this policy on the ground will
7 actually be quite limited.

8 COMMISSIONER ANDERSON: Yeah.

9 COMMISSIONER THOMAS: I agree.

10 CHAIR SPITLER: Sounds like maybe some of the
11 doomsday prediction from some of the speakers maybe
12 aren't quite in line with the reality of the policy.

13 COMMISSIONER PRIZMICH: If I may, I don't know
14 if the speakers were articulating doomsday or
15 Ms. Anderson was articulating a less than doomsday
16 prediction, but I am concerned that we may be
17 overstepping our bounds in terms of setting policy. I
18 think Commission Thomas had brought up earlier a --
19 some Government Code sections that dealt with the
20 responsibility of this Commission and responsibility of
21 the Division. And I think, if I remember correctly,
22 that our general responsibility is to provide general
23 direction to the Division, and I think this is much
24 more specific than that. And I'm a little bit
25 concerned that we are impacting, for example, BLM. I

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1 think there was a comment relative to this policy being
2 in some form of conflict with BLM forcing them into an
3 untenable position, that's a real concern of mine that
4 we're placing other agencies in difficulty. The other
5 area --

6 So I guess in light of that, I don't know if it
7 would be appropriate to ask our counsel for some
8 opinion from the Attorney General, or however that
9 process is, relative to the validity of our making
10 policy decisions of this nature if it's within our
11 purview. If that's within my ability to ask, I'd like
12 to ask that at this point.

13 CHAIR SPITLER: Why don't you go ahead and
14 finish your comments, then I'll ask the counsel for his
15 opinion.

16 COMMISSIONER PRIZMICH: And the issue with
17 regard to whether this is lawful or not, that we need
18 to state that it is or isn't lawful, I think is real
19 redundant. By law we cannot be granting funds to
20 something that's illegal. So I don't know that that
21 achieves anything, and that's part of the policy here.
22 So I think that pretty much covers the concerns I have.

23 CHAIR SPITLER: Okay. Thank you.

24 DEPUTY DIRECTOR GREENE: Chairman Spitler.

25 COMMISSIONER THOMAS: Let me respond as to

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1 the --

2 CHAIR SPITLER: If I could actually. Let me ask
3 counsel for his opinion, and then Commissioner Thomas
4 you can respond.

5 Counsel, do you have -- on your first day on a
6 temporary job, do you have an opinion on our authority
7 in this matter?

8 COUNSEL REEVES: Only to parrot that which we've
9 heard already a number of times, and that is the Public
10 Resources Code Section 5090.23 authorizes the
11 Commission to establish policies for the general
12 guidance of the director and the Division. And I
13 suppose the question on the table is what that means
14 for purposes of this particular policy and to the
15 extent it's within Commissioner Prizmich's question,
16 some of the other policies we've talked about today.

17 As you alluded, I don't have a firm enough basis
18 in the history of this body to state an opinion on that
19 right now. Just taking that statute at face value, if
20 it falls within general guidance, it would strike me
21 that it would be permissible. But that begs the
22 question more than answering it.

23 CHAIR SPITLER: Thank you. I will just mention,
24 so I can state on the record, that I did send the
25 proposed policies, including the riparian area policy

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1 to our permanent Attorney General representative, Billy
2 Jenkins, who reviewed them and found this policy to be
3 consistent with our legal authority under the law.

4 COMMISSIONER PRIZMICH: I don't see any opinion
5 from him stating that, though. The mere fact that it's
6 here doesn't mean that he approved of it. That's my
7 question. Are we overstepping our bounds?

8 CHAIR SPITLER: And, unfortunately, Mr. Jenkins
9 can't be here because he had a family emergency. But
10 I'll tell you I sent the policy to him and discussed it
11 with him and he did tell me that it was in his opinion
12 a legal policy.

13 COMMISSIONER THOMAS: Is that hearsay as
14 anything. So we'll leave it as hearsay.

15 CHAIR SPITLER: Yes.

16 COMMISSIONER PRIZMICH: Well, with that said, I
17 have some concerns about it that we're forcing other
18 agencies into compromising positions, and I would
19 prefer to not have a decision made on this today but
20 held over perhaps to the first of the year.

21 CHAIR SPITLER: I understand your concern.
22 Commissioner Thomas.

23 COMMISSIONER THOMAS: Commissioner Prizmich
24 asked me what was the authority by which we would adopt
25 this regulation within the grants program, and I wanted

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1 to provide that authority.

2 5090.50 at both sub (E) and sub (F); sub (E)
3 indicates that funds may be used for law enforcement in
4 riparian damage caused by the use of off-highway
5 vehicles where the operation of those vehicles is
6 prohibited by federal, state or local law. And I was
7 trying to provide the Commission with the authority by
8 citing to the Fish and Game Code, the Nuisance Code,
9 and the Water Code, I was trying to provide the
10 Commission with the authority which identified the
11 operation of vehicles being prohibited under those
12 laws.

13 Secondly, the sub "F" provides that the intent
14 of grants is to sustain a managed off-highway vehicle
15 recreation program. Part of managing a sustained
16 off-highway vehicle recreation program is to have a
17 balanced policy so that we're protecting certain areas
18 and riding in certain areas. And, again, this was my
19 attempt to craft this policy to follow that rule.

20 COMMISSIONER PRIZMICH: I appreciate that, and
21 don't have an argument with anything you've commented
22 on there. My concern is that we're overstepping our
23 bounds with regard to the specific nature of this
24 policy.

25 CHAIR SPITLER: Okay. Deputy Director Greene.

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1 DEPUTY DIRECTOR GREENE: Thank you,
2 Chair Spitler. I appreciate some of this discussion to
3 provide some clarity for the Division. Obviously, all
4 of our CEQA environmental review that we do goes along
5 with trying to make sure that we're not funding illegal
6 activities.

7 Having been the recipient of many questions
8 these past two days about what unique means in the
9 definition of unique, I would only hope that as we try
10 and if, in fact, this is a policy which is approved,
11 that as we try with the Division to then move forward
12 to implement it, that we try and get some clarity, for
13 instance, on what is a definition of "extraordinary".
14 And then, secondly, what would be -- do we have a list
15 of those priority lands at this point in time that we
16 would know about, and some of those issues as we try
17 and address the concerns that have been expressed by
18 the Commission today.

19 CHAIR SPITLER: Okay. Thank you, Commissioner
20 Anderson.

21 COMMISSIONER ANDERSON: Yes, perhaps we could do
22 something that indicated that -- it seems to me that
23 what you're getting at, Mr. Thomas, is that this would
24 be a deal breaker on a grant. And so if an application
25 included such an element that was perceived by the

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1 staff in the evaluation of the grant procedure, either
2 that portion of the grant would have to be excised in
3 agreement with the applicant, or that grant could not
4 go forward because we're not in a position to approve
5 anything which would be illegal.

6 DEPUTY DIRECTOR GREENE: That's already done,
7 Commissioner Anderson, in our CEQA review process. So
8 anything that moves forward to you already in the
9 grants cooperative process, has gone through that CEQA
10 review. So it's an acknowledgement as to Commissioner
11 Prizmich; while it may be redundant it is something --
12 surely as a policy if this Commission decided to adopt
13 it, but that is done through our grant review already.

14 COMMISSIONER ANDERSON: Yes, I don't think -- it
15 wasn't your intention to go beyond the existing state
16 law, right?

17 COMMISSIONER THOMAS: Absolutely not.

18 COMMISSIONER ANDERSON: Okay.

19 COMMISSIONER THOMAS: It would be wonderful if
20 we could write state law, but we don't do that.

21 COMMISSIONER ANDERSON: Those constraints sit
22 there, and it is a reiteration of an area where we
23 perceive some extra attention needs to be paid.

24 COMMISSIONER THOMAS: That's correct.

25 CHAIR SPITLER: Okay. We've got a full agenda

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1 still ahead of us, and we've discussed this for a
2 while. Are we ready to take some action on it one way
3 or the other?

4 COMMISSIONER PRIZMICH: What I would like to see
5 is to have this -- since there are a number of
6 questions, I'd like to see this put over until
7 January without vote today.

8 COMMISSIONER THOMAS: I'd like to move a vote
9 having spent a lot of time on it, and would so move.

10 COMMISSIONER BRISSENDEN: I second for
11 discussion purposes.

12 CHAIR SPITLER: Okay. Have a motion and a
13 second. Discussion?

14 COMMISSIONER PRIZMICH: I'll make an alternative
15 motion that we put this over until January.

16 COMMISSIONER ANDERSON: Is that a motion to
17 table?

18 COMMISSIONER PRIZMICH: Yes.

19 COMMISSIONER ANDERSON: I don't think that's
20 debatable.

21 CHAIR SPITLER: An amendment.

22 COUNSEL REEVES: Parliamentarian usually has a
23 sense of the history, and again I have to bow out,
24 subject to your own policies for taking the solutions.

25 CHAIR SPITLER: We will call that an amendment

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1 to the motion.

2 COMMISSIONER PRIZMICH: I need a second.

3 CHAIR SPITLER: Correct. You would need a
4 second. Is there a second?

5 COMMISSIONER ANDERSON: I didn't hear what it
6 was.

7 COMMISSIONER PRIZMICH: To --

8 COMMISSIONER ANDERSON: Excuse me, to put it
9 over until January?

10 COMMISSIONER PRIZMICH: Yes, January meeting.

11 COMMISSIONER ANDERSON: It doesn't matter to me.

12 CHAIR SPITLER: Okay. Is there a second? Lack
13 of a second. So the amendment fails.

14 More discussion of the motion?

15 COMMISSIONER BRISSENDEN: I would just
16 encourage, as sort of a philosophical policy
17 discussion, to apply to all lands in California.

18 COMMISSIONER ANDERSON: Well, that was kind of
19 what I was getting at, which was that we picked on the
20 desert here, but it really applies statewide. I don't
21 see that there is any --

22 COMMISSIONER BRISSENDEN: And the water quality
23 issues shared my concerns as a member of the water
24 quality board, that all activities that are promulgated
25 by this Commission should have great concern about how

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1 they impact the water quality of the State of
2 California.

3 CHAIR SPITLER: Okay. Is there more discussion
4 on the motion? Got a motion and a second to approve
5 the desert riparian policy.

6 Sandy, could we have a roll call, please?

7 MS. ELDERS: Anderson.

8 COMMISSIONER ANDERSON: Aye.

9 MS. ELDER: Brissenden.

10 COMMISSIONER BRISSENDEN: Aye.

11 MS. ELDER: Spitler.

12 CHAIR SPITLER: Aye.

13 MS. ELDER: Thomas.

14 COMMISSIONER THOMAS: Aye.

15 MS. ELDER: Prizmich.

16 COMMISSIONER PRIZMICH: I feel this is possibly
17 an unlawful motion, and I'm going to vote no.

18 CHAIR SPITLER: Okay. Motion carries.

19 Okay. The final item on policies is the grant
20 criteria. If you all could turn to those, these are
21 proposed criteria, very similar to criteria utilized
22 this year in form, if not content. There's criteria
23 being proposed for each project application category.
24 I think that the proposed criteria better reflect the
25 priorities of the Commission and will provide better

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1 guidance to grant applicants on what the Commission is
2 looking for in applications for the coming year.

3 So, excuse me, we'll go ahead and do public
4 comments on the proposed criteria, then take them up
5 for Commission discussion.

6 Kathleen Mick, followed by Nick Haris.

7 KATHLEEN MICK: Good afternoon, Kathleen Mick,
8 U.S. Forest Service. Starting with the planning
9 project criteria, it seems as though the criteria is
10 eliciting a priority in the types of projects that are
11 going to be moving forward under planning.

12 Currently, the route designation project for the
13 Pacific Southwest Region falls under planning under the
14 current regulations. So one of the questions I would
15 ask, and I know we're not getting into a question and
16 answer, but just to ask the question for maybe an
17 answer later is then what type of project would we
18 apply for for route designation funds if not planning;
19 how we would do that?

20 Then just not understanding on the third bullet
21 for trail maintenance, what that one means. I
22 understand it prevents erosion. I don't understand the
23 implications of the rest of the statement. And then
24 also looking at the trail maintenance, is that just
25 trail maintenance and what about the planning for roads

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1 in areas, particularly taking into account level two
2 roads for OHV opportunity that is not dirt bike and
3 ATV, but for other types of planning for OHV
4 recreation, which in this case, at least in my limited
5 understanding, is that OHV recreation is when you
6 travel off of the paved surface, and so how would that
7 be affected? So that's a question that I have.

8 In terms of the studies, a comment would be
9 to the first criteria, to add or sustain OHV
10 opportunities. In acquisition, the fourth bullet would
11 be to add, to sustain OHV opportunity. The same with
12 the fifth bullet, to add to sustain OHV opportunity.

13 COMMISSIONER THOMAS: What page?

14 KATHLEEN MICK: Acquisition, page three, I'm
15 going on the old ones, not the ones out on the table
16 today because that's where my notes are. So it would
17 be the third bullet and fourth bullet of the first
18 criteria would be add sustained OHV opportunity.

19 Turning to page four, the development projects,
20 it seems as though that's again a suggestion for
21 specific types of projects. So perhaps one way to deal
22 with that would be to put in between trail maintenance
23 restoration and law enforcement the word "or", so that
24 when somebody comes in for development of a trail, that
25 those criteria apply, or for restoration because it's a

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1 little bit confusing to see how some of those criteria
2 would apply if you're doing trail maintenance, how
3 would the restoration part of the criteria apply. It
4 wouldn't. So does that mean you would get less points.
5 That would be kind of confusing. So the word "or" so
6 that it would be dependent upon the type of development
7 project you were coming in for.

8 It was unclear to an understanding on the second
9 criteria, first bullet, preventing erosion as it
10 applies there, not quite sure how that would work. And
11 then again looking at for development, it almost seems
12 as a suggestion for criteria, that perhaps along with
13 going back to the policies that I know you're all going
14 to suggest and work through for applications, if you're
15 looking at categories of funding, and then funding
16 buckets for actual types of projects, that perhaps that
17 that be listed in development from year to year so you
18 focus on different projects for development each year.

19 I know I'm out of time, but if you could allow
20 me a few more thoughts. Under trail maintenance, add
21 the word "activities". A couple of those are just -- I
22 would look for a little more clarity on some of those.
23 And then under the resource management on page seven,
24 those two criteria, although we're using different
25 words, to me they speak to the same thing in terms of

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1 rehabilitating or conserving significant resources and
2 then preventing future harm to significant resources.
3 It seems to me, my understanding is, the same, so I
4 look for some clarification there.

5 And then on OHV safety, I would replace on the
6 first criteria the word "riding" with "recreation". I
7 would -- and then it seems that some of the bullets
8 from the first criteria to the third criteria seem to
9 be repetitive. Under the third criteria, the bullets
10 instead of "riders" I would put "OHV recreationists" or
11 "recreation". Under equipment, again adding the "or"
12 to distinguish between those to alleviate confusion.
13 And just on a quick glance, those are my suggestions at
14 this time. Thank you very much.

15 CHAIR SPITLER: Thank you. Nick Haris, Bill
16 Dart, Pete Conaty, Bruce Brazil.

17 BRUCE BRAZIL: Bruce Brazil, California Enduro
18 Riders Association. First, I'd like to ask is the
19 graph that we got today the same one that was mailed
20 out to us or is this a rewrite?

21 MEMBER OF THE PUBLIC: I think they're the same.

22 BRUCE BRAZIL: I believe I've seen some
23 significant differences in here than the one that came
24 with the agenda.

25 DEPUTY DIRECTOR GREENE: That was I believe --

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1 Chairman Spitler, you can address this, but.

2 CHAIR SPITLER: There's -- the one that came out
3 today had slight modifications.

4 DEPUTY DIRECTOR GREENE: Those were what I was
5 referring to as put up on the website on December 7.

6 BRUCE BRAZIL: And I've been in Sacramento since
7 then.

8 CHAIR SPITLER: This is not a question and
9 answer. Do you want to pose questions? We can answer
10 them after the public comment period is over. But this
11 is your opportunity to comment on the criteria.

12 BRUCE BRAZIL: Well, I just want to make sure
13 the criteria that I was commenting on is the one that
14 was presented to us in a timely manner. Thank you.

15 CHAIR SPITLER: Thank you.

16 BRUCE BRAZIL: In other things that the
17 Commission has attempted here, I believe they're once
18 again trying to push more than general guidance to the
19 Division. Several of the items that you put in here
20 make very valid points, but I think for you to extract
21 the concepts that you want from this policy and scoring
22 criteria, and present those to the Division to work
23 with the Division on the new scoring criteria, I think
24 that would be much more beneficial. There's places in
25 here that are very good, some of them that are way out

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1 of balance. If I had my original sheets, unfortunately
2 I left them at home, I'd comment on them item by item.
3 But at this point, I am not able to do that. Thank
4 you.

5 CHAIR SPITLER: Thank you. Don Klusman, John
6 Stewart. Dave Pickett, Tom Tammone.

7 TOM TAMMONE: Tom Tammone, California Trail
8 Users Coalition. I didn't really have too much time to
9 review it, but about the only thing I really saw that I
10 liked, it had a box in there for past performance.
11 That is something that should be taken into
12 consideration. But other than that, the system that
13 we're using has gone through a long process all last
14 year where we've had public input, both the Commission
15 and Division, and had kind of a workshop on the whole
16 thing, and I frankly think that if we're going to put a
17 proposal on this length of table, it should go through
18 the same type of process. And again I would ask that
19 Commission take no action. Thank you.

20 CHAIR SPITLER: Thank you. Ryan Henson.

21 MEMBER OF THE PUBLIC: I only wanted to comment
22 on the desert.

23 CHAIR SPITLER: Any other public comments on the
24 proposed criteria?

25 DON KLUSMAN: Yes, sir, Don Klusman, California

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1 4-Wheel Drive Association. Not that you've listened to
2 public comment because we asked the last one to be
3 tabled until we had a chance to give you more substance
4 to our comments, but we are going to ask the same thing
5 on this one. You have already put over a committee to
6 discuss this issue on what --

7 (Proceedings interrupted by telephone.)

8 DON KLUSMAN: Excuse me, it's probably
9 Mr. Waldheim, but anyway here. I'm sorry for the
10 inconvenience.

11 I mean you ask us to comment on this when now we
12 don't know what the first proposal is going to say.
13 The criteria is something that needs to be ironed out
14 along with how are you going to give out grants, not
15 backwards. I'm just at a loss for words, I guess. You
16 know, you ask for public comment. We gave it to you.
17 Even the Audubon Society and the Wilderness Coalition
18 did not say to pass this. They brought their concerns,
19 what there was of them, and I'm sure they would bring
20 more concerns if it would have been put over. But it
21 wasn't. You decided that it had to be it -- it still
22 has to go through OAL before you can act on it.

23 CHAIR SPITLER: Mr. Klusman, you're addressing
24 the criteria, not the riparian policy.

25 DON KLUSMAN: Okay. The criteria for this

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1 should not be discussed today. It should be put over
2 until the public, not just us, but the public has a
3 chance to address you. Thank you.

4 CHAIR SPITLER: Thank you.

5 PETE CONATY: Pete Conaty speaking as an
6 individual. The same objections from previous ones. I
7 notice the subcommittee you appointed, even though the
8 sheriff volunteered to be on it, your subcommittee has
9 no statewide geographic balance or does it have any
10 representatives of the OHV committee. So I guess, you
11 know, keep it up.

12 This is not general guidance. You constantly
13 tinker with and change the evaluation process to skew
14 it more towards less off-road opportunity and more
15 using the off-road funds as your own private slush fund
16 to repair what you believe is damaged land in the State
17 of California. And you are corrupting this entire
18 process. Thank you.

19 CHAIR SPITLER: Thank you.

20 JOHN STEWART: John Stewart, California
21 Association of 4-Wheel Drive Clubs. In looking at
22 these policies and in the criteria and it's how do
23 you -- how do you come up with an objective, good
24 objective criteria? It's a challenge. But one of the
25 things that's really lacking to make this easier is

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1 having a program, having a vision of a program. And
2 what it is that's coming out here is, is this an OHV
3 program or is this somebody's personal agenda. Right
4 now, it is not an OHV program.

5 To come up with substantial comments on these
6 criteria, if you want to compare what we've gone
7 through and looked at for the last two days with this
8 year's grants, yes, there's problems. Right now it
9 looks like you want to throw out all of the hard work
10 that has come to this point. With slight modification,
11 this system can be made to work. But it needs a
12 commitment from people to make it work. Right now, one
13 of the things lacking in criteria is looking at the
14 public comment, looking at public comments from when
15 the agencies are doing it. Have the agency submit
16 evidence within the grant process that public comment
17 was taken during the development of the grants and show
18 that the agencies have responded to address those. And
19 that same process has got to be followed all the way
20 through. But in order to make it really meaningful,
21 this program needs to have established goals, goals
22 that are set over a three- to four-year time period,
23 and then these grants can't fall into a point where
24 they support the goals, they certainly turn around and
25 aren't meaningful, and that they encompass all aspects

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1 of what an ecologically balanced OHV program is. This
2 is what the Legislature intended, and this is what
3 should be done. But this is not what's happening.

4 I would urge you to not vote on these, to go
5 back and look at it from the -- you know, from a more
6 limited scope, and maybe tinker with what was done this
7 year. And if you need to make any changes, let it go
8 one more year and then make some major changes and plan
9 for the major changes with public input from all
10 interested parties, all stakeholders, and the
11 stakeholders group. You're ignoring them. Let's look
12 at this from a broad program perspective, not limited
13 egos and limited viewpoints.

14 CHAIR SPITLER: Thank you.

15 HEATH WAKELEE: Heath Wakelee, Audubon Society.
16 I only have one comment and that's on page eight for
17 OHV safety. Our concern is that the category including
18 rider safety has been lowered as to its importance. We
19 believe that rider safety programs are very important.
20 Thank you.

21 CHAIR SPITLER: Thank you. Any other public
22 comment on the proposed criteria? Mr. Keeler.

23 JIM KEELER: Jim Keeler, BLM California State
24 Office. I have looked over your criteria, I think that
25 they really do provide some more input to a process

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1 that's sort of ongoing, and I think that's -- I like
2 some of the direction that you've given. I guess that
3 my major concern is that the outcoming criteria have
4 enough clarity so that the grant applicants -- so that
5 the process better meets the needs on the ground for
6 the grant writers to actually understand what's
7 happening and so that this criteria better addresses
8 what the programs will look like and how they function
9 on the ground, rather than how the grants are written.
10 Thank you.

11 CHAIR SPITLER: Thank you.

12 ELIZABETH NORTON: Good afternoon,
13 Commissioners, I'm Elizabeth Norton. I'm representing
14 myself today. I'm not in uniform.

15 I took a close look at the scoring criteria and
16 matched that with the grant categories that are in 2005
17 regulations, and, frankly, I could not really find a
18 direct crosswalk between the criteria and the
19 information in the description that's in the
20 regulations. And I know the regulations aren't
21 finalized yet, and they will be, I guess, in July or
22 so, sometime in 2006. And it seems premature to be
23 adopting evaluation criteria prior to finalization of
24 the grant regulations.

25 Also, I know we had a lot of discussion this

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1 morning about developing a shared vision, and so I was
2 real pleased that there is going to be that
3 collaboration between the Division and a subcommittee
4 of the Commission in working with Division staff and
5 perhaps some other applicants, such as federal agencies
6 or other interested parties, in developing a shared
7 vision for the Commission policies. And I would
8 recommend, too, that in the spirit of that shared
9 vision, that perhaps a subcommittee would also be
10 willing to work with the Division in developing these
11 evaluation criteria and the scoring that's attached to
12 the criteria, and in particular try and have a better
13 crosswalk between the regulations when they're
14 finalized.

15 So I would recommend they be tabled and taken up
16 later after that collaboration has occurred with a
17 broader audience. Thank you.

18 CHAIR SPITLER: Thank you. Is there any other
19 public comment on the proposed criteria?

20 DAVE PICKETT: Dave Pickett, AMA District 36.
21 Unfortunately, whatever I say today will go on a public
22 record and get put somewhere in a file that nobody will
23 care about in the future.

24 Based on what I've read here and where we're
25 trying to go, Chairman Spitler, I have to use our own

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1 words, and that comes from the audit itself, page 116,
2 item three, you said, "These current funding
3 allocations reflect proper program balance," and I have
4 not seen that today. Also on page 20 of the audit,
5 item number nine, "The audit presents unsupported
6 collusion conclusions and unwarranted innuendos." The
7 last three days have been full of it, plus what --

8 CHAIR SPITLER: Mr. Pickett, are these comments
9 directed toward the proposed grant evaluations and
10 scoring criteria?

11 DAVE PICKETT: Yes, they are, sir. This is a
12 preface if you'll allow me to finish. I don't
13 interrupt you, Mr. Chair.

14 CHAIR SPITLER: If your comments are directed
15 toward the criteria --

16 DAVE PICKETT: I said I am working towards that
17 goal, Chairman Spitler. Do you understand or do I need
18 to repeat it?

19 CHAIR SPITLER: Mr. Pickett, you're very close
20 to being out of order. You're welcome to address the
21 grant evaluation criteria that are on the agenda now.
22 Other topics are inappropriate for this comment period.

23 DAVE PICKETT: I'll finish up here with my point
24 that I was trying to make.

25 And in your own words, audit page 121, "The

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1 Commission provides ample opportunity for public input
2 and the involvement in the grants program." Got it,
3 okay? Anyways, I don't like what the policy proposes
4 that you put forth, and I urge that they don't go
5 forward. Thank you very much.

6 CHAIR SPITLER: Thank you for your comments. Is
7 there any other member of the public that wishes to
8 comment on the grant evaluation scoring criteria?
9 Okay. Seeing none, the public comment period is
10 closed.

11 We will open for Commission discussion of the
12 proposed evaluation and scoring criteria.

13 COMMISSIONER PRIZMICH: Mr. Chair.

14 CHAIR SPITLER: Commissioner Prizmich.

15 COMMISSIONER PRIZMICH: I have some comments
16 relative to the law enforcement portions of this, but
17 before I get into that, I'm sad to see that the actions
18 taken by us here today have disenfranchised some
19 individuals in the audience, and I think that could
20 have been avoided if we would have just simply put this
21 over until January, but that hasn't happened, so on to
22 my concerns.

23 On page four of the scoring criteria -- and I
24 wanted to ask, too. We had during the previous two
25 days some issues with regard to threshold level, that

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1 is, we wanted to on a couple of occasions to go below
2 the threshold levels. That's not addressed in here.
3 Where would that be addressed?

4 CHAIR SPITLER: That would be when the
5 regulations.

6 COMMISSIONER PRIZMICH: Regulations.

7 COMMISSIONER THOMAS: And I have that on my list
8 to work on in subcommittee.

9 COMMISSIONER PRIZMICH: Okay. I'm not sure
10 that -- I think both of these items, the scoring
11 criteria and the regulations, would best be married
12 together to make the most sense. And to that degree,
13 I'd like to see this put off a bit.

14 But with regard to law enforcement, I see that
15 on page four, and then again specifically on the law
16 enforcement page, which is page nine, so page four and
17 nine, I think those are the only two that references to
18 law enforcement, the emphasis clearly is on
19 environmental and traditional not county sheriff type
20 law enforcement matters. I think that's a deviation.
21 While I understand that's your preference on the
22 emphasis.

23 COMMISSIONER THOMAS: We should add --

24 COMMISSIONER PRIZMICH: I mean if you want to
25 continue to include traditional county sheriff

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1 involvement in this, you really need to have some more
2 traditional crime prevention, and that's simply not
3 occurring here.

4 If this remains this way, I will encourage my
5 constituency not to apply for grants.

6 COMMISSIONER THOMAS: With language such as
7 emphasizes prevention or enforcement of the Vehicle
8 Code, does that help?

9 COMMISSIONER PRIZMICH: There's not only Vehicle
10 Code violations, there's criminal and safety issues and
11 drug issues that we deal with. And they're simply not
12 even addressed here, and it's a glaring problem.

13 COMMISSIONER THOMAS: Right, let's add it.

14 CHAIR SPITLER: Commissioner Thomas.

15 COMMISSIONER THOMAS: We would -- following up
16 on Commissioner Prizmich's suggestion, let's add to the
17 equipment purchase criteria, health and safety
18 enforcement.

19 COMMISSIONER ANDERSON: That's on equipment?

20 COMMISSIONER THOMAS: Both equipment.

21 COMMISSIONER ANDERSON: And on law enforcement?

22 COMMISSIONER THOMAS: Under development
23 projects, too, you spotted it there.

24 COMMISSIONER PRIZMICH: Wherever there's
25 reference to law enforcement. If you want county

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1 sheriffs involved, you need to focus and have emphasis
2 on --

3 COMMISSIONER THOMAS: So wherever the words law
4 enforcement occur, the bullet under them should have
5 health and safety enforcement.

6 COMMISSIONER ANDERSON: Health and safety.

7 COMMISSIONER THOMAS: Health and safety
8 enforcement.

9 COMMISSIONER ANDERSON: Is that sufficiently
10 comprehensive?

11 COMMISSIONER PRIZMICH: No, I think you need to
12 include crime.

13 COMMISSIONER THOMAS: Doesn't safety mean crime?

14 COMMISSIONER PRIZMICH: No.

15 COMMISSIONER THOMAS: So health, safety and
16 criminal enforcement.

17 COMMISSIONER PRIZMICH: And narcotic
18 enforcement.

19 COMMISSIONER THOMAS: You don't want to throw
20 any of these grants out because they didn't have
21 narcotics. It's so comprehensive that you lose the
22 criteria.

23 (Simultaneously speaking.)

24 COMMISSIONER PRIZMICH: The point is you're
25 putting things down here.

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1 COMMISSIONER THOMAS: Safety or criminal
2 enforcement -- and/or criminal enforcement.

3 DEPUTY DIRECTOR GREENE: Chairman Spitzler, if I
4 may?

5 CHAIR SPITLER: Excuse me, I'm going to have to
6 interject on behalf of our stenographer.
7 Commissioner Thomas, could you just restate?

8 COMMISSIONER THOMAS: Yes. Let me be more
9 clear, thank you.

10 Wherever the words law enforcement appear in the
11 criteria, and that currently appears to be on page four
12 and page nine --

13 COMMISSIONER PRIZMICH: Right.

14 COMMISSIONER THOMAS: -- an additional bullet
15 shall be added, and the bullet shall be identified as
16 health, safety and/or criminal enforcement.

17 COMMISSIONER ANDERSON: Question.

18 COMMISSIONER PRIZMICH: Emphasis prevention --
19 emphasis preventing crime, narcotics, health and
20 safety.

21 CHAIR SPITLER: Commissioner Prizmich, I just
22 have a question. I understand the health and safety
23 and criminal. I guess I fail to see how an OHV
24 enforcement program should emphasis narcotics.

25 COMMISSIONER PRIZMICH: Well, narcotics -- I

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1 mean the point is that you're trying to provide money
2 to law enforcement and narcotics --

3 CHAIR SPITLER: For OHV issues.

4 COMMISSIONER PRIZMICH: For enforcement of OHV
5 issues, and I think that all goes hand in hand. I
6 can't see how you're going to get county sheriffs to
7 enforce laws that are specifically related generally --
8 or specifically related to environmental issues,
9 emphasis prevention of resource damage, I'm not sure
10 that we're going to be -- that's going to be in our
11 field of expertise. Emphasis prevention of existing of
12 potential user conflict, I'm not sure that that is
13 going to fall under the purview of county sheriffs.
14 Emphasis that the reduction of private property
15 trespass, that could certainly be under the provision
16 of the county sheriff. Emphasis of prevention of
17 off-road travel or entering into closed areas, that's
18 probably more related to U.S. Forest Service or if it's
19 on wilderness area so you -- based on that, there is
20 only one criteria in both of these pages that I
21 referenced that would have anything to do with the
22 county sheriffs. So I'm trying, if you want them
23 involved in it, then I'm trying to incorporate that.

24 CHAIR SPITLER: I understand, and I think that
25 we agree that the county sheriffs have been a great

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1 asset to this program. I'm only disagreeing with the
2 emphasis on narcotics, which just doesn't seem to be an
3 appropriate fit for your off-road vehicle funding
4 program.

5 COMMISSIONER THOMAS: I would add -- suggest
6 some language, and then we can do it by amendment if
7 necessary.

8 Emphasizes, using the language on page four in
9 the bullets: Emphasizing prevention of safety, health
10 and other criminal offenses, including substance abuse.

11 COMMISSIONER ANDERSON: Careful of your
12 language. I think you said preventing health.

13 COMMISSIONER THOMAS: Prevention of health,
14 safety and criminal offenses, criminal law offenses.
15 That's health, safety, and/or criminal law offenses.

16 CHAIR SPITLER: Can we just leave it at that,
17 health, safety and criminal law offenses?

18 COMMISSIONER PRIZMICH: That's fine.

19 CHAIR SPITLER: I think that's cleaner.

20 COMMISSIONER THOMAS: Well, I agree with the
21 sheriff's comment. You don't want substance abuse,
22 drunken driving folks who are unsafe drivers. Under
23 the influence is under the influence of drugs and it's
24 under the influence of alcohol. And that's what we're
25 trying to --

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1 CHAIR SPITLER: I think that would be adequately
2 covered by prevention of health, safety and criminal
3 law.

4 COMMISSIONER PRIZMICH: The point is that it is
5 something that we deal with. And if you want the
6 county sheriff involved in this, then you're going to
7 have to provide them a nexus to be involved.

8 COMMISSIONER BRISSENDEN: Commissioner Prizmich,
9 should I suggest -- page ten.

10 CHAIR SPITLER: I'm trying to keep things under
11 control so we can have this transcribed properly.
12 Commissioner Anderson.

13 COMMISSIONER ANDERSON: I would have a question
14 about we're adding this to the criteria. If this fits
15 as another box, if you'd like, running horizontally,
16 and you assign a point value to it, and the primary
17 interest of the sheriff is going to be in this box that
18 we've just delineated for health, safety and/or
19 criminal offenses, and we assign even a large chunk of
20 the points here, I'm not quite sure how any law
21 enforcement sheriff's grant application would reach a
22 threshold of 50 percent unless we have assigned at
23 least 50 percent to that category keeping in mind what
24 we're talking about funding.

25 So if the implication is that box only contains

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1 20 percent of the points for the grant application, it
2 would be very hard for any of them to ever get full
3 funding. So I would like you to think about how to --
4 I don't know super -- this is -- this problem does not
5 occur just here. It occurs in others -- in other
6 categories of grant applications, where a very good
7 grant application which fits only one of these criteria
8 and fits it absolutely perfectly, does not fit any of
9 the others. We will never get enough points to qualify
10 it for funding under this competitive process. I don't
11 know how we get a grant that can reach all of your
12 points.

13 Application demonstrates how a project reduces
14 significant resource damage. At 20 points and from
15 what Mr. Prizmich has just said, that's probably not
16 going to be a high priority of what they actually do.
17 It may be the result of their activities in doing
18 enforcement that there is less resource damage, but
19 that would be hard for them to demonstrate. It's not
20 going to be within the expertise of the sheriff to
21 describe how their law enforcement is actually going to
22 reduce resource damage. So I see a downstream
23 unintended consequence here.

24 COMMISSIONER THOMAS: Downstream is a good word.

25 DEPUTY DIRECTOR GREENE: Chairman Spitler.

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1 CHAIR SPITLER: Deputy Director Greene.

2 DEPUTY DIRECTOR GREENE: I think what you're
3 seeing is some of what we experienced last year as we
4 tried to move forward with developing some of the
5 criteria. I actually have eight different revisions of
6 the criteria that took place over the two Commission
7 meetings, but actually three stakeholder meetings that
8 we had. If I would just be able to provide, it would
9 certainly be helpful perhaps if -- to continue this
10 dialogue, but then also to have that subcommittee.

11 In particular some concerns that I have if
12 you're looking specifically at the law enforcement
13 grant, and a lot of them is the use of volunteers and
14 how that is no longer included. I think as we look at
15 some of the volunteer law enforcement patrols that have
16 been helping law enforcement, and as we recognize that
17 funding to the agencies continues to go down, we have
18 to have some sort of cooperative effort with all of the
19 community to be able to provide some of the -- to help
20 law enforcement in their efforts.

21 So I would really encourage you, per
22 Commissioner Thomas' concerns this morning, that we try
23 and perhaps look at a combination of both what
24 currently exists, as well as, Commissioner Spitler,
25 your proposed and see what we might be able to do to

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1 walk that crosswalk.

2 In addition, over the past few days we've heard
3 a number of points which actually have not been
4 highlighted in here, for instance, the use of in lieu
5 funds, how that might work, and also some issues of
6 past performance. So just as some input to the
7 Commission.

8 CHAIR SPITLER: Thank you. Commissioner Thomas.

9 COMMISSIONER THOMAS: Yes, let's move to page
10 ten, law enforcement projects, and the one, two, three
11 four -- fifth box down, I would strike the first two
12 bullets and substitute instead the words "reduction of
13 health and safety violations and other criminal law
14 offenses" and then leave it.

15 CHAIR SPITLER: Can you state that one more
16 time?

17 COMMISSIONER THOMAS: Strike the first two
18 bullets in the fifth box down.

19 CHAIR SPITLER: Add.

20 COMMISSIONER THOMAS: And add the words,
21 "reduction of health and safety violations and other
22 criminal law offenses." That way we have eliminated a
23 redundancy that shows up in the first two. As much as
24 I appreciate the good work of the Chairman, I always
25 want to review your work when it comes to law

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1 enforcement because you manage to give your more
2 emphasized issues in this matter of total of 55 points,
3 I think we could probably do 40 points on the top and
4 15 points in the middle and still be a balanced
5 program. Anyway, that would be a suggestion. If you
6 would want to take it into your motion or amendment, if
7 you don't.

8 CHAIR SPITLER: Okay. More discussion?

9 COMMISSIONER ANDERSON: Of this one or general?

10 CHAIR SPITLER: Any of the proposed grant
11 evaluation and scoring criteria.

12 COMMISSIONER ANDERSON: You don't want to hear
13 from me.

14 COMMISSIONER BRISSENDEN: You want to hear from
15 me?

16 CHAIR SPITLER: Commissioner Brissenden.

17 COMMISSIONER BRISSENDEN: Just some suggested
18 adjustments on possible scores, and that is I think
19 past performance has been mentioned by several in the
20 audience, and certainly on the Commission, needs to be
21 strengthened in terms of total points. I think that 20
22 in most cases would be more appropriate. And how you
23 distribute or take away from the others is really -- I
24 can propose some places, say on planning projects, you
25 take that from the second box down and add it to the

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1 bottom in terms of demonstrating a track record of
2 successfully implementing similar projects or past
3 performance. I think you may need to expand the
4 language there to say past performance on other grants,
5 as well as just similar projects.

6 With regards to studies, again distribute --
7 take five from the second box and the third box and add
8 ten to the bottom box, again adjust the language.

9 Acquisitions, take ten from the top box, and put
10 it on the bottom box.

11 Development projects --

12 CHAIR SPITLER: Slow done. I'm not keeping up.
13 Acquisitions, ten from the top box?

14 COMMISSIONER BRISSENDEN: Yes.

15 CHAIR SPITLER: Okay.

16 COMMISSIONER BRISSENDEN: Development projects,
17 again to reemphasize the whole need to look at track
18 records and past performance and other categories,
19 taking five from the top box and five from the second
20 box, and making it 20 on the bottom box.

21 Trail maintenance, taking ten from the top box
22 and making it 20 on the bottom box.

23 Facilities operation, taking ten from the third
24 box and kicking ten into the bottom box.

25 Resource management projects, five from the top

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1 box, five from the second box, and giving 20 on the
2 bottom box.

3 And then I didn't have any corrections on the
4 last three, four areas.

5 CHAIR SPITLER: Okay. Thank you.

6 COMMISSIONER THOMAS: Okay. One more,
7 Mr. Chairman, page eight, safety education programs,
8 the third box down, significant contributions to safe
9 and responsible operation of OHV, add a new bullet,
10 substance abuse education.

11 CHAIR SPITLER: Commissioner Anderson.

12 COMMISSIONER ANDERSON: All right. I didn't --
13 since I didn't see this revised one, I apologize if I
14 repeat something that you've already incorporated into
15 this new version. I made my generic comment about my
16 concerns about when looking at these, that if you have
17 a grant in any of these categories that it comes
18 through, and also in terms of testimony that we heard
19 from the Forest Service this morning, that we need to
20 be sure that if an applicant -- for example, this is
21 just an example, on a development project presents a
22 project in one of these categories, that it needs to be
23 clear that they could achieve the maximum number of
24 points in that category with only one of these types of
25 applications, and that they wouldn't have to have a

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1 project that included all of them.

2 And the same would occur for equipment purchase
3 on the facing page, if you have a restoration or law
4 enforcement or trail maintenance, that any one of those
5 would qualify for the maximum number of points, whether
6 it's 60 or 50, as Mr. Brissenden, or 55 as
7 Mr. Brissenden might have suggested whatever that
8 maximum number is.

9 I agree with Deputy Director Greene that we do
10 need to incorporate the use of volunteers and the
11 efficiency of the program, and I think the use of
12 volunteers could be incorporated as a bullet within the
13 efficiency of the -- and the effect per dollar,
14 whatever kind of effectiveness and promotion of the
15 program that we get out of the efficiency, could have a
16 volunteer element. And, boy, am I getting tired and
17 screwed up in language.

18 CHAIR SPITLER: Commissioner Anderson, can I
19 just ask you a clarification question on that. When
20 you're talking about volunteers, are you looking at a
21 specific category?

22 COMMISSIONER ANDERSON: Well, obviously,
23 volunteers aren't normally a part of an acquisition
24 project. They may be a part of a development project
25 or equipment purchase.

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1 COMMISSIONER THOMAS: Trail maintenance.

2 COMMISSIONER ANDERSON: And trail maintenance,
3 possibly law enforcement, OHV safety and education,
4 perhaps but probably not planning, resource management
5 and restoration, probably not studies, but certainly
6 trail maintenance.

7 CHAIR SPITLER: Okay. So if you could maybe
8 slow down just a little bit and go through that again.
9 Maybe you could actually propose specific language, it
10 might be easier than concepts. So we can actually
11 incorporate it right now, rather than trying to track
12 what you're saying and go back and make revisions.

13 COMMISSIONER ANDERSON: I'm not good at this
14 kind of wordsmithing.

15 CHAIR SPITLER: You're very good at it.

16 COMMISSIONER ANDERSON: Let me articulate what I
17 think my intent is. My intent is that an element be
18 incorporated within all of the grants that incorporates
19 the idea of the efficient use of the dollars on this
20 project in furthering the overall goals of this
21 program. We don't want to waste money on one project
22 and then be -- simply because it wasn't good use of the
23 dollars, so I'd like to see an efficiency element
24 incorporated within all of them.

25 The efficiency element, efficient use of

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1 dollars, on those grants where it's appropriate -- or
2 those categories of grants where it's appropriate, I
3 would like to see the use of volunteers as a part of
4 that efficiency evaluation; is that clear? Okay.

5 COMMISSIONER THOMAS: Might I suggest the words,
6 "efficient use of fiscal resources" be the box?

7 COMMISSIONER ANDERSON: Okay.

8 COMMISSIONER THOMAS: And then the bullet be
9 "volunteer utilization"?

10 COMMISSIONER ANDERSON: No, I guess I -- my box
11 title is "Efficient use of fiscal resources to support
12 the goals of the program," which is more comprehensive.

13 CHAIR SPITLER: "Application demonstrates
14 efficient use of --"

15 COMMISSIONER ANDERSON: "-- of fiscal resources
16 or financial resources to support the overall goals of
17 the program." And I have no idea how many points I
18 might want to give this. I didn't get to that kind of
19 detail.

20 On acquisition projects, and this applies to
21 some of the others, the context of the application
22 demonstrates the implications of not funding the
23 project is really a way of saying what's the need for
24 this project. So certainly in explanations to
25 applicants, we need to communicate the idea that this

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1 is really their place to describe the need, if that's
2 not -- it wasn't always clear to me in reading this.

3 I also think that incorporating the public
4 earlier and more comprehensively into the grant
5 application process needs to be not just the pro forma
6 meeting where the applicant says we had a meeting on
7 June 30th and 23 people were there and listened to our
8 presentation and we listened to them. That's not much
9 in terms of public feedback into the grant application
10 process.

11 Most of the agencies have some opportunity to
12 inform the public of their proposed grant, and I think
13 that the public ought to have an opportunity to help in
14 providing some direction of what that grant might focus
15 on, or to encourage the applicant not to apply for a
16 grant in just one area, but maybe to apply for a second
17 grant in another area, redistribute their allocations
18 into other areas. So the earlier -- I would like to
19 see the evaluation criteria include some -- what the
20 actual evidence is that they have done more than
21 minimal pro forma legal requirements for satisfying
22 public input into their grant application.

23 On equipment purchase, I need to check here with
24 your -- if you revised this language, so hang on just a
25 minute. It has to do with restoration grants. Do you

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1 know which page is equipment here?

2 COMMISSIONER PRIZMICH page nine.

3 COMMISSIONER ANDERSON: Equipment purchase
4 relative to restoration, rare, threatened and
5 endangered species, critical resources, off-route
6 travel, resource damaged areas in or near an existing
7 or proposed wilderness area, I would not -- although I
8 certainly think that damage to areas in or near
9 wilderness areas, I'd like to have that concept
10 extended to other natural preserves, State Parks,
11 ACECs, or other protected areas, and not just
12 wilderness area; otherwise, some of our grantees are
13 nowhere near a wilderness area. And if it were a
14 restoration grant and it were nowhere near a wilderness
15 area, they couldn't come up with a top score.

16 COMMISSIONER THOMAS: Do you want to use the
17 words, "other protected areas" after?

18 COMMISSIONER ANDERSON: Yes, so this would be a
19 priority, would be with that.

20 CHAIR SPITLER: We'll add "or wilderness area or
21 other protected areas".

22 COMMISSIONER ANDERSON: Okay. And again this
23 would be where I would say it's A, B or C; obviously
24 when you're buying equipment for restoration, it's not
25 the same as the ATV you need for law enforcement. So

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1 that's an "or". And then any one of those categories
2 would be sufficient for maximum number of points.

3 Under facilities operation and maintenance,
4 again I would like to add some category that reflects
5 that the O&M grant is aligned with our program goals
6 for the department so that we're not funding something
7 that doesn't serve our overall program needs. The
8 implications of not is a need, but a need may be in the
9 perceived -- in the mind of the applicant and may
10 not -- and it may be an efficient use of funds and it
11 may extend the useful life of the facility, but it may
12 not have nothing to do with where we want to go with
13 program. So I'd like to have something added that
14 reflects that.

15 Under planning projects, Ms. Mick indicated
16 she's not quite sure where theirs would fall into it.
17 Certainly the category that says, "Application will
18 lead to facility or assist in the designation of roads
19 and trails," but again if we assign 50 points to that
20 category under planning projects, it may not have
21 anything to do with trail maintenance or restoration.
22 They don't get the 40 points, they can't get anywhere
23 near getting full funding for their grant application.
24 So that's my problem there.

25 I'd also like to see if there might be another

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1 bullet besides trail maintenance and restoration, that
2 there might be planning money for redesign or
3 modifications of existing facilities and not just
4 trails. But it might be barriers, staging areas,
5 access to water, rest rooms, and they're not -- I
6 wouldn't think of this as development, but really
7 planning for a better design of an existing facility.
8 And the planning grant has got to precede a development
9 grant.

10 I'm not quite sure on the distinction between
11 resource management projects and scientific studies,
12 the studies categories is new, right?

13 CHAIR SPITLER: No, it's not.

14 COMMISSIONER THOMAS: No, it's in the
15 regulations.

16 COMMISSIONER ANDERSON: Studies are in the
17 regulations? Okay. I'm sorry. I think that's it for
18 that one.

19 Almost done here. I must say -- and I apologize
20 to Chairman Spitler for bringing this up at this point,
21 but I am troubled by the point distributions among
22 these and what the unintended consequence of having
23 everyone rate low might be in the future. And so I
24 would appreciate it if -- and I don't know if you want
25 to take this up within the context of your

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1 subcommittee, but to discuss these modifications and
2 that concern that I have that nobody will ever reach,
3 you know, even 80 percent under the point distribution
4 we have.

5 The other point that I had had to do with the
6 letter that was included within the agenda, and it's
7 too early for me to get into the points that I took up
8 there. This is still the criteria, and I would still
9 at some point in this process like to work with the
10 Division on once the criteria are established in
11 detailing how those criteria are evaluated by staff in
12 making sure that the process was open and fair and
13 lacking in prejudice or bias.

14 So if there are other elements that the staff
15 thinks need to be incorporated into these, I'd be open
16 to those kinds of suggestions. I appreciate what you
17 said about volunteers, but there may be other elements,
18 as well.

19 DEPUTY DIRECTOR GREENE: I appreciate that,
20 Commissioner Anderson. And I think as I said earlier,
21 I have some very serious concerns about trying to --
22 recognizing the effort that went into the criteria this
23 year and recognizing again that they are, in fact, not
24 perfect, but I think as we talked about today earlier,
25 the need for a shared vision. And certainly, you know,

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1 as we try and make that step with the Commission to
2 work with a subcommittee, that's why I said before, I
3 really would strongly urge you to not move on these
4 criteria today, but to try and come back and work with
5 the Division and the community to develop more
6 comprehensive criteria.

7 COMMISSIONER ANDERSON: My suggestion would be
8 to add this not only to the policy statements but the
9 criteria to the agenda of the subcommittee before the
10 next meeting.

11 CHAIR SPITLER: More discussion from
12 Commissioners? Let me, Commissioner Anderson, try to
13 make some modifications here based on your comment
14 about efficient use of financial resources. I'm just
15 going to actually -- I'll just read the item, and we
16 will add that at the bottom of each application type,
17 and that will be the modifications made to address it.
18 Language would state:

19 "Application demonstrates
20 efficient use of financial resources
21 to support overall goals of program
22 and will be given a score of ten."

23 So we add that to each item. Under planning
24 project, we would reduce the second box by ten for
25 final score of 30.

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1 Under studies, reduce the second and third boxes
2 by five to scores of 20.

3 Under acquisition project, reduce the first and
4 second boxes by five for scores of 25.

5 Under development projects, reduce the first and
6 second boxes by five for scores of 30 and 20.

7 Under trail maintenance, reduce the first and
8 second boxes by five for scores of 25.

9 Under facilities, reduce the -- I see that
10 the -- under facilities, I see that item is actually
11 already included as the first box.

12 COMMISSIONER ANDERSON: Okay.

13 CHAIR SPITLER: Under resource management,
14 reduce the first and second box by five for final
15 scores of 30 and 20.

16 I see that the box is already included under
17 safety and education.

18 And under equipment purchase under law
19 enforcement, reduce the first and second boxes by five
20 for scores of fifteen.

21 And under restoration, reduce the first and
22 second boxes by five for scores of fifteen and five.

23 COMMISSIONER PRIZMICH: Mr. Chairman?

24 CHAIR SPITLER: Commissioner Prizmich.

25 COMMISSIONER PRIZMICH: We have presented this

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1 scoring criteria, public made comment on it, and the
2 Commission has spent quite a bit of time changing
3 virtually every aspect of this scoring criteria. And
4 it is not the same document as when we started, and I
5 would strongly urge that this be put over until
6 January for the public and for the Commissioners to
7 further consider this.

8 CHAIR SPITLER: Thank you.

9 COMMISSIONER ANDERSON: I would move that.

10 COMMISSIONER PRIZMICH: Second.

11 CHAIR SPITLER: Discussion.

12 COMMISSIONER THOMAS: I have a quick point. If
13 the first complaint of the day is that the group wasn't
14 responsive to public comment, the second complaint of
15 the day should be that you've been too responsive to
16 public comment, and therefore we need a continuance. I
17 will not support a continuance because I did a good job
18 responding to public comment.

19 CHAIR SPITLER: I think also it's important for
20 us to start providing some direction to grant
21 applicants and where this Commission is headed in the
22 coming year. I think the policies and the regulations
23 will depend on criteria; however, the final allocation
24 determination system is established, there will need to
25 be criteria that guide that system. And I think it's

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1 important that we provide that criteria early in the
2 process so that public and the applicants know where
3 we're going. That doesn't mean that in January if we
4 decide we want to revisit some of these, we can
5 consider them. But I think it's very important that we
6 provide some of that guidance early on. So I won't
7 support continuing this item until January.

8 DEPUTY DIRECTOR GREENE: Commissioner Thomas, I
9 would reiterate, given our conversation this morning,
10 again, I would ask that we work together with the
11 subcommittee that's been identified. And when we talk
12 about a shared vision, and really in this instance, I
13 think we need to try and work together in a better
14 format than what has occurred here today.

15 COMMISSIONER PRIZMICH: If I could just add one
16 more thing, we're going to vote on this obviously in
17 just a second. And if this should pass to be adopted
18 now, I would like to have it put on next January's
19 agenda.

20 CHAIR SPITLER: Okay. All right. So I will
21 propose an amendment to your motion to table this, and
22 we adopt the grant evaluation and scoring criteria as
23 modified today.

24 COMMISSIONER THOMAS: Second.

25 CHAIR SPITLER: Any more discussion? Okay. We

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1 will vote on the amendment first. That's to adopt the
2 grant evaluation and scoring criteria.

3 Sandy, could we do a roll call, please.

4 MS. ELDERS: Anderson.

5 COMMISSIONER ANDERSON: No.

6 MS. ELDER: Brissenden.

7 COMMISSIONER BRISSENDEN: Aye.

8 MS. ELDER: Spitler.

9 CHAIR SPITLER: Aye.

10 MS. ELDER: Thomas.

11 COMMISSIONER THOMAS: Aye.

12 MS. ELDER: Prizmich.

13 COMMISSIONER PRIZMICH: No.

14 CHAIR SPITLER: Okay. The motion has been
15 amended to adopt the grant evaluation scoring criteria
16 as modified.

17 Sandy, can we do a roll call vote on the
18 original motion, please.

19 MS. ELDERS: Anderson.

20 COMMISSIONER ANDERSON: No.

21 MS. ELDER: Brissenden.

22 COMMISSIONER BRISSENDEN: What was the original
23 motion?

24 CHAIR SPITLER: As modified, the original motion
25 now is to adopt.

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1 COMMISSIONER ANDERSON: The original motion was
2 to put it over, which was modified.
3 COMMISSIONER BRISSENDEN: Aye.
4 MS. ELDER: Spitler.
5 CHAIR SPITLER: Aye.
6 MS. ELDER: Thomas.
7 COMMISSIONER THOMAS: Aye.
8 MS. ELDER: Prizmich.
9 COMMISSIONER PRIZMICH: No.
10 CHAIR SPITLER: That closes this item.
11 COMMISSIONER PRIZMICH: If I may add, can I have
12 that item placed on January's agenda?
13 CHAIR SPITLER: Of course.
14 COMMISSIONER PRIZMICH: Thank you.
15 CHAIR SPITLER: We will take a ten-minute break,
16 and we'll return to the agenda at about quarter 'til.
17 (Break taken in proceedings.)
18 CHAIR SPITLER: Okay. I'm going to -- next item
19 on the agenda is resolution and program regulations.
20 I'm going to actually in the interest of time to get
21 everyone out of here, we've spent three days here, to
22 move to discontinue Items C, D and E until the
23 January meeting and just take up the last two items, F
24 and G, the meeting schedule for '06 and the cap outlay.
25 COMMISSIONER THOMAS: Second.

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1 COMMISSIONER ANDERSON: This is the capital
2 outlay items?

3 CHAIR SPITLER: No, what I proposed to continue,
4 Items C, D, and E, the resolution, the program
5 regulations, and the audit until January, and continue
6 with the agenda items F and G today.

7 DEPUTY DIRECTOR GREENE: Chairman Spitler.

8 CHAIR SPITLER: Deputy Director Greene.

9 DEPUTY DIRECTOR GREENE: Just for clarification
10 purposes because I do need to make sure that you're
11 aware of the fact that the auditor did have the letter,
12 which is in your booklet, requesting that the
13 Commission respond to the audit within the 60-day time
14 period, and I just wanted to let you know that
15 postponement will occur. We can try and get a letter
16 if you want on your behalf to the auditor.

17 CHAIR SPITLER: I did send a letter to the
18 auditor within the 60-day time period.

19 DEPUTY DIRECTOR GREENE: Can we get a copy of
20 that letter just for the files, please?

21 CHAIR SPITLER: Sure. Okay. Is there any more
22 discussion on continuing Items C, D and E?

23 COMMISSIONER PRIZMICH: Just a clarification on
24 the letter; what was the content of the letter that you
25 sent?

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1 CHAIR SPITLER: They had requested the chair
2 respond to it within 60 days to the audit. The letter
3 basically said Commission hadn't even met.

4 COMMISSIONER PRIZMICH: So it was just an
5 explanation as to why they hadn't received their
6 response?

7 CHAIR SPITLER: Explanation we hadn't met to
8 talk about some of the changes that happened in the
9 grants program this year, and that we'll provide a
10 fuller report at the six-month window.

11 Other discussion on continuing these items?

12 COMMISSIONER THOMAS: I'm glad you're the
13 chairman, that's all. I'm glad I didn't have to write
14 all those letters.

15 CHAIR SPITLER: All those in favor?

16 (Commissioners simultaneously voted.)

17 CHAIR SPITLER: Opposed?

18 COMMISSIONER PRIZMICH: No.

19 CHAIR SPITLER: Meeting schedule for 2006, maybe
20 it might be best if, since we are missing a couple of
21 Commissioners, we establish a January date, and staff
22 can propose some dates for meetings throughout the year
23 and circulate those on e-mail, and we can get some
24 feedback and finalize the calendar for 2006, rather
25 than trying to do it all at this point.

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1 DEPUTY DIRECTOR GREENE: Not a problem. If I
2 could, though, get some guidance in terms of
3 traditionally Thursdays and Fridays have been the best
4 days. Is that something that the Commission would
5 still want us to concentrate on those particular days
6 of the week?

7 COMMISSIONER ANDERSON: I thought you had the
8 open public meeting on Saturday?

9 DEPUTY DIRECTOR GREENE: The January meeting is
10 Saturday. I'm sorry, I'm referring to the rest of the
11 year, as we try and identify dates that would
12 accommodate the Commission members.

13 COMMISSIONER THOMAS: Yes.

14 CHAIR SPITLER: Let's go ahead and do public
15 comment on this item, then we'll try to get some dates.

16 Any public comment on our proposed meeting
17 schedule for 2006?

18 PETE CONATY: Yes, sir, Pete Conaty. You know,
19 earlier talk about public involvement and, oh gee,
20 problems with Riverside and Tolowa Dunes, when this
21 Commission under you has failed to do what previous
22 commissions have done, which is have two-day hearings
23 located near or at SVRAs or other places that you
24 profess to be interested in. It is a noticed two-day
25 meeting, and you get to actually go out on the ground

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1 and see what you're talking about instead of sitting up
2 in your ivory tower. Now, you just spent at least 30
3 to 45 minutes of the public's time rewriting your own
4 regulation that you submitted three days before the --

5 CHAIR SPITLER: Mr. Conaty, are you commenting
6 on the meeting schedule for 2006?

7 PETE CONATY: I'm suggesting you sit here and do
8 the meeting schedule for the whole year like you're
9 supposed to do. You wasted 45 minutes of our time. So
10 do your job, Paul.

11 CHAIR SPITLER: Thank you. Any other comments
12 on the proposed meeting schedule for 2006?

13 DON KLUSMAN: Don Klusman, California 4-Wheel
14 Drive Association. The only objection I would have to
15 a Saturday in January would be January 14th because we
16 have a major event here in Northern California that our
17 clubs would be involved in and so would not be able to
18 attend that meeting.

19 CHAIR SPITLER: Okay.

20 KATHLEEN MICK: Kathleen Mick, U.S. Forest
21 Service. For January, just to avoid, Monday, the 16th
22 because that's a holiday, Martin Luther King, Jr.
23 Birthday. And then hopefully for the rest of the
24 Commission schedule throughout the year, to try and
25 avoid the third week of the month because a lot of our

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1 executive folks and recreation officers and such attend
2 forest leadership meetings. And so they have to make a
3 choice and more than likely they would stay home and
4 attend the meeting of the forest supervisor. Thank
5 you.

6 CHAIR SPITLER: Thank you.

7 DEPUTY DIRECTOR GREENE: We certainly will check
8 with the agencies, as well as the communities who
9 traditionally speak at these meetings and try to
10 identify mutually agreed upon dates.

11 JIM KEELER: Jim Keeler, BLM, just a brief
12 comment. We do have a stakeholders' meeting on the
13 26th of January.

14 CHAIR SPITLER: Thank you. Any other public
15 comments on the proposed meeting date?

16 Okay. We're looking at a Saturday in January,
17 probably looking towards the end of the month, so
18 either the 21st or 28th.

19 COMMISSIONER PRIZMICH: Mr. Chairman, I have
20 endeavored to make every meeting and would continue to
21 do so, but I did not bring my calendar for next year.
22 So I will make every effort to be at the meeting.

23 CHAIR SPITLER: You don't happen to know off the
24 top of your head if either one of those dates --

25 COMMISSIONER PRIZMICH: I think either one would
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1 be good, but I'm not positive.

2 CHAIR SPITLER: I think the 28th actually works
3 a little better for me.

4 COMMISSIONER ANDERSON: I was going to say I
5 think the 21st is possibly a problem for me.

6 CHAIR SPITLER: Okay. We'll do the 28th.

7 COMMISSIONER ANDERSON: Hit the Super Bowl
8 again. Without Mr. Conaty's disparagements, I would
9 encourage the staff in setting the proposals for the
10 Commission to adopt on future calendars, that we do, as
11 he suggested, which is two-day notice some meetings
12 where the first day may be not necessarily public
13 comment but maybe a tour, as you mentioned and we
14 discussed earlier and that you move around again to
15 other locations. So if it's a two-day notice, then
16 more than a minimal number of Commissioners can
17 participate in the field trip.

18 DEPUTY DIRECTOR GREENE: And I understand that.
19 I think one of the concerns we have at the Division is
20 doing a back-to-back stakeholder, Commission meeting,
21 that is, it tends to be somewhat difficult on staff.
22 But we certainly will try and accommodate as best we
23 can.

24 CHAIR SPITLER: We certainly could attempt right
25 now to set more meetings throughout the year if there

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1 is interest in that. It doesn't seem like the most
2 efficient way to do things, but I don't see a lot of
3 interest in that, okay.

4 COMMISSIONER ANDERSON: As soon as possible,
5 please, because my calendar is beginning to fill up.

6 CHAIR SPITLER: So the staff could just get some
7 dates out to us on e-mail, then we'll hopefully
8 finalize that in January. Do we need a --

9 Why don't we do a motion for the January date.
10 I'll move to have the next meeting on Saturday the 28th
11 of January, which will be our public workshop.

12 COMMISSIONER BRISSENDEN: Second.

13 CHAIR SPITLER: Discussion? All those in favor?

14 (Commissioners simultaneously voted.)

15 CHAIR SPITLER: Opposed? Motion carries.

16 COMMISSIONER ANDERSON: Sorry, Daphne.

17 CHAIR SPITLER: Okay. Last item of business is
18 the SVRA minor capital outlay budget proposal. Perhaps
19 staff could just introduce those proposals to us.

20 CHIEF JENKINS: Going to have our maintenance
21 chief of the Division begin with the introduction of
22 the general projects, and then I think on some of them
23 we're going to have the actual superintendents where
24 the projects are going to occur, discuss them.

25 TERRY HARPER: Terry Harper, OHV staff.

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1 Commissioner Spitler, Commissioners, I'm here today to
2 present and request funding for the 2006/2007 minor
3 capital outlay projects for the Division. Like
4 Division Chief Phil Jenkins just said, I have two
5 superintendents here from the field, Andy Zilke from
6 Oceano Dunes and John Horn from Hollister Hills.

7 I'll be presenting the projects for Hungry
8 Valley and Ocotillo Wells. Not really sure how you
9 want to do this. Do you want me to basically give a
10 description of each one of the projects, and then
11 justification or --

12 CHAIR SPITLER: If you could just do a very
13 brief description, we have the project description
14 justification in front of us, and we've had those for
15 review for the past two weeks. Maybe just a very brief
16 summary of each project.

17 TERRY HARPER: We have seven projects for a
18 total of 1,939,000. The first project is -- number one
19 project is shop parking repaving for Hungry Valley,
20 499,000. A quick description of this project, the
21 total footage of that area is about 140,000 square
22 feet. We're proposing to go in and grind what asphalt
23 is left, install four inches of AB over the entire
24 area, compact, come back with a two-inch overlay, do
25 the -- create two ADA parking spaces along with a van

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1 unloading zone in those areas.

2 COMMISSIONER ANDERSON: Are you ready for
3 questions?

4 CHAIR SPITLER: I think you should just present
5 them all.

6 TERRY HARPER: Okay. Project number two is
7 replace seven double-vaulted restrooms at Hungry
8 Valley. This project would replace existing SSTs
9 commonly referred to as sweet smelling toilets in the
10 Cottonwood Campground area, Lower Scrub Campground,
11 Upper Scrub Campground, Sterling Campground, Alikilik
12 area, Smith Forks Campground. And that's a total of
13 \$300,000.

14 COMMISSIONER BRISSENDEN: Terry, what was that
15 second one you said? It fit in with the whole
16 proposal.

17 CHAIR SPITLER: I think I know where you're
18 going.

19 COMMISSIONER THOMAS: It's a sense of humor
20 here, please.

21 CHAIR SPITLER: The proposed double-vaulted
22 toilet at Alikilik Campground.

23 COMMISSIONER BRISSENDEN: I think you really
24 need one there.

25 TERRY HARPER: Alikilik, I never thought about

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1 it that way. I guess it is.

2 The third project is replace -- excuse me, add
3 six additional vaulted restrooms at Oceano Dunes.
4 These would go beside the existing vaulted restrooms
5 that's already on the beach. What this would do is
6 reduce the number of chemical toilets that we currently
7 have in that area, which would also reduce the cost of
8 pumping, chemical toilet pumping. That's a total of
9 \$130,000.

10 COMMISSIONER THOMAS: I have a question on that.

11 CHAIR SPITLER: If we could actually get through
12 them all, and then we'll direct your questions.

13 TERRY HARPER: The project number four is
14 install a vehicle wash RAC at Oceano Dunes. This
15 project would require us to construct a 40-by-60 foot
16 concrete pad with a metal structure over the entire
17 area to shed rain, and then purchase a 15-by-32 foot
18 self-containing car wash, if you will, in that facility
19 with a high-pressure washer filtering system on that.
20 And that's for a total of \$450,000.

21 The fifth project is also at Oceano Dunes. It's
22 install vehicle storage. This is a project that would
23 construct -- actually, it's two different storage areas
24 on the back of an existing maintenance building that we
25 currently have at the facility already. One would be

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1 72 feet by 32 feet. The other one would be 36 feet by
2 20 feet, and that would be a total of \$170,000.

3 Project number six is a restoration project at
4 Hollister Hills. This project would go in and
5 basically do restoration work on the Long Canyon Hill
6 Climb, approximately 1500 feet of existing trail about
7 25 feet wide, \$183,000.

8 The last project, number seven is at Ocotillo
9 Wells, and it is to construct two additional residence
10 pads there at Ocotillo Wells, bring in additional 200
11 amps of additional power, water, telephone and propane.
12 And that one is \$207,000.

13 I can take questions.

14 CHAIR SPITLER: Why don't we go ahead and do
15 public comments first, and then go ahead and address
16 the questions.

17 Any member of the public who wants to comment on
18 the cap outlay, if they could step forward.

19 DON KLUSMAN: Don Klusman, California 4-Wheel
20 Drive Association. We approve these projects or we
21 would like to see these projects go forward. But I
22 have to say a caveat here, it just amazes me that we
23 deal in a double-vaulted restrooms for 30 odd thousand
24 dollars, and when we deal with Forest Service, BLM or
25 any other agencies in the grant, we can't deal with it

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1 for \$30,000 because there's caps on it. The other
2 thing that kind of amazes me is a double is 38,000,
3 almost 40,000, and a single is 21. So why not just put
4 the double in there to begin with because we know that
5 usage is going to come up. Why do we always under do
6 these projects?

7 The other thing is I understand the state
8 government is under how they have to bid it out and so
9 forth, but some of these projects are -- the way it's
10 broken down, it seems extravagant the amount of money
11 that's being bid on some of these projects, example for
12 the concrete and stuff like that. I know there's
13 nothing we can do about it. It's the way state
14 government works, but it's super unfortunate.

15 CHAIR SPITLER: Thank you.

16 PETE CONATY: Pete Conaty this time representing
17 all of my clients, and we are in support of all of
18 these projects. We don't think the prices are
19 outrageous. If you ever dealt with the private sector,
20 you realize that the price of cement is going up, the
21 price of fuel, the price of everything is going up
22 dramatically. I would like to point out that every one
23 of these projects is designed to be environment
24 sensitive and to meet Americans with Disabilities Act
25 standards. Now these are very important issues, and I

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1 would urge you to vote aye on all of these projects on
2 behalf of CORVA, the Off-Road Business Association, AMA
3 District 37, Dual Sport, and Off-Road Sports Committee,
4 San Diego Off-Road Coalition, and who else? Lots of
5 others. CORVA, my good friend Ed Waldheim. So we urge
6 you to vote aye on all of these projects so we can get
7 moving forward on it. Thank you.

8 CHAIR SPITLER: Thank you.

9 DAVE PICKETT: Dave Pickett, District 36,
10 Motorcycle Sports Committee. I concur with what Mr.
11 Conaty just said, but I also agree with Mr. Klusman's
12 earlier statements. Let's only build them once. Let's
13 make them big enough. It's only going to be more
14 expensive in the future. Thank you.

15 CHAIR SPITLER: Thank you.

16 BRUCE BRAZIL: Bruce Brazil, California Enduro
17 Riders Association, and in agreement with all of the
18 requested funding. Once again, restrooms basic need
19 for all aspects of usage by people. The one thing that
20 I would possibly ask for just some feedback on is on
21 the vehicle wash RAC, what were they doing -- what are
22 they presently doing to keep the vehicles salt free?
23 Thank you.

24 CHAIR SPITLER: Thank you. Any other public
25 comments on that proposed capital outlay?

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1 Okay. Questions?

2 COMMISSIONER THOMAS: Public hearing is closed.

3 CHAIR SPITLER: Public hearing is closed.

4 COMMISSIONER ANDERSON: Do you want me to start?

5 CHAIR SPITLER: Commissioner Anderson.

6 COMMISSIONER ANDERSON: Since I'm supposed to be
7 on the subcommittee for minor capital outlays, I want
8 to express my thanks to Mr. Waldheim to the fact that
9 he alerted me to the potential projects in Hungry
10 Valley and I actually went out there and looked at
11 them. I did not know about the other ones. He may --
12 and I'm sorry he's not here, but he may have received
13 additional information.

14 But I would please ask that since I get this
15 committee assignment, can I have more than the surface
16 information that was provided with the agenda on what's
17 going on, or give me a phone call so that we can
18 discuss these and I can understand them a little bit
19 better.

20 With that idea in mind, the shop parking lot
21 repaving, I have a question. My understanding from the
22 tour I had, and obviously the disaster that's there
23 right now where the area was basically washed out and
24 flooded out, can you describe for me what you've done
25 that will preclude that kind of wash out occurring in

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1 the future given the location of this in a canyon,
2 certainly subject to flooding in the future again.

3 TERRY HARPER: Commissioner Anderson, one of the
4 reasons why this parking lot did wash out this last
5 year during these storms is because the surface of that
6 parking lot is pretty much gone. We are down to road
7 base and sand material, and of course that doesn't shed
8 water very well. When water comes across it,
9 especially in the volumes of the rain that we had down
10 there over those couple of events, it just took the
11 soil right out with it. By putting this asphalt on
12 there, improving the drain inlets, that will also be as
13 part of this project, I don't think we'll really have
14 that problem in the future.

15 COMMISSIONER ANDERSON: What I saw was evidence
16 of substantial deposition of soil against some of the
17 buildings up in that area, two or three feet against
18 the side walls. Is the particular parking area you're
19 talking about, shop area, is that going to be out of
20 that diversion?

21 TERRY HARPER: It will still be in that same
22 area. One of the things that you really can't predict
23 is Mother Nature and the amount of rain that you're
24 going to get and also landslides. And that's really
25 what we had in that area during those two events was

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1 tremendous amount of rain which created a lot of soil
2 coming down off those hills. It would almost be
3 another project to go in and actually put in some
4 diversion walls or even possibly some ditches to divert
5 that when that soil does come down off those hills like
6 it did around the trench.

7 COMMISSIONER ANDERSON: May I suggest you think
8 about doing that in the future to make sure that we
9 don't lose this parking lot. And I don't know how long
10 it's going to be before you can actually -- if we act
11 affirmatively how long it would take before you would
12 be able to begin. It's probably not this winter.

13 TERRY HARPER: Well, the 7/8 capital outlay
14 cycle is coming up this month, December, January. This
15 one would be going out.

16 COMMISSIONER ANDERSON: So you could let
17 contracts as soon as January?

18 TERRY HARPER: Actually, we'd have to come in
19 for the funding first, and that would be no sooner than
20 fiscal year 7/8. You're talking about a pretty
21 substantial amount of money, and I don't believe we
22 have that in the support budget.

23 COMMISSIONER ANDERSON: All right. May I
24 encourage you to think about what you can do to protect
25 that parking lot in the future.

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1 TERRY HARPER: Yes, we certainly can look at
2 that.

3 CHIEF JENKINS: We can add that to the minor cap
4 projects for next year. That shouldn't be a problem.

5 COMMISSIONER ANDERSON: The second one, your
6 seven double-vaulted restrooms, the seven that you're
7 proposing to put in, there already are some of that
8 type there, as I understand it, right?

9 TERRY HARPER: You're absolutely correct, yes.

10 COMMISSIONER ANDERSON: Some toilets and some
11 that are already there, and I think that's a good
12 project.

13 TERRY HARPER: Yes. Thank you.

14 COMMISSIONER ANDERSON: I don't know whether we
15 have the funding to do the double-vaulted restrooms as
16 suggested by public testimony, but I think that that
17 one is certainly appropriate.

18 And I would agree with the question about what
19 are you currently doing in terms of -- it's not just --
20 obviously your equipment is going to turn into rusty
21 hulks, unless you have the availability of some sort of
22 a wash system. What are you currently doing?

23 TERRY HARPER: I'd like to have Andy Zilke,
24 superintendent of Oceano Dunes come up and address
25 that.

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1 ANDY ZILKE: Mr. Chair, Commissioners, Andy
2 Zilke, District Superintendent of Oceano Dunes. We
3 currently use two different methods to clean the
4 vehicles. One would be commercial facilities outside
5 the park, and that has been proven to be not really
6 cost effective and time confusing for staff. Also,
7 we're not able to adequately wash the undercarriage of
8 the vehicles, regardless of what method we use, which
9 is a primary problem that we have with vehicle
10 deterioration, is the suspension, undercarriage, the
11 frame of the vehicle, steering, brake lines, et cetera.

12 The other method that we use that's permissible
13 by the county is merely a rinse of the outside of the
14 vehicle and not underneath the vehicle to cause
15 contamination to get onto the street or onto the
16 maintenance facility where we wash them off. And again
17 the same issues with regard to inability to clean the
18 underside or even use soap in that scenario.

19 COMMISSIONER ANDERSON: Okay. I think I
20 understand the vehicle storage, and I understand --
21 I've seen the area. It's been some time, but I have
22 seen this area where the hill restoration is. I must
23 confess an inability, having attempted to get into
24 Ocotillo Wells several times and not being able to
25 figure out which road, and I'm scared enough of desert

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1 roads to be timid about driving off-highway 78 to not
2 know how to actually make it to this ranger station. I
3 don't know what kind of signing you have down on the
4 road, but I've never been able to see it so that I
5 could get in there and find it. I notice that on the
6 south side of Highway 78, there has been a ranger --
7 some kind of a visitor center. But how does that
8 relate to where this residential facility is going to
9 go?

10 TERRY HARPER: The area where we are proposing
11 to construct these two additional mobile home pads is
12 located at the district office slash maintenance area
13 slash residence area.

14 COMMISSIONER ANDERSON: And that's what I'm --
15 do you understand what I said when I saw something on
16 the south side of the highway? Do you know what I'm
17 referring to? It may not even be yours. It may be
18 somebody else's.

19 TERRY HARPER: I don't think we have anything on
20 the south side.

21 DEPUTY DIRECTOR GREENE: Is that near like the
22 border patrol station before you make the left-hand
23 turn heading in on the highway to make the right-hand
24 turn into the ranger station?

25 COMMISSIONER ANDERSON: No, I drove from Borrego
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1 Springs east on Highway 78 and I tried to figure out
2 when I got to where your facility was -- and I was
3 looking for -- was looking for an office to drop in and
4 visit, and I couldn't figure out how to find it. Maybe
5 some signs --

6 TERRY HARPER: It sounds to me like you may have
7 been on the west end of Borrego Springs, and there is a
8 visitor center that's operated by the State Park
9 system.

10 COMMISSIONER ANDERSON: No, I was on my way to
11 Salton Sea, and I was coming on 78 from out of Borrego
12 Springs, and I drove up over the --

13 DEPUTY DIRECTOR GREENE: We will make sure we
14 address the issue of signage.

15 COMMISSIONER ANDERSON: Please figure out where
16 the signs are. I trust that there is a headquarters
17 and a ranger station there, but when I was driving by
18 myself, I couldn't find it. Stupid me, it's probably
19 there, but I couldn't see it. So I trust you need it.
20 It's tough down there. So I'm expressing support for
21 all of these capital outlay grants. If you think we
22 have the money, I find no particular problem with any
23 one of them. That's my opinion.

24 CHAIR SPITLER: Commissioner Brissenden.

25 COMMISSIONER BRISSENDEN: Just concerned about

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1 the two to three feet of soil buildup against the
2 building. What sort of material was that building made
3 of? Have you addressed the issue that Commissioner
4 Anderson brought up?

5 COMMISSIONER ANDERSON: It was a preexisting
6 structure I believe from when you took the facility
7 over, wasn't it?

8 TERRY HARPER: That is correct. I don't know
9 how much you folks know about the history of Hungry
10 Valley, but that whole complex at one time was a
11 chicken farm, and those were chicken barns. So they
12 sustained a lot of weather over the years. That was
13 really, again, one of those storms that we've gotten as
14 much rain or more rain than we normally get down there
15 in a whole year. Hungry Valley is about, I believe,
16 seven inches of rain per year, and I think we got
17 pretty close to that, if not more, in one event. So
18 that normally doesn't happen. That's very rare that we
19 get that kind of soil runoff.

20 COMMISSIONER BRISSENDEN: So you're not
21 protecting those buildings for any future use; is that
22 what I'm hearing?

23 TERRY HARPER: After this, I think that we
24 during our 7/8 capital outlay proposal, I think we
25 should go back and take a look at those for protection.

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1 COMMISSIONER BRISSENDEN: Being an old chicken
2 farmer, that's an important structure.

3 COMMISSIONER ANDERSON: The former chicken barns
4 were further up the canyon than the shop area, so.

5 COMMISSIONER BRISSENDEN: A more important
6 question I have is probably directed to Deputy Greene.
7 What is the process and the criteria used to percolate
8 these projects to the top of this list, how did you
9 come to these seven?

10 CHIEF JENKINS: That's probably actually a
11 better question for Terry, but I'll take a stab at it.
12 What we do is throughout the year, we develop these --
13 a database of all of the projects that we have
14 throughout the system. It's called a park
15 infrastructure database, a PID list. And it has a
16 number of projects on there. And so it's like the
17 dream list, the wish list of all of the things that the
18 superintendents turn in and they would like to see done
19 in the coming years. Of course, there's never enough
20 money to do all of the backlog things that you'd like
21 to get done, so as we come upon that time of year when
22 we're starting to put together the minor capital outlay
23 list, we ask the superintendents, okay, here is your
24 dream list, which one is the most urgent, which ones if
25 we don't do them what is going to be damaged, what are

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1 the ramifications. They turn in their priorities and
2 then we sort through them and try to be equitable
3 throughout the different districts, at the same time
4 trying to address those most critical needs first. So
5 that's how we come up with the list, and we present it
6 here.

7 DEPUTY DIRECTOR GREENE: And in this particular
8 case, actually, Commissioner Brissenden, much of it
9 comes to a health and safety issue. When we've got
10 issue with restrooms where there's actually some
11 leakage occurring, that you raised earlier, but where
12 there is some leakage occurring, we need to address
13 that issue. Where we have issues with vehicle
14 maintenance and wear and tear and also in terms of
15 cleaning the vehicles and where the runoff waters are
16 going, we need to make sure that we act within the
17 parameters of the Clean Water Act and make sure that
18 we're proactive in that.

19 And then as we look at health and safety of
20 being able to provide enough rangers on the ground, at
21 Ocotillo Wells if we don't have the mechanism by which
22 to house the individuals, we run into issues, and at
23 this point in time, we have run into those to be able
24 to provide residence where they could come when they're
25 there for the period of time they're visiting.

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1 COMMISSIONER BRISSENDEN: So there's no normal
2 screening. It's more of a subjective process once the
3 projects get to you?

4 DEPUTY DIRECTOR GREENE: Yes, as they come
5 through, it is.

6 TERRY HARPER: We also -- along with that, when
7 these projects come in, and, of course, they've been
8 prioritized by each one of the district
9 superintendents, we also have a team that goes out in
10 the field and actually goes to actually -- we go out
11 and we walk these projects, and we take a look at them.
12 We ask all kinds of questions. We also invite another
13 part of the State Park systems, the Northern Service
14 Center, who is our architectural and engineer section
15 to join us. And they're really the ones who put
16 together the estimates that you see attached to these
17 projects today because they're the professionals.
18 They're the guys who keep up on the current costs of
19 these things.

20 COMMISSIONER THOMAS: Question: How do we
21 decide what is minor capital outlay and major capital
22 outlay? As I understand the budget, there is only one
23 line item, capital outlay. How do you divide them up?

24 CHIEF JENKINS: It's a basic break line. The
25 minor capital outlays are simply those that are

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1 \$500,000 or less.

2 COMMISSIONER THOMAS: And you're not splitting
3 any invoices here, are you?

4 CHIEF JENKINS: No. I believe that was
5 mentioned in the audit.

6 COMMISSIONER THOMAS: Right. And that's why we
7 have -- one \$499,000, and one 450,000. Let me ask the
8 \$64 question for us, or for me.

9 Did the Coastal Commission review, A, and
10 approve, B, the three capital outlay projects? It's
11 the only one that's on the coast, I believe.

12 TERRY HARPER: Currently we've scheduled a
13 meeting with the County of San Luis Obispo for permit
14 review for those three projects, and that will be
15 happening in January. The process in our county from
16 the local coastal plan is the county has a permitting
17 authority. If the permit or the outcome is appealed,
18 then it would go before the Coastal Commission.

19 COMMISSIONER THOMAS: Have you solicited any
20 review by the Coastal Commission?

21 TERRY HARPER: No, we haven't.

22 CHAIR SPITLER: So we're being asked to approve
23 projects that haven't been permitted?

24 ANDY ZILKE: Obviously contingent on approval.

25 CHAIR SPITLER: I'm sorry, could you state your

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1 name for the record?

2 ANDY ZILKE: Andy Zilke.

3 CHIEF JENKINS: In answer to your question, yes,
4 we're asking you to approve the funding so that we can
5 proceed with the permitting process with the assumption
6 if we get a permit, we will actually be able to
7 complete the project.

8 COMMISSIONER THOMAS: Usually you get your
9 permits first, then you go to the bank, as I remember
10 when I built a house last. You got plans, and then a
11 permit, and then you go to the bank, and they say,
12 yeah, I'll give you a mortgage, you really got a
13 project here. I think the state operates the same way
14 from the last I looked.

15 But anyway you anticipate -- if this matter was
16 continued, would you be able to get some assurance from
17 the Coastal Commission that this is a reasonable
18 project, and we didn't -- we wouldn't be approving
19 something that was controversial in advance?

20 TERRY HARPER: Sure, I don't feel that would be
21 a problem.

22 COMMISSIONER THOMAS: Is there any sense that
23 this is controversial?

24 TERRY HARPER: Not at all.

25 COMMISSIONER PRIZMICH: The project again is?

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1 COMMISSIONER THOMAS: Permanent restroom.

2 COMMISSIONER PRIZMICH: A toilet.

3 COMMISSIONER THOMAS: But remember, where there
4 were temporary and no permanent facilities on the
5 beach, building permanent restrooms on the beach, which
6 might be real controversial.

7 TERRY HARPER: If I could address those, we are
8 installing these restrooms next to permitted restrooms.

9 COMMISSIONER ANDERSON: There are permitted
10 restrooms.

11 COMMISSIONER PRIZMICH: That's what I thought.

12 COMMISSIONER THOMAS: See, we don't have
13 anything to work with.

14 CHAIR SPITLER: Well, I'll address a few
15 comments here. You know, doing these -- addressing
16 these cap outlays right on the heels of the Commission
17 meeting provides a, you know, interesting juxtaposition
18 on the process that the Commission goes through to
19 approve these, whereas the cooperative grants and -- or
20 grants and cooperative agreements are run through a
21 very rigorous application process, there is a very long
22 and detailed application, there is a scoring system,
23 and a criterion scoring system for each grant. For
24 these items which total \$1.9 million, the Commission is
25 being asked to approve them with nothing more than a

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1 paragraph or two on each.

2 I mean if these were all applications for the
3 grants program, they would be soundly rejected as being
4 insufficient. I can't find any way to rate these
5 projects compared to other priorities that we have for
6 the grants program and the overall program
7 expenditures. I can't find a way to score these
8 highly. I actually looked at the first project, the
9 shop parking lot repaving at Hungry Valley and just
10 addressed each of the criteria for development projects
11 that we've utilized for grant applications for
12 development projects in the past two days, and I
13 realize this is a different system, but just to give me
14 at least some framework for looking at this, and I
15 scored it as a five, zero, ten, zero, ten, zero for a
16 total score of 25, which would give it a funding level
17 of zero.

18 And, you know, looking at just the pressing
19 needs that we've had over the past few days and looking
20 at these projects, you know, I just find it really hard
21 to find some justification for spending this kind of
22 money for these projects, not to say that they don't
23 have value, but comparative value against the other
24 projects that we've been considering for the past two
25 days, I can't score these favorably. I just have a

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1 hard time supporting any of these, save perhaps the
2 Long Canyon Hill restoration project.

3 DEPUTY DIRECTOR GREENE: Chairman Spitler, and I
4 think if that is something that you're looking at,
5 certainly having approved minor cap outlay projects for
6 as many years as the Commissioners have been on the
7 Commission, the format has never been requested that we
8 do it in any way different than what has been done in
9 the past. If that is certainly something that the
10 Commission would like to be addressed, I think that
11 would certainly be something that we would be able to
12 look into. But I think it also would be disappointing
13 at this point in time to right now expect that we would
14 be able to change something to accommodate a system
15 which is very different and traditionally has been very
16 different.

17 CHAIR SPITLER: I understand that. I think
18 there are going to need to be some changes here to
19 provide a little bit of parity with the grants program
20 because we're being asked here to fund almost \$2
21 million with just a paragraph or two on each, whereas
22 grant applicants, as you know, run thousands and
23 thousands of pages and the very complex scoring system.

24 You know, beyond that, I understand that that
25 system hasn't been utilized for minor cap outlay.

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1 Again, I think it will need to be in the future, but
2 using any subjective criteria, I just can't find a way
3 to rank these projects favorably compared to other
4 program needs, particularly some of these we've heard
5 over the past few days.

6 CHIEF JENKINS: I think what you're seeing in
7 the disparity of the information and the criteria
8 you're trying to apply is the grants program is
9 designed to add benefit to already existing operational
10 programs. Where within the SVRA, this is the program.
11 It's not a grant that's adding to the normal day-to-day
12 operations. And so you're trying to apply that same
13 criteria where we're looking at that unique or that
14 outstanding feature where we want to give money to a
15 program that's already funded and add something on top
16 of that program.

17 CHAIR SPITLER: I understand what you are
18 saying, and I'm not saying that I would base the
19 decision here solely based on the grant application
20 criteria because that's a separate program with
21 separate standards. What I am saying, though, is that
22 I can't find any way to balance these projects
23 favorably against other pressing funding program needs.

24 DEPUTY DIRECTOR GREENE: Could you elucidate on
25 what those other funding program needs are as it

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1 pertains to our minor capital outlay projects?

2 CHAIR SPITLER: Like the auditor's described
3 with a shared overall vision of the program, I don't
4 just single out one separate item to compare within. I
5 think you need to look overall at the program and the
6 overall program needs. So that's the way that I
7 evaluate funding requests before the Commission.

8 Commissioner Anderson.

9 COMMISSIONER ANDERSON: Yeah, I would ask a
10 question. Mr. Spitler, what would you imagine would --
11 if these are not -- if these are not funded, what would
12 you expect might happen to this 1.9 million?

13 CHAIR SPITLER: That would be a question for
14 staff.

15 CHIEF JENKINS: That money would revert back to
16 the trust fund.

17 COMMISSIONER THOMAS: Come back as funds, cycle
18 after the Division gets implemented.

19 COMMISSIONER ANDERSON: So this is not related
20 to any legislative budget priorities or anything?

21 COMMISSIONER THOMAS: No, that may be the issue.
22 How is it related to the legislative budget? How does
23 it fit into the capital outlay program that we're
24 supposed to have a plan and a report on? How does it
25 fit with what we're doing under the mandated series of

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1 reports and shared vision that the auditor and the
2 legislators have told us to produce by July 1st of
3 2005? This is just another piecemeal program element
4 that gets presented to us without a mooring, and that's
5 its problem.

6 COMMISSIONER PRIZMICH: Well, I think Deputy
7 Director Greene had made an excellent point in that
8 this is the way -- not to say that it always will be
9 done, but this is the way it always has been done.
10 There's been no request to do anything any differently
11 here, and I'm a little bit concerned that we're going
12 to penalize these projects that I think in all
13 expectation these individuals figure they were going to
14 move forward without much of a hitch. But it concerns
15 me that we completely revamped a scoring criteria
16 system completely and wholly just not too long ago and
17 moved forward with that. Yet we're not willing to move
18 forward with something that these individuals expect to
19 have done.

20 COMMISSIONER THOMAS: The Legislature dinged us
21 for splitting invoices, and if you put the two or three
22 programs together in Oceano Dunes, we've now
23 exceeded -- it's now major cap outlay, and you could be
24 criticized again for splitting invoices.

25 DEPUTY DIRECTOR GREENE: Commissioner Thomas, I
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1 think you're mixing apple and oranges, and that we're
2 talking about -- those are contract issues which again
3 were done in a previous administration, have not been
4 done in this administration. We've made every effort
5 to address those issues. So I would just -- this is
6 not something where we are looking at contract
7 splitting of these proposed projects.

8 CHAIR SPITLER: Thank you. Well, I -- and,
9 again, my concern is not contract splitting. My
10 concern is just the amount of funding and the
11 importance of priority of these projects compared to
12 other pressing program needs.

13 So for the sake of discussion, I'll go ahead and
14 make a motion to move this process forward. I'll move
15 the Long Canyon Hill restoration at \$183,000 and the
16 rest of the items at zero.

17 COMMISSIONER THOMAS: Second.

18 CHAIR SPITLER: Discussion.

19 COMMISSIONER ANDERSON: I don't think I would
20 agree with that because I believe that the needs that
21 I've seen at least at Hungry Valley are sufficiently
22 pressing for both the restrooms and the parking lot
23 repaving. I've heard and am familiar with the
24 residential area development at Ocotillo Wells, that
25 one I'm familiar with.

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1 I guess I would rank the vehicle storage and the
2 wash RAC as a lower priority, and I might say please
3 come back with more information on those. But the
4 restrooms, the parking lot, the hill restoration, and
5 the residential area I would consider appropriate for
6 funding.

7 COMMISSIONER THOMAS: And I would also add, we
8 had a solar policy through this residential development
9 where we're going to implement all new structures with
10 solar electric. That's not even mentioned.

11 DEPUTY DIRECTOR GREENE: Commissioner Thomas, I
12 believe that was raised by you a number of years ago.
13 Since that time, all of our minor outlay projects,
14 where solar can be used, have been moved forward with
15 it. So we took that direction at that time.

16 COMMISSIONER THOMAS: It was actually a policy
17 that we voted on as a Commission, and now we have a new
18 proposal here that we're being to asked to vote on a
19 facility that has no solar -- actually had propane and
20 power.

21 CHAIR SPITLER: Okay. We have a motion and a
22 second. Is there more discussion?

23 Sandy, could we do a roll call vote, please?

24 MS. ELDER: This was for Long Canyon and zero
25 for the rest?

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1 CHAIR SPITLER: That's correct.
2 MS. ELDERS: Anderson.
3 COMMISSIONER ANDERSON: No.
4 MS. ELDER: Brissenden.
5 COMMISSIONER BRISSENDEN: Aye.
6 MS. ELDER: Spitler.
7 CHAIR SPITLER: Aye.
8 MS. ELDER: Thomas.
9 COMMISSIONER THOMAS: Aye.
10 MS. ELDER: Prizmich.
11 COMMISSIONER PRIZMICH: No.
12 CHAIR SPITLER: Okay. Motion carries. Thank
13 you.
14 COMMISSIONER BRISSENDEN: Can I suggest
15 something, Chair? That they bring these back without
16 prejudice at the next meeting so that we can review
17 these with a little more detail.
18 DEPUTY DIRECTOR GREENE: Commissioner
19 Brissenden, can you expand upon what you view as
20 prejudice in these, please?
21 COMMISSIONER BRISSENDEN: Without prejudice.
22 DEPUTY DIRECTOR GREENE: So the prejudice is
23 what? Just so I am clear in direction to be able to
24 give to staff.
25 COMMISSIONER BRISSENDEN: That there was

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1 incomplete information vis-a-vis these proposals.

2 DEPUTY DIRECTOR GREENE: But the information
3 that is okay for the restoration project was
4 sufficient?

5 CHAIR SPITLER: Commission Brissenden, I think
6 we probably don't want to go down that road at this
7 point.

8 COMMISSIONER THOMAS: Well, I mean it's always
9 the opportunity to reconsider matters. And if somebody
10 provides a lot of information that the Commission, a
11 commissioner, or any commissioner deems to be of
12 sufficient merit and wants to bring it back, there's a
13 process. That's all I think you were saying.

14 CHAIR SPITLER: Okay. Commissioner Anderson.

15 COMMISSIONER ANDERSON: Let me ask one further
16 clarification. If your motion included both a yes on
17 the Hill restoration and a no on the others, then I as
18 a person voting in the minority am not entitled to
19 bring back the others. Whereas if the motion is only
20 to approve the Long Canyon Hill restoration and is
21 silent on the others, then I can bring back the others.

22 CHAIR SPITLER: The motion was for full funding
23 for the restoration and zero funding for the remainder.

24 COMMISSIONER THOMAS: People will work on this.

25 CHAIR SPITLER: Is there more discussion on

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1 these items?

2 Any other orders of business the Commission
3 needs to undertake before we adjourn?

4 Can we get a motion to adjourn?

5 COMMISSIONER THOMAS: Motion to adjourn.

6 CHAIR SPITLER: Is there a second?

7 COMMISSIONER BRISSENDEN: Second.

8 CHAIR SPITLER: Discussion? All those in favor?

9 (Commissioners simultaneously voted.)

10 CHAIR SPITLER: Meeting is adjourned. Thank
11 you.

12 (Meeting adjourned at 4:45 p.m.)

13 --oOo--

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