

2007-27-01

STATE OF CALIFORNIA

OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION

REGULAR MEETING

Saturday, January 27th, 2007

9:06 a.m. to 3:06 p.m.

held at

Red Lion Hotel
1401 Arden Way
Sacramento, California

Commissioners Present: Anderson, Brissenden, McMillin,
Priznich and Thomas
Commissioners Absent: Spittler and Willard

Reported by CHERYL L. KYLE, CSR No. 7014

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CHAIR BRISSENDEN: Good morning, we are back from recess. This is our third day of Commission hearings, and today is sort of a study hall day. And I will let our Deputy Director describe the day ahead of us and introduce the consultants who will be providing us information on the Fuel Tax Study. So welcome back for many of you. Thanks for persisting through these three days. We appreciate it.

DEPUTY DIR. GREENE: Good morning, Commissioners, members of the public. I'm delighted that everybody could be here today. I know that there has been -- this study is something that everybody has waited for quite some time to receive, actually going back to 1999. So I would just like to take a moment before we begin to introduce Lou Browning, who is the main contractor on this project. He has been a pleasure to work with, and I know in very difficult circumstances. I think we've gone through many changes and experienced many challenges with this project. Let me just give you a little bit of background.

The study began in 1990, actually when \$400,000 was appropriated by the Legislature to move forward on this study. We've been through a variety of

712

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1 challenges, legal challenges, new RFPs, on and on and
2 on. Finally, in December 2001, the a third request for
3 proposal was issued. The contract was awarded and then
4 cancelled due to a protest, and then a reappropriation

5 of funds, which occurred in 2002. Finally in late
6 2002, another RFP was issued. And finally April of
7 2003 the contract was awarded.

8 So here we are today a number a years later, and
9 so I just would like to thank everybody for their
10 patience. I think as you hear in the study, it's a
11 very thorough study, and we will be able to understand,
12 and Lou will be able to describe why we've had some of
13 the delays, and just really the magnitude of the study.

14 So I think that as we gather here today, I
15 wanted to present this to the Commission to make sure
16 that you have the opportunity really to start off this
17 process which, for the administration, will be a series
18 of briefings around the state to get the public input.
19 And it really starts with the Commission to be able to
20 provide you the opportunity to hear this today and
21 provide your input and ask the questions that I think
22 so many people have. And so I would just like to turn
23 it over to Lou and say thank you, Lou.

24 LOU BROWNING: Thank you, Daphne. It's been a
25 pleasure to work with you, as well. I had prepared

713

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1 this presentation based on the thought that at least
2 all of you have read the press release and maybe some
3 have read the executive summary of the report, if not,
4 some more of the report. If you actually made it
5 through the statistical analysis, you really get a gold
6 star here.

7 In saying that, I think one of the points in the

2007-27-01

8 press release that was brought up was that we were
9 advocating a 50 percent drop in tax revenues. We're
10 not doing that. All we're doing is saying that there
11 are significant flaws in the existing model -- and now
12 the computer got into the unlock -- okay. Someone is
13 going to have to log on for me.

14 There were significant flaws in the existing
15 model which was based on the 1990 study that caused it
16 to over predict the amount of fuel that Californians
17 use when they recreate off-highway on public lands.

18 Now, first I wanted to go briefly into the
19 methodology, then I'm going to sort of work backwards
20 and give people the results and explain why the
21 differences are, and then go more deeply into the
22 methodology.

23 Basically, the study included two surveys. The
24 first one was a random digit dial telephone survey, we
25 called, interviewed people over the telephone, over

714

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1 15,000 households in California. This occurred between
2 July 2003 and December 2003.

3 COMMISSIONER McMILLIN: Can I ask a question,
4 Mr. Chairman? Are we going to listen all the way
5 through the presentation and Q and A at the end?

6 MR. BROWNING: You can ask questions.

7 COMMISSIONER McMILLIN: All I've read is the
8 executive summary and the press release, and then your
9 opening statement basically said, I believe, there were
10 major, major flaws in the first gas study. Is that an

11 assumption coming into this?

12 MR. BROWNING: I'm saying there are major flaws
13 in the current model, and I will explain that as we go
14 along.

15 CHAIR BRISSENDEN: Just a procedure question,
16 Daphne and I talked about this. I think we will
17 reserve questions from the Commission through your
18 presentation, and then we will have public forum at the
19 very end where the public can ask questions of the
20 presenters, if that's all right with everyone?

21 DEPUTY DIR. GREENE: And, Lou, if you might
22 introduce the two individuals to your right.

23 MR. BROWNING: Sorry, about that. Tim McLarney
24 of True North Research, Tim did the surveys. And
25 Jonathan Cohen, from ICU International, as well as

715

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1 myself. Jonathan is our statistician and did all of
2 the statistical analysis.

3 Okay. To move on, basically the component one
4 survey was a random digit dial telephone survey. We
5 used that, the data we obtained from the 15,000 plus
6 households to estimate the percent of households that
7 owned an OHV. Now, when I talk about OHVs, pretty much
8 through this presentation, I'm talking about non-street
9 licensed vehicles, such as motorcycles, ATVs,
10 snowmobiles, dune buggies, those sorts of vehicles,
11 versus street licensed vehicles, which I will call
12 street licensed vehicles. So when I use the term OHV,
13 even though I know Parks describes that as all vehicles

14 that actually go off-road, I'm really talking about the
15 vehicles that could be red or green stickered.

16 So we used that to determine the percent of
17 households that owned an OHV, the percent of households
18 that engaged in off-highway vehicle recreation in
19 either street licensed or OHVs in the population of
20 non-registered OHV.

21 We did a second survey after the first one where
22 we had written logbooks from over 15,000 California
23 vehicle owners between the period of April 2004 to
24 March 2005. And we did this over six waves of two
25 months each. We used the results from that study to

716

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1 determine the amount of gasoline Californians use for
2 off-highway vehicle recreation. So that's basically
3 the surveys.

4 So now I'm going to skip right to the results.
5 And the reason I'm doing this is they're pretty
6 shocking, and most of you already know that. So I
7 wanted to sort of talk about the results, and then
8 explain why the differences are there. And what we're
9 showing -- and these are annual gallons of gasoline
10 used by Californians when they recreate off-highway in
11 their vehicles -- or on their vehicles in the case of
12 motorcycles and those sorts of things.

13 So what we can see is -- actually, we're
14 predicting higher fuel use by street licensed vehicles
15 than the existing model calculates, but we're
16 predicting lower fuel use by registered OHVs or

17 non-street licensed vehicles, and significantly less
18 fuel use by non-registered or unregistered OHVs. And
19 the bottom line is that we predict that Californians
20 use approximately 151 million gallons of gasoline
21 recreating off-highway in their vehicles on public
22 lands, within a 16.8 percent margin of error within the
23 95 percent confidence interval. What you can see is
24 we're predicting 151. The existing model -- and when I
25 speak about the existing model, that's the current

717

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1 model that State Parks and Caltrans is using now to
2 calculate the amount of tax revenues. And it's based
3 on the 1990 study that Tyler and Associates did. So
4 the existing model is predicting approximately 316
5 million gallons.

6 Now, what do the statistics mean in laymen's
7 terms. Well, it really means that we're 95 percent
8 certain that the amount of fuel used by Californians in
9 off-highway vehicle recreation on public lands falls
10 between 125 million gallons and 176 million gallons.
11 That's the 16.8 percent, plus or minus. We're also 95
12 percent certain that the tax revenues generated from
13 those gallons falls between 22.6 million and 31.7
14 million. Now, really the sample size is really the key
15 determination of -- or part of the determination of the
16 margin of error. We would have to quadruple the sample
17 size to cut that margin of error in half.

18 Now, this sort of a graphical representation
19 showing the difference between our study and what the

20 existing model calculates, and the bar right here is
21 the error bar. And what you can see there is that in
22 no way makes up for the difference between what we find
23 and what the existing model calculates.

24 Now, why the large difference? First, our
25 survey showed a significant drop in the ratio of

718

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1 non-registered vehicles to registered vehicles from
2 what was found in 1990 by the Tyler study. Second,
3 there was a significant misrepresentation of vehicle
4 types by the existing model. Several of the vehicles'
5 classes were misrepresented, and we will go into that
6 as I get further into the presentation, and that's a
7 fairly significant effect. Also, the existing model
8 assumes that non-registered vehicles use fuel at the
9 same rate as registered vehicles on an annual average
10 per vehicle basis. So if a registered vehicle uses
11 five gallons per year, a non-registered vehicle would
12 also use five gallons per year. What we found is
13 actually it's about 60 percent less. We're finding
14 that that non-registered vehicle only uses two, versus
15 the five that the registered vehicles used.

16 Lastly, the average annual fuel use for
17 four-wheel drive street licensed vehicles we found to
18 be lower than in 1990, and I think that's mostly
19 because in 1990 when you bought a four-wheel drive
20 vehicle, you were using it particularly for off-road.
21 Now, people use them more for skiing and other uses
22 that weren't so prevalent in 1990.

2007-27-01

23 Okay. Let's talk about the existing tax
24 transfer model, and, again, this is the one that is
25 currently being used that's based on the 1990 survey.

719

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1 This is where the revenue comes from. Street licensed
2 vehicles, we see almost 80 million gallons of gasoline
3 for almost 26 million vehicles. That's 14.35 million.
4 Registered off-highway vehicles, there's about 790,000.
5 They use about 34 million gallons, and that's about
6 \$6.2 million in tax revenues.

7 In non-registered OHVs, the model is predicting
8 4.5 million of them that use 201 million gallons -- or
9 202 million gallons, and that's \$36.33 million in tax
10 revenues. The total of that is 56.88 million. And as
11 we can see, 64 percent of it is coming from this
12 non-registered vehicle category.

13 Now, let's talk a little bit about what the
14 existing tax transfer model is. It combines basically
15 two models. There is a vehicle count model, and that
16 uses the DMV data to determine the vehicle counts in a
17 given month for each vehicle type. And when I talk
18 about vehicle type, it's like a motorcycle or a
19 two-wheel drive vehicle, four-wheel drive vehicle,
20 cars, and so on. Unfortunately, this model hadn't been
21 updated since 1990. Now, that's a pretty significant
22 fact because, of course, a lot of the vehicles produced
23 since 1990 now are miscategorized, particularly
24 four-wheel drive street licensed vehicles, any model
25 that's been produced since 1990 that didn't exist back

720

1 then is characterized as a two-wheel drive vehicle.
2 Also, a majority of the ATVs are now being classified
3 as motorcycles and off-highway motorcycles instead of
4 as ATVs, and that's a very significant fact that we
5 will get into as we go along in the presentation.

6 The second part of the model is the tax revenue
7 model. First, this calculates the amount of
8 non-registered vehicle counts based on the registered
9 vehicle counts, and a non-registered to registered OHV
10 ratio which was established in the 1990s survey. It
11 also calculates fuel used upon using the vehicle count
12 model inputs and the vehicle use per month per vehicle
13 type estimates that were founded in 1990.

14 Since the non-registered vehicles were not
15 surveyed in the 1990 survey --

16 VICE-CHAIR ANDERSON: What I want you to do is
17 slow down. This is just a little more complicated to
18 read, just give us a minute.

19 CHAIR BRISSENDEN: Some of us are visual, some
20 of us are auditory.

21 MR. BROWNING: Yes.

22 VICE-CHAIR ANDERSON: I need processing time
23 here.

24 MR. BROWNING: There is a lot of information on
25 these slides.

721

2007-27-01

1 VICE-CHAIR ANDERSON: I'm sorry, I'm told that
2 there is a paper copy of this. I was attempting to
3 read rapidly.

4 MR. BROWNING: Yes, I think you guys were given
5 paper copies.

6 VICE-CHAIR ANDERSON: Okay. Thank you.

7 COMMISSIONER McMILLIN: Been given lots of
8 paper.

9 MR. BROWNING: I can imagine.

10 And since the non-registered vehicles were not
11 surveyed in 1990, the model --

12 COMMISSIONER PRIZMICH: Could you hold on just a
13 second. She's still getting the paper.

14 VICE-CHAIR ANDERSON: Found it, thank you.

15 MR. BROWNING: You ready?

16 VICE-CHAIR ANDERSON: Yes.

17 MR. BROWNING: Since the non-registered vehicles
18 were not surveyed in the 1990 study, the existing tax
19 transfer model assumes that the fuel used by
20 non-registered vehicles in gallons per vehicle per
21 month is the same as for registered vehicles. And we
22 found that to be different.

23 Okay. Here is sort of the bottom line on the
24 non-registered versus registered ratios. The existing
25 model says that for every one registered off-highway

722

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1 motorcycle, there's 5.9 unregistered motorcycles out
2 there. What we found is there's only .6 off-highway
3 motorcycles unregistered for every one registered.

4 ATVs that were 2.5 in the existing model, we're finding
5 .5. Four-wheel, now four-wheel is dune buggies, sand
6 rails, basically unlicensed street vehicles, golf
7 carts, and so on, the existing model assumes there is
8 7.6, we found there is 2.7 -- or 2.8. Snowmobiles they
9 found seven we found .45. And other they found -- they
10 actually guessed at 19 because they didn't have any
11 significant data to determine otherwise. We found
12 3.74. So we are finding significantly less
13 non-registered vehicles than was found in the 1990
14 survey on a non-registered to registered basis.

15 The bottom line of this is that because the
16 existing tax transfer model currently figures that most
17 of the vehicles are motorcycles, off-highway
18 motorcycles, on an overall basis we're seeing
19 approximately six non-registered vehicles -- OHVs for
20 every one registered in the existing model. We're
21 finding about ten times less.

22 Now, here are some details on the existing fuel
23 tax model to see sort of where the revenue is coming
24 from. And what you can see is two-wheel drive street
25 licensed vehicles we're getting about nine million of

723

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1 the 57 million; four-wheel drive, we are getting about
2 3 million; off-highway motorcycles that are registered,
3 5.5 million. And the significant part is the
4 non-registered off-highway motorcycles, almost 33
5 million of the 57 million. ATVs are sort of a small
6 part. And the 32.7 million is based on this 5.9 to one

7 ratio.

8 Let's sort of look at what reality is versus how
9 the vehicle count model calculates numbers. And what
10 we did is we looked at a snapshot in time, October of
11 2004, and we compared what the vehicle count model is
12 predicting versus what we actually found in the DMV
13 database. And we meticulously went through the
14 database to identify the correct vehicle type on all of
15 the vehicles. We have a subcontractor, Robert Cenzer,
16 who is hired by a number of government agencies to go
17 through DMV data to interpret it correctly. California
18 Energy Commission uses him, Department of General
19 Services, State Parks also uses him, and we used him to
20 determine these vehicle counts.

21 What we found is that there's really about five
22 times the amount of four-wheel drive street licensed
23 vehicles as the vehicle count model is predicting.
24 And, again, this is because it's ignoring models
25 produced after 1990. The other major fact is that a

724

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1 good portion of the ATVs have been categorized as
2 off-highway motorcycles. As a double check, we called
3 the motorcycle industry and looked at their statistics
4 for 2003 for registered off-highway motorcycles in
5 California. They found 330,600, which is pretty close
6 to our number for 2004. And they also confirmed that
7 in the last ten years, because of the rapid increase in
8 ATV sales, that we have approximately a 50/50 mix of
9 ATVs and motorcycles.

10 Now, here shows a comparison of the vehicle
11 changes over time, what was found in the 1990 survey,
12 what the vehicle model now computes the vehicle counts
13 to be, and what we actually found by vehicle class.
14 And, again, you can see that the four-wheel drive
15 street licensed vehicles, we're finding a whole lot
16 more, and we're also seeing that ATVs have been
17 misclassified.

18 Now, what does all this mean. Well,
19 misrepresenting ATVs as motorcycles greatly increases
20 the non-registered vehicle counts because of those
21 ratios. The off-highway motorcycle ratio is 5.9, for
22 ATV it's 2.5. So by categorizing ATVs as off-highway
23 motorcycles, we get almost 1.4 million additional
24 vehicles that really don't exist because they've been
25 misclassified. So the model is actually computing $1.4 \frac{4}{725}$

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1 million additional vehicles that really aren't there.

2 Also, the model didn't account for
3 non-registered vehicles becoming registered vehicles.
4 All it did was look at the registered counts. So when
5 a non-registered vehicle became a registered vehicle,
6 all of a sudden the model said, hey, there are six more
7 non-registered vehicles out there. So it greatly
8 increased this amount of non-registered vehicles.

9 Now, here is sort of a graphical representation
10 to try and explain what all of this means. What we're
11 seeing here, the green one is the registered. So we
12 have one registered, and we have six unregistered

13 off-highway motorcycles. Now, we capture one of these,
14 and we force it to be registered. So now what we
15 should have is two registered motorcycles and five
16 unregistered. But what the model sees is the two
17 registered, and it says, hey, now there's six -- I mean
18 there's 12 non-registered. So all of a sudden we've
19 created seven additional vehicles that really don't
20 exist.

21 Now, the other factors that we found were fairly
22 significant in the non-registered gallons used and thus
23 the tax revenues generated from those, were the change
24 in non-registered to registered ratios. And, again,
25 the current model assumes there's almost six to one,

726

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1 six unregistered for every one registered. We're
2 showing approximately .63 unregistered for every one
3 registered, so it's dropped by a factor of ten. And
4 also we found that the fuel used for non-registered
5 vehicles is actually less in gallons per year per
6 vehicle than registered vehicles, and we actually found
7 it to be 60 percent less.

8 Now, what's this all mean as far as tax
9 revenues? Well, first of all, the ATVs counted as
10 motorcycles, that created, as I say, almost 1.4 million
11 vehicles, 72 million gallons. And by correctly placing
12 those in the right category, we lose about 13 million
13 of the 36.33 million that we had before.

14 The change in the non-registered to registered
15 ratio is going from six to one to .6 to one, was

2007-27-01

16 another \$20 million drop. And finally the fact that
17 non-registered vehicles use fuel at a lower rate than
18 registered vehicles was approximately a \$2 million
19 drop. So we lose about 35.2 million out of the 36.3
20 million, ending up with 1.1 million. So that's a
21 pretty substantial drop.

22 Okay. Why do we really think that
23 non-registered vehicles are less? Well, first of all,
24 once the 1990 study came out and people saw how many
25 unregistered vehicles were out there, enforcement was
727

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1 increased. And there is significantly more enforcement
2 in county, state parks and federal lands after the 1990
3 study. So they were actually catching people a little
4 more often and forcing them to register. Also, when
5 you buy a new bike or an ATV, the dealers now register
6 the vehicle for you. So that's a significant change.
7 It makes it a lot easier for those people who buy a
8 vehicle to have them registered.

9 Furthermore, to get a grant from the State Parks
10 program, you now have to enforce off-highway
11 registration as part of receiving the grant monies.
12 Many of the parks and some BLM lands and Forest Service
13 lands have set up checkpoints to check on vehicle
14 registration. And several areas have set up amnesty
15 programs with a DMV clerk on premises, so if people get
16 caught they can register their vehicle instead of
17 paying a large fine.

18 Okay. Let's move on to the registered OHVs. We
Page 16

19 saw with the non-registered, we lost about 35 million.
20 With registered OHVs, we also found less fuel use.
21 Part of this was due to the poor classification of ATVs
22 as motorcycles. In the 1990 survey, they showed that
23 motorcycles actually used more fuel than ATVs on a per
24 vehicle basis, and, therefore, recategorizing them as
25 ATVs we lose about eight million gallons or \$1.5

728

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1 million in tax revenues. And also we found differences
2 in average vehicle fuel use per vehicle, that amounted
3 to about 1.1 million. The total was 2.6 million out of
4 the 6.2 million, so we end up with 3.6 million in
5 revenue from the registered OHVs.

6 Not all is bad because on street licensed
7 vehicles we actually see an increase in tax revenues.
8 And really this is partly due to the way vehicles were
9 classified in the current tax model. As I say, many
10 four-wheel drive vehicles were classified as two-wheel
11 drive vehicles. Several of the heavier classes were
12 not dealt with in an accurate way. We tried to fix
13 that. And we also found that four-wheel drive vehicles
14 use less gasoline for recreation purposes on a per
15 vehicle per year basis than in 1990. And so, as I say,
16 the poor classification of DMV vehicles by DMV of the
17 vehicles in the current vehicle count model amounted to
18 almost 51 million gallons additional we found, an
19 additional \$9 million in tax revenue. The change in
20 fuel consumption reduced it about one million. So we
21 got a boost of eight million on 14.4 million, so now

22 we're at about 22.5 million from street licensed
23 vehicles. And out of the total of 27 million, you can
24 see this is a large part of the revenue now.

25 Okay. Now, I'm going to go into more detail on 729

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1 the methodology and how we came up with these results.
2 Again, this is a repeat of the second slide that I
3 showed on the first slide. Again, we did two surveys.
4 We did a random digit dial survey, and then we did a
5 logbook survey. And so I'm going to go into each of
6 these and explain them in more detail.

7 Now, the random digit dial program or study, we
8 actually did what we call strategic oversampling. And
9 really what we were trying to get at here was
10 off-highway vehicles, and, again, these are
11 motorcycles, ATVs, et cetera. We wanted to get a
12 significant population of those because we really
13 wanted to go after the unregistered ones and see how
14 much fuel they used, and we needed a significant sample
15 of those.

16 Now, in the typical population, there is about
17 six percent of households that actually own OHVs. So
18 you have to do a lot of sampling to sort of get at
19 them. And so we split the sample into two samples.
20 The first, in the main sample, we just did random digit
21 dial. We did do oversampling in some counties or
22 others, like Alpine where there's more OHVs per
23 household than say L.A. We oversampled beyond what the
24 population would tell us or the households would tell

25 us in Alpine County, and undersampled in L. A. because 730

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1 in L. A. there's a lot of households, we can still get a
2 significant sample in L. A. without doing a proportional
3 sample based on households.

4 So in our main sample, we did a geographic
5 oversample for areas where there were more OHVs, in
6 counties where there were more OHVs based on
7 registration information. We did 14,276 random digit
8 dial phone interviews. Of that, we found 13,234
9 households that didn't own an OHV, and 1,042 which did
10 own an OHV.

11 For the rest of the sample, we called people and
12 asked them whether they had an off-highway vehicle in
13 their household. They said no, we terminated the
14 interview. They became the screen outs. If they said
15 yes, then we went through the full interview. We
16 sampled 13,679. Of that, we found 1,415 households
17 that actually had OHVs, and we screened out 12,264.
18 Those are the ones that we terminated the interview
19 once they said, "We don't own an OHV."

20 CHAIR BRISSENDEN: Just for transparency, I was
21 one of those in Alpine County that you did -- I
22 screened myself out.

23 DEPUTY DIR. GREENE: With an unregistered
24 vehicle?

25 CHAIR BRISSENDEN: None of my vehicles are 731

1 registered, neither is my phone. So I don't know how
2 they got a hold of me.

3 MR. BROWNING: We also used incentives in the
4 second interview, and we told them about it in the
5 first set. And I'll go into that when we get into the
6 second set. And it's interesting you say that you were
7 called. And you also ask, well, why did you get called
8 with an unlisted number. The way random digit dial
9 works is we get a block of numbers. We take a block of
10 numbers. We start with the area code and the prefix,
11 and the next two numbers; is that right, Tim?

12 TIME McLARNEY: I'll save you here. The way
13 random digit dial works is we're essentially choosing
14 phone numbers at random from the possible, as Lou said,
15 prefixes or exchanges that service an area. So the
16 fact that your own number was not listed, that doesn't
17 matter to us because we're choosing numbers at random.
18 So that's how we were able to catch you.

19 The nice thing about random digit dial, versus
20 say doing a listed directory, is with a listed
21 directory there is known biases based on socioeconomic
22 factors, for example, who lists their number and who
23 does not. Moreover, if you work off a listed
24 directory, there are problems with, say, new
25 developments or people moving. You're not going to

732

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1 pick them up in a listed directory because a listed

2 directory is to some extent dated. So by using the
3 random digit dial, we're giving all phone numbers an
4 equal probability of being selected into the sample.
5 That's how you were the lucky winner.

6 CHAIR BRISSENDEN: But nobody sent me anything.
7 I just wanted to bring that up for transparency sake.
8 It was curious to be interviewed, and I told them that
9 I probably shouldn't be part of the survey.

10 MR. BROWNING: There were unfortunately only 400
11 households in Alpine County. It's not unlikely that
12 you would be picked.

13 DEPUTY DIR. GREENE: John, I think Karen
14 Schambach was actually called, as well.

15 MR. BROWNING: In the telephone interviews for
16 component one, we first asked them the number of
17 non-street licensed vehicles they owned. And for each
18 one, we asked them the model year and vehicle type of
19 that vehicle, and whether they used that vehicle
20 off-highway in the last year for recreation.

21 We also asked them the number of street licensed
22 vehicles they had. And, again, we asked the model year
23 and vehicle type for each vehicle and whether they used
24 that vehicle for off-highway recreation in the last
25 year. We asked for their name and address. In most

733

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1 cases we got it, although there were people that
2 refused that information. And we also asked the number
3 of telephone lines they have that are non-fax, non-cell
4 phone. And the importance of this, of course, it's

5 much more likely to call someone that has two phone
6 lines than one phone line, so you have to correct for
7 that in the sample.

8 We completed 15,691 interviews. Of that, 943
9 turned out to be OHV owning households, which turned
10 out to be six percent. In 1990, they found 5.7
11 percent, so there's an increase in OHV owning
12 households since 1990.

13 Of the 15,000, again, we found 2,097 drove
14 off-highway in either their street licensed or OHV in
15 the last 12 months, which turned out to be 13.36
16 percent. 446 drove rental vehicles; 1,845 drove their
17 own vehicle. Of the 2,000, 1551 drove on public lands
18 for recreation, and that's really the measure we were
19 after. We found 9.88 percent. In the 1990 study, they
20 found 14 percent.

21 We feel that the 1990 study was somewhat
22 overinflated because of the confusing definition of
23 public lands in the 1990 study, and we believe this led
24 to higher numbers than should have. But overall,
25 there's probably been a drop in the percent of vehicles

734

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1 that have been used for recreation in comparison with
2 the 1990 study.

3 Now, we also used the component one interviews
4 to determine our non-registered to registered ratios.
5 And what we found from the component one telephone
6 interviews is we got data on 2,457 households that
7 owned a total of 5,204 off-highway vehicles. When we

8 looked into those vehicles, we found 176 of those were
9 street licensed, that they claimed they were OHVs.
10 They were really street licensed vehicles. 192 were
11 used on closed course only. The tax revenue law says
12 State Parks can't get money for vehicles that are used
13 for competition on closed course. 37 of these vehicles
14 were not recreation vehicles. We found a lot of farm
15 tractors and dump trucks, bulldozers, and an ambulance.

16 COMMISSIONER THOMAS: What are you doing up
17 there in Alpine County; driving your tractors around?

18 MR. BROWNING: Now, in determining
19 non-registered vehicles, the basic measure we used was
20 we used their name and address to look them up in the
21 DMV database. If we found that person, but couldn't
22 find the vehicle that they claimed they owned, we
23 considered that vehicle to be non-registered.

24 Now, remember the data gathered, we asked for
25 the vehicle type and the model year, and the name,

735

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1 address and telephone number of the individual. To
2 match, we took snapshots from the DMV data for
3 October 2004, April 2005, and October 2005 to identify
4 these people. And we got both street licensed and
5 non-street licensed red and green sticker
6 registrations.

7 Now, we went through a fairly significant
8 matching process, and this took a lot of time to sort
9 of go through and decide is that vehicle registered or
10 not. Because what people tell you is not always what

11 it is. The first category, if we found the vehicle
12 type and model year, we considered it an exact match,
13 and we're terming this exact. If we found the same
14 vehicle type, but the model year was within three to
15 five years, depending on the age, as it got older, we
16 stretched that out a little, we considered that a near
17 match. The person just really did not know their model
18 year, which is pretty common. Even among street
19 licensed vehicles, you would be surprised how many
20 people don't know what model year vehicle they have.

21 We found the same vehicle type but a newer model
22 year, outside the three to five year, then we
23 considered it a replacement vehicle. They sold off
24 their old vehicle, they replaced it with a newer
25 vehicle. If we found a different vehicle type than the
736

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1 one claimed, but the same or near model year, we
2 considered that the person on the interview wasn't
3 quite sure of what the vehicle type was. You know,
4 they said it was a motorcycle, it turned out to be an
5 ATV. And maybe they thought that's the term for an
6 ATV. And, remember, this is the general public, not
7 necessarily the enthusiast.

8 Also, if in reviewing the DMV data set, we found
9 for a given household that there were identified -- we
10 found vehicles that were not identified in the
11 telephone vehicle, we added those vehicles to the
12 household. So if they said they had three motorcycles,
13 and we found four, we added one to that household.

2007-27-01

14 Finally, if the vehicle was not found, but we found
15 another vehicle within that household, we considered
16 the vehicle not found to be a verified non-registered.

17 So here's sort of the numbers of the matching
18 process. The exact, we found 895; the near, 578; 334
19 were replaced; 40 were mistaken; we added 306; we
20 verified 1,141. We found 370 that gave us bad
21 addresses, either incomplete or they just -- you know,
22 they didn't exist when we tried to look them up on Map
23 Quest or Google, and the address really just didn't
24 exist or they gave us just their first name or
25 something like that. And 1,135, we could not find at
737

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1 all in the database. Those were eliminated from the
2 consideration.

3 So the results, we then weighted the results we
4 had in the component one survey based on the
5 oversampling in some counties, and the number of phone
6 lines, and the fact that we oversampled in the
7 strategic oversample for OHV owners. So we corrected
8 for all of those and determined weights for each
9 response, and used those weights to determine the
10 registered versus non-registered ratios.

11 195 of those vehicles, as I said, were closed
12 course only, those were eliminated. 1,135 vehicles, we
13 just couldn't find in the DMV database, either they
14 gave us -- either their name didn't exist or the person
15 we interviewed wasn't the owner of the vehicle. We
16 just didn't know what those were. They could either be

17 registered under a different name, they could have
18 changed registration addresses, a number of things. We
19 just couldn't make that determination, so we just
20 eliminated those from consideration. Again, if a
21 household could not be found in the DMV data set, we
22 just didn't count it.

23 Now, in the matching, we really meticulously
24 looked for misspellings. We tried to see, hey, you
25 know, is that name spelled a little differently, and we
738

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1 looked for those different spellings. We looked for
2 the same person at the same street number, but maybe
3 the street name was misspelled. And when you use
4 databases, really databases want exact matches, and so
5 these sort of things you really have to start looking
6 for, those things that don't exactly match, because you
7 get a lot of people that can't spell their own name or
8 their own street name. It's funny, but unfortunate.

9 COMMISSIONER THOMAS: Or the data entry was
10 wrong.

11 MR. BROWNING: Also, we looked for the same
12 person at a different address. If they had a P.O. --
13 you know, if the vehicle was listed at a P.O. box and
14 we had their street address, we looked to see are they
15 in the same city or a near city, and we did that with
16 unique names, you know, Smith it would be hard to say
17 is that the right Smith, but a name that is more
18 unique, we were able to do that.

19 We also used the reverse phone directory.

2007-27-01

20 Remember, we had the telephone numbers because we
21 called them. So we used a reverse phone directory
22 whenever possible to correct people's misspellings in
23 both street names and their own names.

24 Now, here we're showing what the existing model
25 predicted both in 1990 and 2004 and what we actually

739

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1 found, and these are in thousands of vehicles. As you
2 can see, the big changes in off-highway motorcycles,
3 the existing model for 2004 was predicting 3.9 million.
4 We're seeing about 210,000, so that's a big drop. ATVs
5 and most of the other categories we're seeing less
6 vehicles than the model is predicting than we were
7 seeing in 1990. And, again, a lot of that is because
8 enforcement has increased. And so instead of the 4.3
9 million vehicles that the tax -- the existing model
10 predicts, we're seeing about 450,000.

11 And when we looked in the DMV database, actually
12 222,000 of those are what are considered inactive.
13 They are vehicles that were once registered but aren't
14 currently registered. So that's saying about half of
15 those vehicles at least we were getting registered
16 once, and they're still in the database. DMV keeps
17 them for about five years, and then purges them, unless
18 they got tickets or something else. So in the last
19 five years, about half of the vehicles had at least
20 been registered at one time.

21 Now, the component two survey was the written
22 logbook survey. We did sort of a two-prong approach

23 here. We sent people invitation letters just to say
24 are you interested in participating in this study.
25 We've got rather substantial incentives for you to do 740

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1 that. And the incentives were, we did six waves of
2 two-month periods. And for each wave, we awarded one
3 \$5,000 prize, and five \$1,000 prizes. For all waves,
4 we awarded a \$25,000 grand prize. So there were pretty
5 substantial incentives for people to participate, and
6 we got a pretty good response because of that.

7 CHAIR BRISSENDEN: That's why I chose not to
8 participate.

9 MR. BROWNING: And, unfortunately, you probably
10 wouldn't be eligible under the rules. We did carefully
11 screen those that ended up winning the prize to make
12 sure they weren't State Park employees, or part of the
13 stakeholders group, or ICF employees and so on.

14 So as I say, we sent out letters saying would
15 you like to participate, and here are the incentives,
16 send us back this quick form that you fill out with
17 your telephone number. People sent those back, and
18 then we used those to send diaries or logbooks to
19 record their fuel use over a two-month period.

20 And the prior model had five categories of
21 street licensed vehicles. They had regular, which was
22 cars and station wagons. They had a two-wheel drive
23 category, which was two-wheel drive SUVs, trucks, and
24 vans. They had a four-wheel drive category, which was
25 four-wheel drive SUVs, trucks and vans. They had a

741

2007-27-01

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1 motorcycle category and then other category. We
2 expanded that to 11 categories. We had cars, two- and
3 four-wheel drive; SUVs, two- and four-wheel drive;
4 trucks, two- and four-wheel drive; vans, two- and
5 four-wheel drive; street licensed; and dual sport
6 motorcycles; and other. And we computed fuel use for
7 each of those categories. Because we believe that
8 those are distinct categories and they're used slightly
9 different than each other.

10 Here is the mapping of all of our categories to
11 the 1990 survey. Again, our car, two-wheel and
12 four-wheel is what the 1990 study called regular.
13 SUVs, trucks and vans that were two-wheel drive are
14 considered two-wheel drive under the 1990 study.
15 Four-wheel drive SUVs, trucks, and vans are considered
16 four-wheel drive. Street and dual sport motorcycles
17 are considered motorcycle. And other is considered
18 other.

19 Now, this sort of gives how we mapped the DMV
20 data by DMV vehicle type into our types for street
21 licensed vehicles. So cars, subcompact, compact, mid
22 size, large, sport cars, and cross use that are small
23 based on a car frame, such as the Subaru Forester were
24 considered cars. Pickups in the compact standard and
25 the 8500 to 10,000 pound gross vehicle weight rating

742

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1 were considered trucks. Class III trucks, which are
2 10,000 to 14,000 pounds gross vehicle weight, we
3 considered other. Now, in the prior model -- in the
4 existing model, actually the 8500 to 10,000 pound
5 category was what was considered other, and the
6 category three or Class III vehicles were excluded. We
7 figured anything over 14,000 pounds was probably not a
8 recreational vehicle, and we didn't include those.

9 Now, certainly some of the very large motor
10 homes fall into that category. I don't know how much
11 off-roading they're doing. They probably are going on,
12 but even the category three is a fairly large category,
13 and, you know, that does include a lot of the 350, 450,
14 550 Fords and the larger Chevys that have a motor home
15 sort of -- I don't know what they call those things, RV
16 type body. For SUVs, excuse me -- I'm still getting
17 over a cold, so bear with me, please.

18 For SUVs, we had sport utility, compact, mid
19 size, large, the 8500 to 10,000 gross vehicle weight,
20 cross utilities that are based -- the small ones based
21 on trucks, the mid side cross utilities, we categorized
22 all of those as SUVs. Also large SUVs and 8500 to
23 10,000 pounds SUVs. Vans we included compact, standard
24 and 8500 to 10,000 pound vans. So that was our street
25 licensed matching.

743

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1 In the logbooks that we sent out, we asked the
2 gallons, miles, and hours they drove off-highway in
3 their vehicles. We asked the recreation areas they

4 visited, and in that we asked the name of the area. We
5 asked the city, the county -- or the nearest city, the
6 county, and the nearest street to help determine what
7 that area was. You would be surprised how many names
8 people have for the same area.

9 We asked them up to three recreation pursuits
10 they engaged in that day when they traveled off-road.
11 We asked them the percent they towed, the present they
12 did hard driving, and we defined that as using low
13 gears and going over rigorous terrain and a lot of
14 hills and those sort of things. We asked them the type
15 of fuel used, so we could separate out the diesel from
16 the gasoline. And the current tax revenue laws only
17 allow transfer of dollars from gasoline use. And we
18 asked them whether the fuel was purchased in
19 California. And again the current regulations only
20 allow for fuel purchased in California. So for all
21 vehicles, we used the gallons they claimed they used
22 when they went off-road.

23 DEPUTY DIR. GREENE: Lou, just for clarification
24 on the fuel purchase, that is gas, correct?

25 MR. BROWNING: Gasoline, yes. Well, we asked

744

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1 them what type of fuel they used and where they
2 purchased it, whether they purchased it in California.
3 Now, if they said they purchased diesel fuel, then we
4 didn't count those gallons. We counted the vehicle,
5 but we didn't count the gallons because again we're
6 mapping that to the entire population of California.

10 we actually instead of sending our invitation letters
11 for wave one because we wanted to get the study going
12 and we had a good set of vehicles from the component
13 one survey, we used those vehicles to do the wave one.
14 And so we had to weight those a little differently than
15 we weighted the other waves, and we used the component
16 one weights to do that.

17 Here is the annual fuel use rates, and this
18 again is gallons per year per vehicle for the various
19 types. And here we're comparing them against the 1990
20 study, so we've grouped our two-wheel drive SUV,
21 trucks, and vans into the two-wheel category;
22 four-wheel drive SUVs, trucks, and vans into the
23 four-wheel drive category; our dual sport and street
24 motorcycles into the motorcycle category.

25 And what we found is in the cars and two-wheel 746

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1 drive vehicles we actually saw more fuel use than in
2 1990. We saw less fuel use of four-wheel drive
3 vehicles than in 1990, motorcycles a little less,
4 other -- and, again, remember our other is different
5 than the 1990 survey. The 1990 survey included the
6 8500 to 10,000 pound vehicles. We have switched those
7 into the two-wheel and four-wheel drive vehicles. So
8 what we're seeing in the other category is Class III
9 vehicles, the heavier 10,000 to 14,000 pound vehicles.
10 So that's not a direct comparison, but it at least
11 shows a difference there.

12 Here we see registered OHVs. Motorcycles,
Page 33

13 again, we found less fuel use than in 1990. We found
14 more fuel use in ATVs, less in the four-wheel category.
15 And unfortunately the 1990 study was a little confusing
16 in how they classified vehicles. I believe that the
17 unlicensed street vehicles were in the "Other" category
18 in the 1990 survey. We put them in the four-wheel
19 category. We still saw less fuel use there. We saw
20 more fuel use by snowmobiles and less by other.

21 COMMISSIONER McMILLIN: What's the scale on the
22 left side, thousands?

23 MR. BROWNING: No, that's gallons per year per
24 vehicle. So in other words, a motorcycle, we predict,
25 would use about 22 gallons a year.

747

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1 COMMISSIONER McMILLIN: How about a four-wheel
2 drive, the third bar chart?

3 MR. BROWNING: Those are four-wheel. Four-wheel
4 drive vehicles, we predict they use about 15 gallons
5 per year versus the 1990 study that is 24 gallons per
6 year. The four-wheel category --

7 COMMISSIONER McMILLIN: A whole year, off-road?

8 MR. BROWNING: Yes. Remember, this is over all
9 vehicles including ones that don't use fuel. So what
10 we're saying is if you take the full population of
11 vehicles that are owned, so if you take all of the
12 vehicles that are owned in California, all of the
13 motorcycles that are owned, in the 2004 year -- I think
14 it was April 2004 to March 2005, on average per vehicle
15 they used 22 gallons. So some used a hundred gallons,

16 some used zero gallons. But on average, of all the
17 vehicles, they used 22 gallons. Do you understand?

18 COMMISSIONER McMILLIN: I do. I think it looks
19 funny. So what you're saying is if there is one out of
20 100 vehicles that are going off-road, you're saying all
21 100 used 24. But actually in reality only one guy used
22 2,400 gallons.

23 MR. BROWNING: Yes, exactly. If we looked at
24 this of just the ones that used fuel, then we would
25 have to do something different. Really, the purpose of
748

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1 this, and the way the existing model works is it
2 applies these fuel rates to all vehicles. And remember
3 the four-wheel category here is the dune buggies and
4 the unlicensed street vehicles. Someone who has a
5 tricked out jeep that's not street licensed that they
6 tow onto state property and use.

7 Now, here is the unregistered vehicles. Again,
8 we found significantly less fuel use for both
9 motorcycles and ATVs. Again, those are the majority of
10 the unregistered vehicles. We found somewhat less for
11 four-wheel vehicles, slightly more for snowmobiles. I
12 guess there's a lot of snowmobiles out there that are
13 using fuel that aren't registered. The other, again,
14 we found considerably less.

15 Here is our comparison for our study between
16 registered and non-registered. And as you can see,
17 pretty much -- again, motorcycles and ATVs, the
18 non-registered group are using considerably less fuel

19 than the registered. The four-wheel category actually
20 uses more. The other, in the other category, we didn't
21 actually find any non-registered, so we had to assume
22 they used the same fuel, which is a slight inaccuracy.
23 But because that population is so small, it's not a
24 significant factor here.

25 Here we see what people do when they go

749

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1 off-road. And, again, remember we asked three things
2 they did. We didn't know how to rate those. We didn't
3 know how to weight those. If someone said they went
4 driving off-road, they went camping and fishing, we
5 didn't set any priority with those. We took the
6 gallons they claimed they used that day, divided by
7 three, and applied it to each of those three.

8 So what we found is recreational driving 54.4
9 percent of the gallons were used for recreational
10 driving; camping, 12 percent of the gallons; fishing,
11 seven percent; hiking, jogging, walking paths was six
12 percent; hunting and target practice was about five
13 percent; bicycling almost three percent; skiing and
14 snowboarding was two percent; picnicking, two percent.
15 And the total of those turned out to be 91.4 percent of
16 the total fuel use. So you can see, those are the
17 majority of the activities.

18 COMMISSIONER THOMAS: So I understand. So if I
19 answered, I went driving and we camped and did some
20 fishing, you would just divide that and allocate by
21 three?

22 MR. BROWNING: Yes, that's right. So each one
23 would get a third.

24 COMMISSIONER THOMAS: But what I'm saying, you
25 always drive to whatever you're going to do, right, 750

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1 because you're driving?

2 MR. BROWNING: That's correct. So if they
3 said -- I mean that's a good point. Because if they
4 said we went fishing and nothing else, we assigned all
5 of the gallons to fishing. And as you say, they did
6 drive to get there, but the question is whether they
7 drove for fun to get there or whether they drove --

8 COMMISSIONER THOMAS: I'm just trying to
9 understand. You just allocated.

10 MR. BROWNING: Again, unfortunately, we didn't
11 have a better way to do it because we didn't -- you
12 know, we didn't ask them to say, well, how many gallons
13 did you use for fun versus camping.

14 COMMISSIONER McMILLIN: Why does it matter what
15 they're doing? Are we going to see the relevance of
16 this later?

17 MR. BROWNING: Well, it was part of what was
18 asked of the study for to us determine that, and I
19 don't know what the significance is. That's sort of
20 maybe a policy decision of where the money goes, I
21 suppose, but that's not something we're determining.
22 All we are saying is this is how we came up with the
23 gallons that were used.

24 DEPUTY DIR. GREENE: But, Lou, just for

25 clarification purposes, Hal, to your question, so if 751

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1 I'm going fishing, but it would be up to the person to
2 say, I'm going fishing and driving? If I was strictly
3 going for fishing, then the driving portion was or was
4 not part of the recreational driving component?

5 MR. BROWNING: If they said they only were going
6 fishing, we assigned all of the gallons to fishing.
7 And if they said fishing and camping, 50 percent were
8 camping and 50 percent were fishing. None was put to
9 recreational driving. A lot of people said they were
10 out there having fun recreating.

11 TIM McLARNEY: I think if I can clarify for
12 members of the audience who perhaps were privy to these
13 conversations earlier, the big distinction is were you
14 driving for the purpose of accessing a lake to go
15 fishing, so the driving is really incidental to getting
16 to the lake to go fishing. Or were you driving for the
17 purpose of recreation, right, meaning maybe you -- or
18 hunting and you hopped on your ATV and you were having
19 fun with that, and you were also camping and doing
20 something else. So the issue is the recreational
21 driving issue, you were doing the driving as a form of
22 recreation, as opposed to as a way to get to your place
23 of recreation.

24 COMMISSIONER THOMAS: Now, I understand. You
25 did take into account intent?

752

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Page 38

1 TIM McLARNEY: And that's what the recreational
2 driving category -- and correct me if I'm wrong --
3 captures. These are the gallons used when people were
4 driving for the purpose of recreation. That was their
5 form of recreation. They may have also gone fishing,
6 right, in which case you divide it. But if someone
7 drove in to a lake to go fishing and drove out, and the
8 driving part wasn't the recreation part, it was just a
9 means of getting to the lake, that driving is not
10 factored into the recreational driving. The fuel use
11 for that is factored into fishing.

12 COMMISSIONER McMILLIN: And then we would not.
13 The OHV Division would not get that money.

14 TIM McLARNEY: No.

15 MR. BROWNING: No, you still get the money.
16 These are just statistics that you can use or not use
17 for determining where that money goes, I guess. I mean
18 that's up to. It's not our...

19 COMMISSIONER McMILLIN: But the Division gets
20 all of the money.

21 LOU BROWNING: The Division gets the money.

22 CHAIR BRISSENDEN: It's a policy question, Mark,
23 and that's something we will probably be working on for
24 the next 50 years.

25 COMMISSIONER THOMAS: The issue, some will say

753

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1 driving is the sine qua non of the program. Without

2 driving you don't get any money. So I'm sure that's
3 why the question is asked because not everybody agrees
4 on this point, but some say that the entire purpose of
5 this organization is driving vehicles. And so the
6 distinction becomes important if you believe that, and
7 others have a different view and then the distinction
8 is not important. Anyway, it's interesting. Is that
9 fair?

10 DEPUTY DIR. GREENE: Yes, and I think also,
11 where we also look is when you look at Caltrans and the
12 money that Caltrans receives is for the operation and
13 maintenance of the paved roads in the system on which
14 we travel. This is then the same thing, but you're
15 looking at off pavement. So how do you protect those
16 roads and trails and make sure that those roads and
17 trails are kept up in the same way. So some of the
18 discussion, quite honestly, goes to are you talking
19 about funding putting fish in a lake, or are you
20 talking about funding the access of the roads on which
21 we travel to access the fishing area.

22 COUNSEL LaFRANCHI: And I would just add that at
23 the time the study was conceived, there was a provision
24 in your law, 5090.15(d) that the Legislature asked for
25 a report based on this study as to the principal

754

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1 reasons why people are using their off-highway
2 vehicles. So that was the statutory direction that we
3 were given.

4 COMMISSIONER THOMAS: For the purpose that I

5 brought up, because people are trying to understand the
6 policy that drives the program. Thank you.

7 CHAIR BRISSENDEN: For the sake of the scribe,
8 how much longer do you think you're going to be?

9 LOU BROWNING: I'm almost done. I have two more
10 files.

11 CHAIR BRISSENDEN: I don't want you to be done.
12 I mean it's very fascinating. Just we may need to take
13 a break shortly.

14 MR. BROWNING: Yes, I understand.

15 Here we see the top ten counties of recreational
16 destinations. This is where people claimed they went.
17 And I've broken this down by street licensed vehicles
18 and non-street licensed vehicles, they're OHVs, to see
19 where the gallons go. L.A. County was the largest
20 destination in fuel use, San Bernardino, Imperial,
21 Kern, et cetera. Of those top ten, they accounted for
22 73.4 percent of the annual gallons used, and so that's
23 a lot of where the fuel is being used.

24 COMMISSIONER THOMAS: Where are the rest of
25 those counties in this report?

755

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1 DEPUTY DIR. GREENE: Page six, I believe, it's
2 6-8 or 6-10.

3 MR. BROWNING: Yes, 6-10, table 6-8.

4 And I think the recreational destinations -- I
5 mean the recreational is the one before. So all of the
6 various -- the 23 areas that we looked at are on 6-9,
7 table 6-7.

2007-27-01

8 Okay. So one of the things that was brought up
9 in discussing this study was the non-responders, the
10 people that we called or interviewed that are -- or
11 tried to interview that didn't respond. And I found
12 this study that was done by NuStats, they're a survey
13 firm that works a lot for the government, they did this
14 study for Federal Highway Administration looking at
15 non-responders to household travel survey and compared
16 the results against non-responders to those that
17 actually responded in their household travel survey.

18 And what this tells you is sort of what the
19 mind-set of the non-responder is. And what they
20 actually did is they really went to great lengths to
21 capture these people. They even went to people's
22 houses and interviewed these people to try and get them
23 to respond. And they got a fair amount of
24 non-responders that in the first case didn't respond to
25 the travel survey. What they found was the

756

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1 non-responders to the survey actually traveled less
2 than the responders. And that's the significant
3 portion of this. They also found that their trip
4 length, their trip purpose and their mode was not
5 statistically different than the responders.

6 The non-contacted households, they basically
7 broke them into two different types, non-contacted,
8 which were the people that screened their calls, used
9 their answering machine to say, you know, do I want to
10 pick this up or caller I.D. They weren't statistically

11 different than the people that refused. They picked up
12 the phone and said no, I don't want to talk to you. So
13 when they actually went back and captured these people,
14 they found they weren't statistically different. And
15 the non-contacted households tended to be younger males
16 and smaller households, sort of the group that we all
17 think may be the ones that are using off-highway
18 vehicles.

19 So in conclusion, we feel our study is a
20 significant improvement over the 1990 study, both in
21 methodology and sample size. That being said, both
22 studies are really just a snapshot in time. They
23 looked in 1990. We looked in 2004. We feel ours is
24 closer to what's happening today than the 1990 study.

25 We also discovered several flaws in the existing
757

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1 tax transfer model, which I talked about. Furthermore,
2 we found that street licensed vehicles consumed about
3 80 percent of the recreational fuel in 2004. And we
4 also found a significant reduction in non-registered
5 vehicles since 1990. That's it.

6 CHAIR BRISSENDEN: Thank you. Are there
7 questions from the Commission? And then what I would
8 like to do is take a brief break, and then we will open
9 it up for public forum. Obviously, this will be the
10 primary discussion point. And then soon after that, we
11 will go to the Deputy Director's report, and then to
12 the annual open discussion as to where we're going and
13 what the public would like us to be looking at and

14 doing. Is that fair? So I'll open up the question now
15 for the Commissioners.

16 COMMISSIONER PRIZMICH: Could I suggest that
17 perhaps we want to break first because there is a lot
18 of information to absorb, and I'd like to think about
19 what I want to ask.

20 CHAIR BRISSENDEN: Well, that's fine. We will
21 break and come back at 10:45 then.

22 (Break taken in proceedings.)

23 CHAIR BRISSENDEN: We can come back to order.
24 So I'm back to the Commission for their questions. I
25 presume, Mr. Prizmich, you've had a moment of thoughts
758

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1 to grasp five years of study.

2 COMMISSIONER PRIZMICH: Well put, and thank you
3 for that time. It was, I'm not sure, any more helpful
4 for me, but at least the clouds moved around a bit.

5 I guess if I could ask you to go to -- my
6 questions are relative to page one, page seven, and
7 page eight. I'm not clear on what it is you're saying.
8 And specifically it's on, for example, component one,
9 the survey. What I'm trying to determine from what you
10 said was that you surveyed 15,000 homes, but what I'm
11 not clear on is how many of those homes that you
12 surveyed actually responded to your survey. It seems
13 that on --

14 MR. BROWNING: They all responded. When we say
15 15,000 households, those are completed interviews.

16 COMMISSIONER PRIZMICH: But some of your

17 interviews ended up in not having OHV vehicles.

18 TIM McLARNEY: Are you speaking of the component
19 one survey?

20 COMMISSIONER PRIZMICH: That's what I'm
21 referring to. This is an example because you had two
22 components, and the other one seemed to be pretty
23 straightforward. The other people responded back to
24 you on the component one survey. I'm not really clear
25 on how that worked.

759

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1 TIM McLARNEY: Let me try and explain how we did
2 it. And in some ways it might be better to go to that
3 slide, Lou, where we have the sample breakout. It's a
4 little layered. It was towards the back when we
5 started talking in more detail. It's slide 21.

6 What we had in the study, when we were looking
7 at how do we sample for this study, the basic what we
8 called our main sample was chosen at random, meaning
9 random digit dial, and we called households in
10 California, and we stratified by county, and we over
11 sampled a little bit some counties, little OHV rich
12 counties, meaning based on registration there are more
13 registered OHVs per household in this county than there
14 are in others, and there is more detailed discussion
15 there about it.

16 This main sample of 14,000 households, whether
17 you owned an OHV or not, you qualified for the
18 interview. And what we found from that is that of
19 those 14,276 households we spoke with, 13,234 did not

20 own an OHV, about a 1,042 did own an OHV. The
21 challenge for this study, however, we needed more OHVs.
22 It was only from that population of OHV-owning
23 households that we can determine their proportion of
24 which are registered and unregistered. The DMV
25 database has registered OHVs. It doesn't have

760

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1 non-registered OHVs. The only way to estimate that
2 population is to have a significantly large number of
3 OHV-owning households to then follow up and figure out
4 how many of those are registered and how many of those
5 are not registered.

6 So to get more OHV-owning households, we had two
7 strategies available to us. One would be just to
8 continue interviewing lots and lots of households and
9 interviewing both ones with OHVs and ones without, but
10 that's a pretty cost inefficient way of doing it. We
11 really didn't need more households that tell us they
12 don't own OHVs. We need more households that do own
13 OHVs. That's where the screening sample came in.

14 The screening sample was a completely separate
15 random digit dial survey of an additional 13,679
16 households. And for these folks, what we're trying to
17 do is find the needles in the haystack. We're calling
18 through these households and determining very early in
19 the interview, do you own an OHV, do you not. If they
20 do, we kept them, and we did the full interview. If
21 they didn't, we screened them out, went to the next
22 number. That's how the component sample worked for

2007-27-01

23 component number one. That's how we effectively over
24 sampled for OHV-owning households.

25 The screen outs, the 12,264, those are

761

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1 households that in that sample we determined don't own
2 an OHV, so we had no need to continue the interview
3 with them. And that's the screen out population. And
4 if you -- when it comes to estimating the number of
5 households that own an OHV, we can effectively combine
6 the 14,276 households with the 13,679 households, that
7 gives us 28,000 approximately, something like that,
8 households, and we used all 28,000 households to
9 determine the portion that owns an OHV versus that
10 which do not.

11 COMMISSIONER PRIZMICH: Okay. You derive some
12 information out of those homes that did own an OHV that
13 this presentation was full of information for us?

14 TIM McLARNEY: Correct.

15 COMMISSIONER PRIZMICH: And how many homes did
16 you survey? Is the number right here, the 1,042, and
17 the 14,015? Are those the numbers that you surveyed
18 and got the information that you then presented to us;
19 is that your total?

20 TIM McLARNEY: That was in stages. And the way
21 it works is that if you have -- (Unintelligible) in
22 over sampling. That's almost 2500 households that own
23 an OHV. We used those households to then match against
24 DMV data, in the way that Lou described, to figure out
25 how many of those households are registered OHV-owning

762

1 households and how many of those are those vehicles
2 were non-registered.

3 When it came to the component number two sample,
4 we can go to the DMV database, in addition to this, to
5 find out registered OHVs. The DMV database has that
6 information, and so we could actually effectively
7 access that whole population when it came to figuring
8 out who to mail invitations to to participate in the
9 fuel diary study.

10 For non-registered, we don't have that option.
11 So the only source of non-registered OHVs that we had
12 were coming from this group. And they formed the
13 population of non-registered OHVs that we used to
14 estimate fuel use in that group separately.

15 COMMISSIONER PRIZICH: Okay. Thanks.

16 CHAIR BRISSENDEN: Further questions,
17 Commissioners.

18 COMMISSIONER PRIZICH: As a general statement,
19 was I hearing you correctly, when your information was
20 that the gross numbers of participation has dropped; is
21 that basically what you're saying?

22 MR. BROWNING: The overall people that drive
23 off-road we found to be about ten percent versus 14
24 percent in 1990. Now, again, in 1990, we believe that
25 figure was somewhat overstated because we feel that

763

1 this survey had a confusing definition of public lands.

2 TIM McLARNEY: If I can jump in on that just
3 briefly. There's that gap between ten percent and
4 roughly 14 percent that they found in 1990. In 1990,
5 correct me if I'm wrong, the way it was ascribed was
6 essentially they asked a respondent are you driving
7 this vehicle on public lands. The average respondent
8 may not know what does public lands mean, does it mean
9 fire roads, what does that mean, right?

10 When we did this study we said, instead of
11 asking that question, we want to be more precise. And
12 at the back of this full report, you'll see the
13 questionnaire which lists out the exact questions we
14 used, but I'll explain them to you briefly. We say:

15 "There are many types of public
16 areas that are open to off-road
17 driving in California, and we use the
18 following categories: Please tell me
19 if your household drove off-road for
20 recreation purposes of this type, in
21 this type of area. National parks,
22 national forests, federal lands, or
23 BLM lands, state parks or state lands
24 in California, county or city lands,
25 or parks in California, public lands

764

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1 or public lands that are dedicated to
2 off-road vehicles in California like
3 dirt bikes --

4 (Reporter interrupted.)

5 TIM McLARNEY: My point is that we went through
6 each one of the possibilities, that is, of public
7 lands, rather than leaving it up to the respondent to
8 come up with their own definition, we defined it for
9 them and asked them, each one which of the these that
10 they used.

11 By being more specific versus 1990, there's that
12 gap between 10 percent and 14 percent. How many of
13 that gap is accounted for by actual changes in driving
14 off-highway versus how much of it accounted for the
15 fact we used a more precise methodology is difficult to
16 determine. We don't know. It could be a combination.
17 It could be largely due to the methodology.

18 COMMISSIONER PRIZMICH: I can certainly
19 appreciate the difficulty of all of this, and thank you
20 for your work you got paid for.

21 DEPUTY DIR. GREENE: Tim, was that ten percent
22 OHV or was that street licensed or was that everything?

23 TIM McLARNEY: I believe that figure is ten
24 percent of households that reported they had drove
25 off-highway. That could be a combination of street

765

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1 licensed or non-street licensed.

2 MR. BROWNING: It was just one vehicle of what
3 they owned. So they at least drove one vehicle
4 off-road within the last year.

5 TIM McLARNEY: And it could be that they did it
6 every day, it could be they did it once during that

7 period. We don't ask about the frequency in that
8 survey. It was in component number two we got a
9 frequency. We're just trying to get a handle on what
10 portion of the household did it at least once during
11 that period.

12 CHAIR BRISSENDEN: And you definitely screened
13 out private land?

14 TIM McLARNEY: We definitely screened out
15 private land.

16 CHAIR BRISSENDEN: If they knew, which is a
17 question we all have. So going down the aisle here,
18 Mark, you have questions?

19 COMMISSIONER McMILLIN: I got a couple of
20 questions. I don't know where to start, very difficult
21 task, very difficult task. And I would just wonder why
22 instead of going through the random dialing process,
23 maybe we go out and where the users are and do surveys.
24 In the future it might be another way of tackling this
25 task. That's just a statement.

766

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1 MR. BROWNING: We spent a lot of time thinking
2 about that. Tim, why don't you share why?

3 TIM McLARNEY: The challenge is really this,
4 that ultimately we had to be able to use this data to
5 project to all households in California and understand
6 what the fuel use is for everybody. To do that, you
7 have to have a random sample of the households and/or
8 vehicles in the city -- in the state, and we did it by
9 county and vehicle class.

10 Going to particular destinations is going to
11 give you probably a really good idea of what's going on
12 at that destination, but the data you collect at that
13 destination isn't necessarily going to be
14 representative of what's going on statewide. We didn't
15 have the ability to put an interviewer in every tree,
16 so that's why we decided to back away from that. It's
17 very useful for certain purposes, but ultimately we
18 can't use that information to project statewide.

19 COMMISSIONER McMILLIN: Make a combination of
20 both then or something.

21 Unregistered vehicles, I'm not sure
22 if somebody -- very difficult task again -- called my
23 household, I would admit to having four or five
24 unregistered vehicles in the attic or in the garage
25 that we're riding. So I don't know how -- I know your
767

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1 numbers, six or seven multiples -- differences than the
2 original survey, so maybe the difference is in between.

3 I'm also not sure on just terminology. Our
4 family is very sharp and very much off-road oriented
5 people. If you called and asked my wife or my oldest
6 son if they had an OHV, if you asked them if they've
7 got a dirt bike, they ride on dirt roads, they might
8 know what you're talking about. Is there an OHV in the
9 household, I'm not sure they would know how to answer
10 that.

11 MR. BROWNING: We didn't exactly ask that.

12 CHAIR BRISSENDEN: Having been the subject of
Page 52

2007-27-01

13 one of these, it was much more refined than that.

14 COMMISSIONER McMILLIN: Okay, good.

15 The logbooks, I'm not sure how people can
16 guesstimate how many gallons they used. Just curious,
17 how did these results come back?

18 TIM McLARNEY: That was an important actual
19 consideration, something we talked about at length at
20 the beginning of the study was, you have what you call
21 measurement error, which there's this true value, so
22 for a near example, how much gas you used while you
23 were recreating off-highway. There is an actual
24 quantity there. We're asking you to estimate what that
25 was, right? And you're going to have a certain amount

768

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1 of measurement error around that.

2 That's part of the reason why in the logbooks we
3 had just asked how much fuel did you use, and we asked
4 them, you know, if you were certain about how much fuel
5 you used, tell us what that is, et cetera. But we also
6 looked at other factors like how long they operated the
7 vehicle, how far they went, and sort of triangulated
8 that information, recognizing that for people, they are
9 going to have a difficult time telling you with a
10 certain degree of accuracy how much fuel they used.
11 But if you look at how long they were on the vehicle
12 and operating it and how much distance they traveled on
13 it, which they probably have a better idea about, and
14 you look at all three of these parameters, we can
15 triangulate in on how much fuel was used.

16 JONATHAN COHEN: Let me answer one of your
17 earlier questions about how many unregistered vehicles
18 you have. We didn't ask people how many unregistered
19 off-highway vehicles do you have. We just asked people
20 in the telephone survey how many off-highway vehicles
21 do you have and what are they, describe them to us, and
22 get some information.

23 Then after the telephone survey, we went back to
24 the DMV records to find out, of the vehicles that the
25 household said they had, how many of those were

769

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1 registered and how many were not. Obviously, if you
2 ask people, you know, how many unregistered vehicles
3 that you have, that's going to introduce a real bias to
4 your results.

5 COMMISSIONER McMILLIN: I agree with that.
6 That's one of my notes here. If you called my house
7 and tried to get our address, name and phone number,
8 and you dialed me randomly, I don't think anybody in my
9 household -- have been taught by their teachers and
10 both of their parents, you don't give that information
11 over the phone. That might drive you back out to some
12 of the sites to gather more information when we do this
13 again, hopefully, other than the last time.

14 TIM McLARNEY: If I could just comment on that.
15 There were \$85,000 in incentives that were used as part
16 of this program to get at that same problem, which is
17 most people are reluctant to give out name and address
18 information for free over the phone. We didn't ask

19 that until the end of the interview. So you build up a
20 rapport with the individual. Secondly, when you dangle
21 \$85,000 worth of incentives out there, you would be
22 surprised at how many people, once they're given the
23 numbers, are actually willing to give the information.

24 CHAIR BRISSENDEN: I thought about it for a
25 moment.

770

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1 TIM McLARNEY: So, again, is it perfect? No, it
2 is not perfect, but we took a lot of measures to try to
3 counteract some of those problems that were potentials
4 for the study, certainly.

5 COMMISSIONER McMILLIN: And then probably my
6 last question -- Judith will ask since she is from L.A.
7 County. But I can't believe that use in L.A. County
8 coming from L.A. County, but use in L.A. County can be
9 the most common use there.

10 MR. BROWNING: Well, that's what the survey told
11 us. And when you really think about it, there are more
12 people in L.A. County. There's a lot of forest lands
13 in L.A. County, Angeles National Forest and I think
14 Cleveland, isn't it?

15 COMMISSIONER McMILLIN: That's in San Diego.

16 DEPUTY DIR. GREENE: Hungry Valley, so it's --

17 MR. BROWNING: Hungry Valley, and you would be
18 surprised, a lot of people, particularly with the price
19 of gas going up, want to go somewhere near.

20 COMMISSIONER McMILLIN: Okay. And then
21 completely unrelated to the survey, I just want to --

22 your last comment about the young single male
23 households was probably the person you needed to pick
24 up the phone to complete this project. I think most of
25 our off-highway vehicle use in this state are by whole
771

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1 families that are functioning.

2 MR. BROWNING: Okay. That's good to know.

3 CHAIR BRISSENDEN: Judith.

4 VICE-CHAIR ANDERSON: A fairly specific
5 question: When you were going through and looking at
6 the vehicles that disappeared within the registration
7 check, how did you decide on the fact that if there was
8 a newer vehicle mentioned than the old vehicle, you
9 said you assumed it was replaced?

10 MR. BROWNING: Yes.

11 VICE-CHAIR ANDERSON: Did you have any way to
12 verify that it was actually replaced and wasn't an
13 additional vehicle?

14 MR. BROWNING: No, I mean that was just a
15 decision we made to do it that way. What we found is
16 the newer vehicle, we didn't find the older vehicle.
17 So we made an assumption at that point that it was
18 replaced. So you're right, I mean --

19 VICE-CHAIR ANDERSON: When you say you didn't
20 find the older vehicle, it could have been sold to a
21 neighbor and/or disappeared from that household as
22 opposed to disappearing from use.

23 MR. BROWNING: Right. But what we were
24 concerned about was what was in that household.

25 Because that's really how we determined the ratio of 772

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1 non-registered to registered is based on the households
2 we surveyed, not the neighbor's house.

3 VICE-CHAIR ANDERSON: I understand. But
4 replaced would reflect -- if it disappeared from the
5 household, it could have been sold to a neighbor, and I
6 know you don't care about it then. But it's my
7 perception, kind of along with what Mark was just
8 saying about use tends to be in families, that
9 sometimes the older vehicle gets relegated to the
10 parents and the new vehicle gets used by the growing
11 kids. So did that factor in or did you make the
12 assumption then that that vehicle would have continued
13 to be registered or what?

14 MR. BROWNING: Well, again, if we found the
15 vehicles within the database for that family, and we
16 looked at last names and address, so if that vehicle
17 was registered to that family, it was considered a
18 registered vehicle. If we could not find that vehicle
19 for that family, but we found another vehicle in that
20 family, we considered the vehicle that we couldn't find
21 as non-registered. So if it -- if, in fact, it did --
22 if you did transfer from a son to a father, and it's
23 registered either under the son's or the father's name,
24 we would have found that. So we would have counted it
25 as registered. If we couldn't find it, it would be

773

1 considered unregistered, no matter who it belonged to
2 within that family as long as they owned it, and they
3 claimed they owned it.

4 VICE-CHAIR ANDERSON: Is there any way to
5 extract from your data set information on how many
6 vehicles within a user group where there's your
7 identified OHV households from either categories, how
8 many of them own multiple vehicles?

9 MR. BROWNING: We did look at that. It wasn't
10 something that I think we published. A lot of them --

11 VICE-CHAIR ANDERSON: You probably weren't paid
12 to look for that.

13 MR. BROWNING: A lot of households do own
14 multiple vehicles. It's surprising how many.

15 VICE-CHAIR ANDERSON: No, it's not surprising to
16 me.

17 MR. BROWNING: We found in our interviews, I
18 think we had room for ten, and sometimes we found even
19 more than ten.

20 DEPUTY DIR. GREENE: Judith, I think one of the
21 interesting parts -- and, Lou, correct me if I'm
22 wrong -- is that for your purposes, you only counted
23 the one -- you sort of tracked the one vehicle on fuel
24 use. So if you owned a truck, then you put either
25 towed behind you or you put in two bikes, you didn't

774

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1 count the truck when it was driving on dirt to the

2007-27-01

2 staging area if you were only counting the bike?

3 MR. BROWNING: That's correct. So when we did
4 the logbooks, all we did was we made it specific. And
5 we only used one vehicle per household. So if, for
6 instance, we surveyed you for your motorcycle, and you
7 happened to drive that motorcycle in your truck, we
8 never counted the fuel used by the truck or by the
9 other bikes in the truck. We just calculated the fuel
10 for that one bike.

11 VICE-CHAIR ANDERSON: How did you know which
12 vehicle to select?

13 MR. BROWNING: It was random.

14 VICE-CHAIR ANDERSON: That was random?

15 MR. BROWNING: Yes, we decided how many of each
16 vehicle per county -- each vehicle type per county we
17 wanted to sample, and then we randomly selected those
18 from the DMV database.

19 VICE-CHAIR ANDERSON: Okay. Following up on
20 this, I'm wondering if in terms of your overall,
21 whether this would impact -- what do I want to say --
22 what you calculated as lower gasoline usage in that
23 there were vehicles sitting around maybe that were
24 transported out to a staging area but never got used
25 that weekend because they were busy using a different

775

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1 vehicle, whether there's been a change in the profile
2 of the use pattern that might reflect in that lower
3 gasoline consumption for -- I think it was motorcycles
4 that dropped significantly. Perhaps there's more users

5 on ATVs than motorcycles, so that there would be some
6 use pattern change. Can you elaborate?

7 MR. BROWNING: Let's see, so you're sort of
8 saying, the fact that there are more ATVs out there,
9 people are using them more and maybe preferentially
10 over motorcycles, that could well be. That's sort
11 of -- what we found is that we found more use by ATVs.
12 In 1990, again, you know, ATVs were sort of a small
13 population compared to now. So perhaps the fuel use,
14 you know, is more going to those people using ATVs.
15 They're certainly -- one would think they were more
16 stable. I don't know the way people drive them whether
17 they are, but.

18 VICE-CHAIR ANDERSON: I'm asking the question,
19 not that I'm interested so much in the dollar figures
20 that are coming from the state, but in terms of our own
21 assessment of needs in certain areas because the type
22 of vehicle you are using has a fairly significant
23 impact on what the maintenance looks like and the width
24 of the construction of a track for a motorcycle versus
25 an ATV would be quite different, erosion patterns might
776

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1 be quite different and so forth.

2 DEPUTY DIR. GREENE: And, Judith, I think
3 exactly to that point, one of the biggest challenges we
4 have is keeping up with the industry because we're
5 talking about a survey now that is a number of years
6 old, and we're trying to keep track of, you know, in
7 the whole recreation utility vehicle market we're

8 starting to see, yes, what's happening is that on an
9 ATV they'll put on bigger tires and now it exceeds the
10 width that we traditionally have in the Vehicle Code.
11 Those are absolutely real today problems in how we plan
12 for the future.

13 VICE-CHAIR ANDERSON: Down the road question
14 might be: Is there some way in which we can rationally
15 look at those on a shorter time frame than just get a
16 snapshot of is the use pattern changing, and how is it
17 changing, and what are those effects going to be on
18 bumpy SVRAs, and the other agencies that have areas?

19 DEPUTY DIR. GREENE: Very definitely. I mean I
20 think ultimately if we could put black boxes on
21 vehicles to see where they're going, how much fuel
22 they're using, that ultimately would be the best thing.
23 But aside from that, I think we're back to what Mark
24 was saying earlier is that you have to survey all of
25 California, but I think that we can get some very

777

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1 important data if we actually survey those areas where
2 people are recreating. They'll tell us. We just have
3 not surveyed those areas.

4 CHAIR BRISSENDEN: Along that line then, I'll go
5 to further questions. But they're angling boxes that
6 are put out on many, many streams in California, and
7 you could do informal surveys that might help in the
8 long-term. Judith, further questions?

9 VICE-CHAIR ANDERSON: No, I'm done. Thank you.

10 COMMISSIONER THOMAS: Yes, I got a couple.

11 Table 6-7, which is the gallons by recreational use on
12 page 6-9 of the report.

13 VICE-CHAIR ANDERSON: What page you on?

14 COMMISSIONER THOMAS: 6-9 of the actual report,
15 and I don't have a corresponding page on the slides.
16 That would be page 15 of the center slide. Do you have
17 the use data by county; is that in the data set
18 somewhere?

19 MR. BROWNING: It is, and actually I did provide
20 that to Ed Navarro of State Parks.

21 COMMISSIONER THOMAS: Can we get that at some
22 point?

23 MR. BROWNING: And I think Brian also has it, I
24 sent it to him. Yes, I actually did that by
25 recreational use. I think you're saying a cross

778

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1 reference of recreational pursuits versus recreational
2 destinations?

3 COMMISSIONER THOMAS: Yes, the table on the
4 following page, table 6-8, does fuel use by county, and
5 then 6-7, the prior, is fuel use by type. I'm looking
6 for fuel use by county and type so that when we make
7 allocation decisions, we have some guidance as to what
8 we're doing.

9 MR. BROWNING: Now, we have that data. Now,
10 obviously, the further you slice and dice the data, the
11 smaller the samples become.

12 COMMISSIONER THOMAS: We're not talking about a
13 statistical decision-making process.

14 MR. BROWNING: But it is there, and I have
15 provided it outside of the report here to State Parks.

16 COMMISSIONER THOMAS: And I assume that staff
17 can give us that at some point fairly shortly.

18 The 6-8 table, fuel used by recreational county,
19 again, that's all recreation within the county. So,
20 for instance, if I live in Sacramento County, and I
21 recreate in El Dorado County, it's going to show up as
22 fuel use in which county?

23 MR. BROWNING: In El Dorado.

24 COMMISSIONER THOMAS: Okay. And so everybody is
25 driving to Tahoe, I would aggregate Placer, Nevada and
779

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1 El Dorado Counties to get to Tahoe use?

2 MR. BROWNING: Brian, I remember we went through
3 this of how to decide a specific county for a given
4 park, and we went through and meticulously went through
5 each park and assigned it to a county.

6 Some counties obviously are more than one. I
7 mean some parks are in more than one county. I can't
8 remember how we decided that, but we decided probably
9 whichever is the largest county, because we really
10 didn't have these specifics then.

11 COMMISSIONER THOMAS: All right. And then
12 Tuolumne County, for instance, has a huge street legal
13 use of recreational gasoline, eight million gallons,
14 and it's only five million gallons of OHV. Do I assume
15 that that's because Yosemite then, there are people
16 driving into Yosemite? There is not much going on in

17 Tuolumne County.

18 MR. BROWNING: There are parks around Yosemite.
19 That's a good question. Obviously, if there are no
20 dirt roads in Yosemite, we wouldn't count that.

21 COMMISSIONER THOMAS: Right, but the numbers are
22 highly street legal and not so much OHV.

23 CHIEF JENKINS: I think you're misinterpreting.
24 What that street legal means is those are street
25 licensed vehicles that are driving off-highway, not

780

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1 vehicles driving on the street.

2 MR. BROWNING: Yes. So we don't count the
3 gasoline to get to Yosemite or to get to a park near
4 Yosemite, we only count the gallons while there within
5 that area.

6 COMMISSIONER THOMAS: I'm just assuming, let's
7 say, I'm going camping up near Yosemite because you
8 would go off-road, and you'd show up in the Tuolumne
9 County database, wouldn't you, camping, drive up the
10 San Joaquin River, say you don't drive into Yosemite,
11 go into the national forest because it's not 20 bucks,
12 you camp, go up the San Joaquin, pull into a national
13 forest campsite, you're off-road, you're going to show
14 up in Tuolumne.

15 DEPUTY DIR. GREENE: You would show up where you
16 filled out the diary. You would show up that you were
17 recreating and consuming fuel in that county.

18 COMMISSIONER THOMAS: The reason I'm sort of
19 probing is that these are huge -- that's a big number,

20 eight million gallons compared to the others, and
21 Tuolumne County is a very low, small, rural place in
22 the back country, so I was trying to understand that.

23 Last question, this is page nine of the slides,
24 of the matching process slide, the bottom page where
25 you have exact, near, replace, mistake, added. If I

781

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1 were to calculate the added as the -- what do you call
2 it -- the misrepresentation quota, that somebody didn't
3 tell you that they had them, and then you found it on
4 the DMV database, didn't have vehicles, what's the
5 total -- do I used the verified, the bad, and the not
6 found to get that percentage? How do I establish a
7 percentage?

8 MR. BROWNING: The percentage is the verified
9 non-registered over the ones above it, the sum of the
10 ones above it.

11 COMMISSIONER THOMAS: So the added -- because
12 I'm looking at added. I want to know -- the added is
13 where people didn't tell you the truth, right?

14 MR. BROWNING: Well, they missed the vehicle.

15 COMMISSIONER THOMAS: Maybe they didn't intend
16 it but it was misrepresentation by intent or by
17 accident?

18 MR. BROWNING: Right.

19 COMMISSIONER THOMAS: And so what I want to know
20 percentage, so I can understand. So the data set is
21 based on exact years --

22 MR. BROWNING: Well, there were 5,000 total

23 vehicles, 5,200 total vehicles in the set that we
24 looked at, and some of those were eliminated. I can't
25 remember, approximately 500 were eliminated because

782

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1 they either were on closed course or for other reasons.
2 The 370 were eliminated because we couldn't find them.
3 The 1135 were eliminated because, again, we can't find
4 them in the database. So the rest -- so it's the 306
5 over the sum of everything from exact to verified.

6 COMMISSIONER THOMAS: All right. So I'll do
7 that math.

8 The reason I ask is it's an interesting -- I
9 mean human nature is such that there's always a certain
10 level of misinterpretation or misrepresentation. And
11 we can understand the validity of the study by that
12 statistic. You might add that in your personal margin
13 of error by analyzing that percentage. I mean I might
14 say, yes, statistically you have 16 percent margin of
15 error. You might feel that maybe that margin of error
16 could be expanded due to the fact that some percentage
17 of people are inherently or accidentally
18 misrepresented.

19 CHAIR BRISSENDEN: You already plugged in a 17
20 percent margin of error.

21 COMMISSIONER THOMAS: 16.8 by statistic, right.

22 MR. BROWNING: For the fuel use.

23 Now, the non-registered to registered ratios, we
24 do go through a statistical analysis, and it's
25 somewhere in there. I think section four -- five.

783

1 TIM McLARNEY: If I could add one other thing
2 just to the discussion. We focus on what people say
3 and don't say during the interview, but it's important
4 to keep in mind that we're also dealing with the DMV
5 database, which in and of itself is -- I guess saying
6 it's not perfect is probably an understatement.

7 COMMISSIONER THOMAS: That's not a useful
8 statistic, is what you're telling me.

9 TIM McLARNEY: No, I'm just saying that there
10 are two reasons why we could have someone that's added.
11 Somebody says no -- they didn't tell you about a
12 vehicle that they, in fact, have. Another possibility
13 could be they don't have the vehicle but DMV is telling
14 you you have the vehicle, right? So there is a lot of
15 detective work that went into each one of these
16 categories, and ultimately if we have to make an
17 assumption, we have to have a method for categorizing
18 the vehicle. And we came up with a very detailed
19 approach that's listed in more detail in the report
20 about how we ultimately had to make decisions about
21 vehicles that unfortunately there was a discrepancy
22 between DMV database and what was being said in the
23 interview.

24 COMMISSIONER THOMAS: Got it. I understand.

25 COMMISSIONER PRIZMICH: I think I'll cleanse my
784

1 conscience right now. I'm the one who owned the
2 ambulance.

3 DEPUTY DIR. GREENE: Commissioner Thomas, if I
4 may, the DMV, and I think that's highlighted on 3-10 in
5 the report, the DMV is incredibly challenging and it is
6 one of those areas that when you look at green Sticker
7 registration, DMV gets a portion of that green Sticker
8 registration, and it is a challenge for us. They are
9 still using the old Cobalt system, and for them to
10 track things, we've had green stickers that are given
11 red stickers, red stickers given green stickers.

12 So there is an area for us as a Division where
13 we are trying to concentrate, and have for a year and a
14 half now with DMV, but that's an area that at some
15 point in time really does need to be addressed because
16 it is terribly, terribly difficult for us to get an
17 accurate accounting.

18 COMMISSIONER THOMAS: Thank you.

19 DEPUTY DIR. GREENE: Even when we have paid them
20 to do so, we can't seem to get that.

21 CHAIR BRISSENDEN: So Commissioner Thomas?

22 COMMISSIONER THOMAS: I'm done. Thank you.

23 CHAIR BRISSENDEN: I just have one sort of
24 overarching question, which has been posed I'm sure by
25 everyone, and that is how do we address this whole

785

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1 issue of the 50 percent reduction, and that's probably
2 going to take up the discussion of the afternoon. But
3 if my calculations are correct, and I'm sure there are

4 critics of the program out there that might say, so
5 you've overpaid the program a half a billion dollars in
6 the last 16 years. You've been wrangling with that.
7 You said those circles under your eyes were a result of
8 much of this.

9 DEPUTY DIR. GREENE: And absolutely, that is a
10 policy discussion, and, as I said, that I don't think
11 that the administration is ready to right now enact a
12 study without listening to the Commission, obviously
13 without going to the public, without getting
14 everybody's input. If you're looking at a dramatic
15 cut, let us keep in mind that that cut would be in the
16 CESA category because you are talking about those
17 numbers have gone into the CESA account. So
18 essentially we look at what now I believe is a \$32
19 million program we have in CESA in the restricted, so
20 conservation, enforcement and restoration, and you
21 would be looking at counting that down to about 3.2
22 million. And particularly in light of what
23 conversations we have had the past two days, that is
24 significant and dramatic. I mean that leaves us all to
25 pause and look at what this program looks like in the

786

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1 future. What do we do with funding buckets, how do we
2 really want the program to run, and that is an item of
3 discussion which we will have for the next few months.

4 If I may for a moment, what I'd like to do is
5 pass out -- because I think also with Lou here it would
6 be helpful. This is, as many of you know, the in lieu

7 fees, which are that portion, the four dollar portion,
8 which goes to cities and counties. AB 2666 changed
9 that to rather than based on the population, the census
10 as it were, it based it on where people are recreating,
11 the consumption of fuel. And so the Controller's
12 office actually just last week, based on the findings
13 of this Fuel Tax Study, already enacted the monies that
14 are now distributed to the counties based on that in
15 lieu calculation. I think you'll find it fascinating.
16 Lou, could you perhaps turn to page --

17 COMMISSIONER THOMAS: Say that again, that the
18 Controller has already used the new study to make
19 the --

20 DEPUTY DIR. GREENE: Correct, so the Controller,
21 separate from the Division, because in this particular
22 case by statute this something that the Controller has
23 the authority to do, so the Controller already enacted
24 this. As you look at the page that we passed out, and
25 we gave you a couple of different ways to look at it.

787

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1 COMMISSIONER THOMAS: Let me explore that a
2 little bit. Was that done with the administration
3 support or not?

4 DEPUTY DIR. GREENE: No, that was done --
5 strictly there was no consultation. That was done on
6 that. That was simply the Controller who enacted that.

7 COMMISSIONER THOMAS: So no consultation means
8 until it happened, we weren't aware of it?

9 DEPUTY DIR. GREENE: Correct. Because I think

10 as Brian just said, the Controller is not accountable
11 to the Governor's office. The Controller enacted it
12 and off we went.

13 I think what is interesting and what we tried to
14 share with you, as you look at this chart, is that the
15 total for 2003, 2004 and 2005 again was based on
16 population, so where people live not where they're
17 recreating. When AB 2266 was enacted, it then said it
18 would be based on where fuel, the recreation was
19 occurring.

20 So when you turn to the page where we look at
21 Imperial County, being at the top of the sheet, you can
22 see that there's a clear increase from what was in
23 2005, \$6,000 that went to the county, now which will be
24 \$611,000. I think that's something for the Commission
25 that we wanted to make sure that we brought that to

788

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1 your attention as you look at allocation of monies next
2 year in the grant cycle.

3 I think what's also technically important as you
4 look at this, is that in many instances, the counties,
5 because they look at it in lieu of property tax, even
6 though it does say that the monies are to go for
7 off-vehicle acquisition development, law enforcement,
8 and the like, that oftentimes what happens is the money
9 is not used for that, it simply goes into the general
10 fund. I think that we did see a case recently last
11 year where the Los Angeles County Sheriff went to the
12 Board of Supervisors to try to secure some funding so

13 they wouldn't have to continue to come to the
14 Commission. And I think by a vote of the Board of
15 Supervisors, they said that out of, I think what was
16 then, \$213,000, that they would allocate \$70,000 to go
17 to the sheriff. So I just wanted to bring it to your
18 attention.

19 COMMISSIONER THOMAS: We've dealt with that with
20 Fish and Game for years. The policing agent for those
21 legislative mandates as to how proper expenditures
22 should be made is the Controller's audit Division, and
23 there is actually a division in the Controller's office
24 that is charged with following up on this stuff. But
25 if you don't sit on them by writing letters on a

789

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1 regular basis and doing spot samples, and then bringing
2 it to their attention that they've not complied, you
3 probably won't get your audit. But over the years I
4 think Fish and Game has been fairly successful in
5 making sure that the fine revenues do actually come
6 back to the agencies or the duties of the Legislature
7 are followed, so it's just something we need to do.

8 COMMISSIONER PRIZMICH: Just by way of
9 practicality, when you talk about the state, it's a
10 different ballgame versus the counties, and that's the
11 impact of this. County supervisors oftentimes use
12 windfall money, and the individual departments are hard
13 pressed to deal with the board, because the board is
14 the one that's actually giving them their budget, and
15 they're placed in the position of having to sue their

16 own board.

17 COMMISSIONER THOMAS: Which won't happen there.

18 COMMISSIONER PRIZMICH: Seldom happens, but it's
19 a very difficult process. It's a little bit different
20 at the state. I'm glad that this has been pointed out,
21 that this money that goes to the counties could very
22 easily be used in inappropriate ways in terms of our
23 purposes.

24 COMMISSIONER THOMAS: And I think that the
25 remedy for us is to just make sure that we ask that we,
790

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1 A, do a spot check on an annual basis with one or two
2 counties, and then forward that information to the
3 audit department of the Controller's office and say,
4 please do your job, here is the data that shows there's
5 been a breach. And, again, that's what Fish and Game
6 does periodically, because 50 percent of the fine
7 revenue is supposed to end up in the county, 50 percent
8 for Fish and Wildlife purposes, and inevitably it's --
9 in L.A., it buys police cars.

10 CHAIR BRISSENDEN: I think this is a very
11 helpful discussion, but I would not like to use up all
12 of the consultants' time.

13 DEPUTY DIR. GREENE: I understand that.
14 Actually, this is -- again, going to Lou, as you look
15 at -- and unfortunately for those of you who haven't --
16 Commissioner Thomas as well, on page 6-10 in the Fuel
17 Tax Study book, it's important to realize that what we
18 just passed out is just one component of that chart.

19 This is the OHV chart. It's not the street legal
20 calculation. So I just wanted to make sure that you
21 recognize that. Because that's the street legal on the
22 green Sticker, that's the section there in that column,
23 the OHV, that goes to those counties.

24 CHIEF JENKINS: The easiest way to see the
25 correlation is if you look on the back side of the 791

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1 sheet where it's sorted alphabetically, and you compare
2 that first column of gasoline, and gallons of gasoline,
3 and then you look at the chart on 6-10, those numbers
4 exactly then will track. And if you run down the OHV
5 column, you see the first line is \$313,000, you can see
6 under OHV \$313,000. So you can track right down.
7 That's why there are not 58 counties listed on the
8 sheet we just showed you because where there is no use,
9 we just left it blank.

10 DEPUTY DIR. GREENE: However, as we're bringing
11 everything out, there is a concern that, for instance,
12 San Joaquin is not included in or indicates that it has
13 no use, yet at the same time we have one of our State
14 Vehicular Recreation Areas that's in San Joaquin
15 County. So there is still some clarity to try and sort
16 through.

17 MR. BROWNING: Which one is that, though,
18 Daphne?

19 DEPUTY DIR. GREENE: I'm sorry, Carnegie.

20 OHMVR STAFF CLOCK: I think we allocated that to
21 Alameda.

22 DEPUTY DIR. GREENE: And Chair, if I may just
23 for a quick second, and then I'll turn it right back
24 over to you. I just wanted to highlight an individual
25 who has overseen this project on behalf of the

792

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1 Division, Brian Clock, who is sitting to my right, and
2 stand up there. Brian has been the project manager on
3 this project, and he has been with it, well, since day
4 one. And so I really would like to just take a moment
5 and really acknowledge Brian and all of the work that
6 he has done in conjunction with Lou to try and sort
7 through this maze, and really Brian, I thank you.

8 OHMVR STAFF CLOCK: It's been a ball.

9 CHAIR BRISSENDEN: You said it's brought on two
10 weeks of migraines. So that's not a present we wish to
11 bestow upon you at this time, so we hope that's
12 clearing up.

13 We are charged with once a year providing the
14 public with an opportunity to guide this program with
15 your input. Given that we've had this Fuel Tax study
16 that's been anxiously awaited for the last five years
17 plus, I would like you to have the opportunity to query
18 the consultants first, but we do need to get back to an
19 overarching view of where do we go with this program in
20 the next year and give us some guidance.

21 So given that, I would like to open up to public
22 forum, you don't need to fill out your blue cards
23 necessarily. I know there were some people,
24 Mr. Stewart from yesterday, who was denied moments at

25 the last of yesterday's meeting to speak his peace. I
793

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1 would like to invite everyone that has something to say
2 to not only question the study, but also to give in
3 part their concerns and suggestions to the Commission
4 at this. We do have one time constraint. The
5 statistician, Mr. Tim McLarney, we lose him about two
6 o'clock. So if we break for lunch, we need to get
7 statistical questions out before that time.

8 TIM McLARNEY: A little sooner than that,
9 probably more like one o'clock.

10 CHAIR BRISSENDEN: That does then beg the
11 question, should we break at 1:00 for lunch then and go
12 forward. Without further ado, I do have some blue
13 cards, so I'll go there first since they were so
14 gracious to fill out these cards, and then we will just
15 open it up to general comments, unless somebody has
16 another suggestion.

17 Seeing none, we'll start with Narvell Connor,
18 who is now a day older.

19 MEMBER OF THE PUBLIC: Not on this subject.

20 CHAIR BRISSENDEN: Kyra from Nevada County Woods
21 Riders, if you have some comments or questions of these
22 fellows or anything else, that's fine, too.

23 KYRA: Yes, I have one for these folks. How is
24 that. As a member of the motorcycle community, Kyra,
25 Nevada County Woods Riders. I'm a member of the

794

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Page 76

1 motorcycle community, formerly an on-road and off-road
2 racer champion, women's champion in on-road. Formerly
3 the first AMA District 36 women's steward, and it goes
4 on and on; currently with Nevada County Woods Riders.

5 My household has over ten motorcycles, nine of
6 them of which I own some, they are unregistered, some
7 of them road race bikes, so I don't know even where
8 they fall in. And they have been raced on public
9 lands. I also am an OHV business owner, and in our
10 experience, our customers -- you're going to hear a lot
11 of this one. Our customers tend to be married,
12 typically with children, and these households --
13 households that already own a motorcycle have, in my
14 opinion, a higher likelihood of owning another one than
15 just some Joe Schmo that doesn't really like off-road
16 vehicles in the first place.

17 So like our household, many of our customers are
18 typical in that their households may own one or more.
19 And one or more people in that household ride. So, for
20 instance, I would like to know, if my household went
21 riding, whose bike would be counted? Do you just pick
22 one? They're both an off-road vehicle -- they're both
23 a motorcycle -- to give you an idea, we both ride
24 motorcycles. We have one of five that are dual sported
25 and several that are green or red stickered.

795

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1 MR. BROWNING: In the household, if you were

2 selected, basically for a given wave -- and now we're
3 talking about the component two logbook survey, we
4 would decide how many dual sport motorcycles we needed
5 for a given county. We'd decide how many off-road
6 motorcycles we had, how many trucks and so on.

7 We would then scan -- do a random sample of DMV
8 database and pick that vehicle -- pick a vehicle if it
9 happened. So it would be a random selection whether we
10 chose your dual sport motorcycle, whether we chose your
11 truck, your passenger car, or one of your off-road
12 motorcycles.

13 KYRA: So even if both of us were riding, only
14 one -- if, for instance, it were the motorcycles that
15 were being counted, only one of the bikes would have
16 been counted?

17 MR. BROWNING: That's correct. Part of the
18 stipulation in the request for proposal of the study
19 was that we only sample one vehicle per household. I
20 think the thought here was that you get more of a
21 random sample that way.

22 TIM McLARNEY: Can I weigh in on this? It's
23 important to recognize on the fuel use study that
24 ultimately what we're trying to do is go back to the
25 DMV database and use that to project how much fuel is

796

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1 being used, how many vehicles are being used,
2 et cetera. So even though your household owns multiple
3 vehicles, at this point in the study what we're
4 interested in is not population of households, so much

5 as population of vehicles. So we're randomly selecting
6 a vehicle from among those in your household, and we're
7 tracking the behavior that vehicle. That vehicle then
8 becomes representative of the larger population of
9 vehicles in that class which we didn't survey. So, for
10 example, if we had an off-road motorcycle in your
11 household that we tracked and collected fuel use on,
12 whatever the behavior of that vehicle was, along with
13 the other vehicles that we surveyed in other
14 households, becomes representative of the fuel use that
15 was used by other vehicles in your household that we
16 didn't survey. It's not like we don't count them,
17 we're just focusing behavior of one.

18 KYRA: I'm going to run out of time here. Then
19 in our household, and the households of not only my
20 customers, but I'm kind of representing another
21 motorcycle shop as well and their customers -- I almost
22 bought that shop as well. Then our customers at both
23 shops are not representative of this study, and that's
24 a large number of people. I have got over a hundred
25 customers that we see on regular basis.

797

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1 To give you an idea that I can challenge the
2 idea that it's just the single 19-year-old guy riding a
3 bike, that's may or may not -- that's a good chance
4 actually in our estimation that that's your
5 unregistered bike, in many cases, not all. And I won't
6 even make that judgment that that's all. But in our
7 experience, it tends to be, like I said, families, as

2007-27-01

8 has been said before, and these are affluent families,
9 families that have enough money to not only buy a late
10 model motorcycle or quad or other off-road vehicle,
11 they also need a truck to get wherever they're going.
12 Since they have families, they also need a trailer, RV,
13 toy box, or some other similar thing because they're
14 going and they're going to camp for the weekend or
15 extended weekend of race, and they have -- I'll tell
16 you what, they use considerably more than two gallons
17 per year. Our household -- I just kind of did a quick
18 calculation, I haven't finished with my taxes, the fuel
19 receipts don't always make it to me, but we use in just
20 our household, well over a 100 to 150 gallons a year.
21 And if you include the chain saw fuel used on public
22 lands for trail work, I'm sure we use over 200 per
23 year. I'll have my tax receipts in later.

24 That being said, some other things I would
25 suggest is many people use our OHVs on a seasonal

798

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1 basis, some riders only ride during the summer, during
2 the winter, during a certain race season, and that is
3 something that is hard to handle during just a
4 two-month period. And in actual usage, to me this
5 study is very similar of my neighbor running to the
6 internet to check what the weather was doing outside as
7 the wife looks out the window and says it was raining.
8 To me it seems very much like -- I see the people who
9 are riding. I don't see the entire state that doesn't
10 ride, but I see the people who are using OHVs, so, of

11 course, that's my view of it.

12 MR. BROWNING: Right. And the point of that is
13 that you have a biased opinion of what people do versus
14 the total population. What we're trying to do is be
15 unbiased here and look at the entire population of how
16 they use because that's really the measure of where
17 we're projecting this to.

18 KYRA: Well, and since it is my business, it's
19 what I do for a living, it is -- you know, I want those
20 customers, too. So I do look at that from more than
21 just the standpoint of a person trying to go out and
22 have fun. I do it from that perspective, as well. But
23 I also look at it from how many people are there
24 really. Of course, I want the funds to be -- I just
25 want the study to reflect accurately. And two gallons

799

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1 a year does not reflect accurately my knowledge of the
2 industry, and I've been in the industry over a dozen
3 years in a variety of positions.

4 MR. BROWNING: I don't think we've ever said two
5 gallons per year. It's more like 20 or something along
6 that line.

7 TIM McLARNEY: I guess the point being is you
8 started your discussion listing a variety of your
9 activities including race champion, motorcycle shop
10 owner. You're very atypical of what the average
11 California household is in general, and probably even
12 atypical on an OHV-owning household, right? How many
13 of those actually own a motorcycle shop?

2007-27-01

14 So from your perspective what you're seeing
15 around you is -- I have no question is different than
16 what you see in the study. The point of the study
17 though is that we're not only interested in your
18 behavior, we're interested in other people's behavior
19 that may not own an OHV, or if they do they're
20 certainly not as plugged into the industry as you are,
21 and that the results here are representative of the
22 entire state.

23 So it's important to keep that in mind that the
24 patterns that you see here are essentially diluted by
25 everybody in the state who isn't going to recreate at
800

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1 the frequency you do, use the amount of fuel you use,
2 have as many vehicles as you do, or that you see in the
3 others who are enthusiasts, right? You don't see the
4 enthusiasts -- they're factored in here. They're
5 essentially diluted by everybody else.

6 CHAIR BRISSENDEN: We don't have lots of time to
7 query these folks and the study, but I appreciate your
8 perspective. I have John Stewart is next.

9 MR. BROWNING: First of all, I do regret making
10 the statement about the young male. That was --

11 JOHN STEWART: A stereotype?

12 LOU BROWNING: Yes.

13 JOHN STEWART: Good morning, Commissioners, John
14 Stewart, California Association of 4-Wheel Drive Clubs,
15 United 4-Wheel Drive Associations, and Tierra Del Sol
16 4-Wheel Drive Club of San Diego. I would like to point

17 out that I've got some questions about the validity of
18 the entire sampling, how you could take a household
19 grouping and extrapolate that to the entire population
20 of the state.

21 To start off with, the U.S. Congress, a number
22 of years ago mandated that the Forest Service produce a
23 national visitor use monitoring survey report. While
24 the work for that statistic is done by Ken Cordell out
25 of U.S. Forest Service Southern Research Station, and

801

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1 their 2004 study indicated that 23.9 percent of the
2 population of the U.S. population drove off of a paved
3 or graveled rode at least once in the past year.

4 Now, your study here is saying that 10 percent
5 of the population of California owned or operated an
6 OHV. What I find confusing here is that early on when
7 you started, you said that an OHV was just a motorcycle
8 or non-street legal licensed vehicle. And I think it
9 kind of skews the overall picture of the impact of
10 motorized recreation with the gas tax when you focus
11 just on the classification, the narrow focus of OHV,
12 rather than bringing into the picture the entire usage
13 of motorized recreation, which includes all of your
14 street legal vehicles, whether it be four-wheel drive
15 or two-wheel drive. Later on you bring in the camping,
16 fishing, and hunting, and a lot of those activities are
17 done by a two-wheel drive. And yet I do not see a good
18 clarification there, and I'm kind of concerned that by
19 omitting these two-wheel drive, you're skewing the

20 figures even further.

21 I notice that this is a much more accurate, much
22 more realistic picture of OHV use, especially in
23 respect to the unregistered vehicles, as opposed to the
24 original study, but I think that this still has some
25 flaws in it that could raise unregistered back up, and
802

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1 actually could even drive it down more if a true
2 picture of the motorized recreation community or the
3 motorized recreation needs were given and not segmented
4 with a confusing array of definitions.

5 MR. BROWNING: First of all, the ten percent is
6 all vehicles, street licensed and non-street licensed.
7 So ten percent of the households went off-road in the
8 last year.

9 TIM McLARNEY: I would actually clarify it even
10 further, you said 29 percent of households nationwide
11 drove off --

12 JOHN STEWART: 23.9 percent, that's according to
13 Ken Cordell and the Forest Service Southern Resource
14 Station statistics.

15 TIM McLARNEY: And is that just drove off-road,
16 period?

17 JOHN STEWART: That is for a recreational
18 opportunity.

19 TIM McLARNEY: For a recreation opportunity on
20 public lands?

21 JOHN STEWART: Yes.

22 TIM McLARNEY: Okay. I just want to make sure

23 that the definitions there would be the same.

24 JOHN STEWART: That's my concern is the
25 definitions.

803

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1 TIM McLARNEY: Not having seen that study, not
2 knowing, we want to double check that. Obviously,
3 there is a difference between what we said, 10 percent
4 of California, and that figure. The question is
5 ultimately, are we talking apples and oranges or are we
6 talking the same thing. If you take just did you drive
7 off-road, that's a big number. Did you drive off-road
8 on public lands, that's a smaller number. Did you
9 drive off-road on public lands for recreation, that's
10 an even smaller number. So having not seen that study;
11 it's hard to comment on whether or not it's apple or
12 oranges, or, in fact, we are talking apples and apples
13 and we have much different numbers.

14 JOHN STEWART: I understand, and that's why I
15 bring it up now because the Forest Service is using
16 that data. In fact, they have now updated it to the
17 point that they're using the figure of 25 percent as
18 they move forward through their route designation and
19 their facilities inventory.

20 So it does become a very critical
21 differentiation, especially when we look at funding
22 available to help support the agencies, and that's how
23 we move a recreational program forward. So is it
24 apples and oranges, or is it apples to apples, yes,
25 that's why I bring it up as a point. Because here you

804

1 have two major studies or two major surveys, and yet
2 there is a radical difference in the numbering that are
3 derived from each of the results.

4 MR. BROWNING: Is that a nationwide study?

5 JOHN STEWART: Yes, the National Visitors Use
6 Monitoring is off data accrued from all forests
7 nationwide.

8 TIM McLARNEY: Like I said, one, without having
9 seen the study, it's hard for me to comment on why the
10 difference might be there. I can say that the first
11 step would be go back and look at the methodologies and
12 look at how those definitions are being used. And if
13 we are talking apples to apples, to decide whether or
14 not that difference is really an artifact of how this
15 is described or that different definitions are being
16 used, or if in fact this is an apples to apples
17 comparison, and we just have different percentages. So
18 it's hard to comment beyond that on that.

19 I would say the other question you raised with
20 respect to our use of the word OHV and whether the
21 study is excluding essentially street licensed vehicles
22 that are doing it, the study was inclusive of street
23 licensed and non-street licensed vehicles. The OHVs we
24 used to describe non-street licensed vehicles that are
25 being used for off-highway vehicles, so like dirt bikes
805

1 and ATVs, that's a non-street licensed and OHV are
2 synonymous in that they're the same thing in this
3 study. That doesn't mean that we excluded the others.
4 In fact, we included all vehicle types, with the
5 exception of a couple of the very large vehicles that
6 we, at the outset, in consultation with State Parks
7 decided probably not worth including in the study.

8 JOHN STEWART: Once again, my concern on this is
9 the way the terminology is mixed and the all inclusive
10 OHV is also used to identify restricted subset in some
11 portions, and yet the same term is turned around at
12 other points and used to describe the entire data set.
13 So this does cause some confusion in comprehending the
14 exact scope of what is being talked about and the
15 importance of the numbers.

16 But I think the overall thing is that when you
17 look at households, like the previous speaker
18 indicated, you looked at households and what it is per
19 household. And if there are multiples per household,
20 it is kind of ignoring the fact that you're not coming
21 up with a true picture of the entire population of OHV
22 vehicles, inclusive of motorized vehicles being used
23 for recreational opportunity and throughout the entire
24 state. That number in itself could be radically
25 higher.

806

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1 TIM McLARNEY: I would disagree that we're not
2 coming up with that percentage. And in fact there is a
3 reason why we went to the vehicle case. Because in

4 this case what we're projecting is based off the number
5 of vehicles. And the fact that vehicle might be --
6 multiple vehicles are concentrated in households, and
7 we know that, ultimately we do know what the population
8 of registered vehicles is. And so since that was the
9 unit of analysis, and that's the unit by which we
10 projected in terms of fuel use and also you can track
11 over time as the DMV database grows, we can watch how
12 many registered vehicles come into there, that we have
13 a sampling of vehicles. I think that's the important
14 part. We have a sampling of vehicles. We don't have a
15 sampling of households in the component number two
16 study. But that is in fact the best way to represent
17 the population of vehicles of the fleet that's out
18 there, as opposed to capturing all ten vehicles in one
19 household and treating it at the household level.

20 JOHN STEWART: Then your challenge then becomes
21 how to identify the different recreation uses that
22 those vehicles are put to, correct?

23 TIM McLARNEY: Once again, we are projecting
24 based on a vehicle. So if we follow a vehicle, I don't
25 care if two people drive it or four people drive it or

807

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1 if nobody drives it, what I'm wanting to understand is
2 the behavior of that vehicle in terms of how much fuel
3 is being used and what that vehicle is being used for.

4 And so I can understand some of the confusion
5 because component one was focused largely on
6 households. Component two was focused largely on

7 vehicles. But by tracking that vehicle and
8 understanding how vehicles are being used, then we can
9 go back to the DMV database which is a database of
10 vehicles, not a database of households, and then use
11 that to project into the future as this study -- you
12 know, we are now in 2007, it's going to be 2008, can
13 use that methodology for the modeling purposes to
14 estimate how much fuel has been used off-highway.

15 COMMISSIONER PRIZMICH: Okay. Thank you for the
16 clarification.

17 CHAIR BRISSENDEN: Thank you. Bruce Brazil.

18 BRUCE BRAZIL: Bruce Brazil, California Enduro
19 Riders Association. I've got three items, and I'll
20 just present all three of them, try to keep it within
21 the time constraints.

22 CHAIR BRISSENDEN: Thank you.

23 BRUCE BRAZIL: You're welcome. On the transfer
24 model for vehicle counts, you seem to have cut off the
25 vehicle types at 14,000 pounds gross vehicle weight. A
808

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1 Class C motor home could exceed that 14,000 pounds. A
2 Class A definitely exceeds it. Class Cs, you've got
3 probably a 50/50 chance more of having a gasoline
4 engine in it. Class A, more than likely diesel, but
5 there may be some with gas.

6 Considering that those are going to be utilized
7 for camping purposes and camping is your number two gas
8 usage thing, I'm kind of curious as to why those would
9 be excluded from the information.

13 dealt with the over 14,000 pound vehicles. Yes, I mean
14 that's true, there are vehicles that are out there that
15 could be used for recreational purposes on public
16 lands. What we found was in the ten to 14,000 pounds,
17 there wasn't a whole lot of use. There's a lot more of
18 those that would be considered recreational vehicles in
19 that category than in the greater than. It would be
20 hard for me to believe that someone would take a
21 30,000-pound vehicle and drive it over really rough
22 trails, but it could happen. We're still projecting a
23 fair fuel use for the others. I mean they could be
24 added. It was just a decision that we made at the
25 time. They were not included in the 1990 model, no

810

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1 vehicles over 10,000 pounds were considered in that
2 model, so we've extended it to 14,000 pounds.

3 BRUCE BRAZIL: My concern was that these
4 vehicles are being utilized for camping purposes, and
5 camping is your number two fuel usage.

6 MR. BROWNING: That's true. And so, yes, there
7 may be some there spread over the entire class four,
8 five, and six. First of all, as you go up classes, the
9 amount of gasoline vehicles starts diminishing rapidly.
10 I know there's probably a few big motor homes that are
11 gasoline, probably a lot of diesel now. So, you know,
12 I don't think we're missing a significant portion here,
13 but that's something up for discussion. I mean I want
14 to see the numbers, but I don't see that it would be
15 significant to include those.

16 BRUCE BRAZIL: Perhaps you should speak to some
17 of the OHV people that recreate down in Southern
18 California in a large vehicle to see how many of these
19 type of vehicles are out there? Thank you for that
20 one.

21 MR. BROWNING: Remind me what the second
22 question was.

23 BRUCE BRAZIL: The non-op.

24 MR. BROWNING: Non-op we considered to be
25 registered. So if we found a non-op, we treated it as
811

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1 a registered vehicle.

2 And your third question was?

3 BRUCE BRAZIL: How did you determine the number
4 or percentage of off-highway vehicles that were not
5 registered that were being operated off-highway on
6 public property?

7 TIM McLARNEY: One more time again,
8 non-registered vehicles that were being operated, that
9 came from our component number one survey. The only
10 way to capture non-registered off-highway vehicles to
11 be able to survey them in component number two was
12 we -- in the component number one which was the
13 statewide of RDD of 15,000 households, we found 2500
14 households that had off-highway vehicles. We then
15 matched that to the DMV database and, as we discussed,
16 figured out which ones of those we determined to be
17 non-registered.

18 DEPUTY DIR. GREENE: Tim, you've got to slow
Page 92

19 down. She cannot capture your words.

20 TIM McLARNEY: I apologize. It's very hard for
21 me to slow down. I usually speed up as I talk.

22 DEPUTY DIR. GREENE: Joanna, use your elbow.

23 TIM McLARNEY: We had a household survey of
24 15,000 households statewide. We found households that
25 owned off-highway vehicles. We then matched that

812

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1 against the DMV database to find those that we
2 determined were non-registered. From that pool of
3 non-registered, we mailed diaries to them and logs to
4 them. So that's the only way to identify those
5 households. They don't exist in the DMV database. So
6 we pulled from the people that we located in the
7 component number one study and used them to represent
8 the non-registered off-highway vehicles and included
9 them in the component number two study.

10 BRUCE BRAZIL: And the component two is where
11 they gave you their logbooks?

12 TIM McLARNEY: Correct.

13 BRUCE BRAZIL: Like I say, the information or
14 data that you ended up with is roughly ten times the
15 amount of usage that was presented by law enforcement
16 within the State of California last year.

17 TIM McLARNEY: And to that point, people are
18 strategic about, I would imagine, where they go when
19 you have a non-registered vehicle. And so the fact
20 that law enforcement is picking up three percent,
21 doesn't mean that they're randomly sampling three

22 percent of the non-registered that are out there.
23 It's the folks -- if I have a non-register bike, and
24 correct me if I'm wrong, I know where I probably
25 shouldn't go, where I shouldn't go if I'm looking to 813

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1 not get caught. If I'm looking to get caught, I know
2 where to go. I'm just guessing that the difference
3 there has to do with people being wise about where they
4 ride and don't ride when they have a non-registered.

5 BRUCE BRAZIL: But when you're considering with
6 your figures that one-third of the OHV vehicles being
7 operated out there are unregistered, I think there
8 would be a very high component that would be captured
9 by the law enforcement, irrelevant to where they're
10 riding.

11 MR. BROWNING: Well, they may not be used.

12 BRUCE BRAZIL: That's the point. Thank you.
13 They have to be used off-road and burning gas off-road.

14 MR. BROWNING: That's correct, but what we did
15 is we sampled people who didn't use them and people who
16 did, and so that's how we came up with the fuel use for
17 those, and we found it significantly less than the
18 people that actually did use them that were registered
19 and did use them.

20 BRUCE BRAZIL: Thank you for your time. And
21 thank you for bringing up a whole lot of new
22 information that we've all been waiting for verifying a
23 lot of what we highly suspected, now we've got some
24 data to back it.

25 CHAIR BRISSENDEN: I now have just one person 814

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1 who wants to speak on another issue. I will let this
2 flow for another 50 minutes, and then we will have to
3 cut it off at 1:00 and take notes of all your questions
4 that didn't get answered and submit them. I presume
5 there is a follow on with the consultants, there's a
6 bit of overage time to answer some of the questions
7 after today; is that correct?

8 DEPUTY DIR. GREENE: He's not going home after
9 today. Lou is with us for quite some time.

10 MR. BROWNING: We're still waiting for DGS to
11 re-sign our extension.

12 CHAIR BRISSENDEN: Barring the contract
13 discussions, we assume we have you for a while longer.
14 So I would like to invite those that would like to
15 query the consultants with short questions, and then
16 take your answers more or less off-line going to your
17 seats. And we will try and respond to as many as we
18 can before one o'clock. So come forward please.

19 RUSS GREEN: My name is Russ Green. I'm from
20 Nevada County. And my first question is in reference
21 to your report here. Who is Cenzer?

22 MR. BROWNING: Robert Cenzer happens to be a
23 consultant that we use, and so does a number of other
24 agencies. He is an independent fellow who has delved
25 into DMV data for probably the last 15 years. He

815

1 probably is one of the more knowledgeable people on DMV
2 data, even better than a lot of people within DMV.
3 California Energy Commission uses him for their
4 vehicles projections. Department of General Services
5 actually used him when they found there were a
6 significant number of state vehicles that somehow had
7 disappeared, and it turned out that they were actually
8 only registered once, and so it's not surprising that
9 they disappeared. But he's used by a number of
10 state agencies. I think he's used by ARB. I know
11 Brian uses them for determining a number of things for
12 State Parks. He's probably the resident expert in
13 California on DMV data.

14 RUSS GREEN: So he's just one person?

15 MR. BROWNING: He's a one-person shop.

16 RUSS GREEN: We've got one person that's
17 interpreting all of the data that we're getting from
18 DMV on OHV?

19 MR. BROWNING: Yes and no. He is the fellow
20 who's the most knowledgeable. Actually DMV provides --
21 I found out from Brian that DMV actually provides him
22 with counts of motorcycles and ATVs, which is
23 surprisingly similar to what Cenzer found, but
24 surprisingly different from the data that the vehicle
25 count model predicts.

816

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1 RUSS GREEN: Well, let me ask you this question

2 then: Is it true that DMV has had issues with the
3 green sticker, red sticker issue in which you're basing
4 your data on? And if that is true, can that DMV data
5 that we have --

6 MR. BROWNING: First of all, we didn't
7 differentiate between green and red sticker because
8 of -- Brian can probably talk about this a little
9 better than I can, but as I remember, about the time we
10 were doing our study, they decided that the red sticker
11 program wasn't exactly legal or some issue.

12 CHIEF JENKINS: If I might interrupt, I think
13 the main issue there is that Cenzer, since he was a
14 Cobalt programmer, we mentioned Cobalt, there is just
15 not a lot of the guys around. I think the reason he is
16 like one of the guys is his ability to program in
17 Cobalt and actually write decoding programs for those
18 VIN numbers. And it's the VIN number that dictates if
19 it's red or green, that's where he becomes so vital in
20 writing new programs to decode those numbers that
21 change manufacturer to manufacturer.

22 RUSS GREEN: We have had problems with that in
23 the past with the red stickers and green stickers.

24 DEPUTY DIR. GREENE: Exactly, we have had
25 problems, and that's what I was referencing earlier.

817

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1 That I don't believe with as much with Cenzer, as it is
2 with DMV once they gather the data. And so part of the
3 delay, for everybody as we're looking at this Fuel Tax
4 study, was the fact that Cenzer is one man, one

5 individual who has the expertise. And there is a
6 market for it, so we should all learn it, but so as a
7 result it took a long time.

8 The problem that really comes is how you have to
9 be able to decode those VIN numbers so that you can
10 track which vehicles go into which categories. And
11 that's where we have been at such a disadvantage, not
12 only in terms of consumption of fuel, but also how do
13 we track who's doing what, who is recreating. So as we
14 start talking about our strategic plan, planning for
15 the future, as Commissioner Anderson said a little bit
16 ago, we have to have the data. And we have been
17 woefully inadequate in that.

18 RUSS GREEN: And if he's interpreting the data
19 that the DMV is giving him, my question is, you know,
20 how much can we really trust what we're getting out of
21 DMV right now? Because I've dealt with this issue on a
22 personal basis.

23 And I have one other question for the Commission
24 here. This doesn't address any out-of-state people
25 that come from Nevada, Arizona, or any other place that
818

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1 come into California to use our parks and our off-road.
2 Is there a reason why or is there just kind of we let
3 them slide by and not hold them accountable?

4 MR. BROWNING: I think that's part of the law,
5 isn't it?

6 CHAIR BRISSENDEN: I believe it was stipulated
7 in legislative request for the studies.

8 DEPUTY DIR. GREENE: It was for Californians, by
9 Californians. And you're right. It's an area, as is
10 the issue of diesel, so we only counted gas. These are
11 a number of issues which have been raised. We
12 obviously heard the RV issue, when you look at Glamis,
13 when you look at Oceano Dunes, an inordinate number of
14 RVs that are used; but there were certain things in
15 California law that don't allow us to include the use
16 of out of state.

17 RUSS GREEN: Just so you know, I am one of those
18 persons that holds -- I got 36-foot trailer, 23 bikes,
19 and I have an immediate family that rides with me every
20 time I go. I think it's pretty, you know -- you're
21 saying one bike out of one household. I can tell you
22 right now that's not representative of the off-road
23 community that I see. It's not just there and --

24 CHAIR BRISSSENDEN: If you could summarize your
25 questions, please? Summarize your questions, you're
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1 over time.

2 RUSS GREEN: The only other question that I have
3 is the question of accountability. When these grants
4 are given out for certain purposes, who is accountable
5 to go up there and make sure that if we're giving a
6 grant to somebody that they're to improve trails or do
7 whatever, where does that come?

8 CHAIR BRISSSENDEN: That's going to come under
9 Deputy Greene's report in a little bit.

10 CHIEF JENKINS: Just in short answer, we do

11 audit all of the grants. We're required by the statute
12 to do a performance audit on every grant every year.
13 So we do do a number of audits, and that's something
14 that our recent Bureau of State Audits audited the
15 Division, pointed out is we're trying to catch up on
16 those of those back audits. So we're having kind of a
17 renewed effort over this last year in trying to catch
18 up and make sure that that accountability is there. So
19 something we're working towards, absolutely.

20 RUSS GREEN: Okay. Thank you.

21 CHAIR BRISSENDEN: Next.

22 TOM TAMMONE: Tom Tammone. Yes, diesel is an
23 obvious issue. We have a guy in our volunteer program.
24 He hasn't given me permission to disclose the
25 spreadsheet, but he estimates that as one vehicle, he

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1 spent around 40 to \$45,000 in our program alone in the
2 San Bernardino National Forest. He has equipment and
3 everything that he's done that's donated for the whole
4 purpose of being of public service, and he estimates
5 he's only spent about \$1700 in fuel. \$1700 would be
6 about 600 gallons, and you figure the percentage of
7 that wouldn't wind up to very much money. That's not
8 even being counted because it's a diesel rig.

9 You figure that we, as a sport, I've heard
10 numbers thrown at me between \$10 and \$14 billion a year
11 we contribute to the economy. We are only even talking
12 here a small percentage of the worth of this sport, and
13 as far as what it generates in tax revenue; and not

2007-27-01

14 even considering, you know, the federal government
15 should be chipping in and industry should be chipping
16 in. This industry is worth billions, and we're sitting
17 here arguing over scraps, in my opinion.

18 But as far as the unregistered vehicle count, I
19 was kind of wondering -- I'm one of those guys that
20 always is late getting registration fees out and
21 cancelling. From the local Highway Patrol people --
22 and they're expensive. We had a little argument
23 whether expired registration is really even
24 registration or not, depending on how long it goes out.
25 I'm just kind of curious, every time I'm late getting

821

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1 my fees in, well I just generated seven unregistered
2 jeeps. How are we counting all of this?

3 And as far as, you know, Deputy Greene's
4 remarks, these people that are spending their \$500,000
5 on some of these rigs, and they're not getting any use
6 if they're diesel rigs, they're paying for the fuel,
7 they're paying tax on the fuel, and I don't care
8 whether it's diesel, I don't care whether it's fuel, I
9 mean maybe sooner than later it's going to be hydrogen,
10 maybe sooner or later it's going to be electric, but we
11 need to start looking away from this whole fuel tax as
12 being such a large chunk of the funding for this
13 program altogether.

14 Ten years from now, we might not even be using
15 gasoline. But the whole point is that if you're buying
16 money -- they're buying the fuel, they're paying the

17 tax, and they're getting the daylight speed out of
18 their \$500,000 rigs driving on very unimproved, unpaved
19 roads. So they're not getting any benefit out of their
20 taxation. That's what the issue is here, more than
21 anything else. Compare our behaviors to behaviors in
22 other areas of the community or people that aren't
23 involved. It does matter or at least we should be
24 counting all of the vehicles that are out there. We
25 have the DMV figures to do it. It should be done. But
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1 even so, like I said, the fuel use represents a very
2 minute percentage of what is being utilized by this
3 industry. And we need to look at that, too. Thank
4 you.

5 CHAIR BRISSENDEN: Thank you. Next.

6 DOUG HUBBARD: Thank you. Members of the
7 Commission, Doug Hubbard, San Bernardino County
8 Sheriff's Department of the Barstow station, and just
9 very briefly I wanted to make a couple of points.

10 I'd like to commend the staff and Daphne and
11 Phil and the folks who worked on this project. I think
12 it's really important. I can't keep track of my own
13 fuel use, and they did the whole state. So that's
14 pretty amazing. And coming from San Bernardino county,
15 obviously being number two on the list.

16 CHAIR BRISSENDEN: Congratulations, you won the
17 lottery, didn't you?

18 DOUG HUBBARD: Yes. In many of these studies,
19 obviously San Bernardino County is huge, and we have a

20 lot of use. And I just wanted to make one point, as I
21 sat back here and listened to the presentation and then
22 some of the other discussion, I got to thinking about
23 my environment out of Barstow station and Dumont Dunes
24 specifically and Stotter Valley, which is my
25 responsibility. On any of the long weekends, we could
823

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1 see up to 20,000 vehicles. And when I say vehicles,
2 I'm talking about motor homes, travel trailers, fifth
3 wheels, toy boxes, as was mentioned earlier. Many of
4 those are diesel and large because they do have access
5 to these areas. But while I was thinking that, and it
6 may not apply, it may be a legislative issue, I'm not
7 sure. But I know from personal experience, because I
8 take mine on an average on a four-day weekend I'll use
9 25 gallons of fuel in my generator alone, in my command
10 post as well, to operate the command post over the
11 four-day weekend. You take that over a four-day
12 weekend with 20,000 of those types of vehicles, and you
13 end up -- these are just numbers I came up with,
14 500,000 gallons of fuel. My jurisdiction has five of
15 these large weekends that could attract this many
16 people. You end up with two-and-a-half million gallons
17 of fuel. So I don't know if there could be some
18 consideration or some study on this fuel that's being
19 used to stay at these places that we're doing. It's
20 not the motorcycles or the vehicles being driven on the
21 lands, but it is a big part of them being there. So as
22 I was sitting here, I threw that out.

23 And as I said, San Bernardino County being
24 second on the list here, and obviously a large part of
25 this study and this testing, on behalf of our

824

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1 department we are grateful to the Commission for the
2 funding that we do get for the last five years
3 throughout our organization, and we're committed to, as
4 Sheriff Prizmich mentioned, trying to work with our
5 county to work with us. It's very, very difficult, as
6 you mentioned. And I just wanted to reassure the
7 Commission and Division, as well, that we're committed
8 to trying to work with our county to get them to
9 disperse those funds to us in an appropriate way so we
10 can use them for the operations. Thank you.

11 CHAIR BRISSENDEN: Did you see the check come
12 in?

13 DOUG HUBBARD: No, but I heard it's in the mail.
14 I'll get on an airplane in two hours. I'll go check
15 the mailbox. Thank you.

16 CHAIR BRISSENDEN: Thank you. Next.

17 FRED KRUEGER: Good afternoon, Fred Krueger from
18 Quincy, California. Just a comment on the usage. I
19 have a street licensed OHV in the form of a Ford
20 four-wheel drive pickup truck that I use for hunting
21 and recreational activities, recreational driving,
22 fishing, camping, and I can tell you that it's nowhere
23 near the average, but I can tell you I can hardly get
24 that out of the garage for 15 gallons of gas. So that
25 seems low to me is my comment.

825

2007-27-01

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1 I'm also the owner of a ATV quad, and again I
2 think I'm under the average in use. I did spend seven
3 days in the desert over the New Year's, and I used more
4 than 25 gallons of fuel or gas. That alone out of a
5 total of probably 14 trips to the woods, Plumas
6 National Forest, so that just seems low to me is my
7 comment. Thank you much.

8 CHAIR BRISSENDEN: Thank you. There is a
9 question from you?

10 COMMISSIONER THOMAS: Just a note, did you look
11 at the sheet here? Plumas County goes up from \$600 to
12 \$54,000.

13 FRED KRUEGER: I saw that number, 11th, I think,
14 in the order. So that shows the users that are coming
15 to the Plumas National Forest because Plumas National
16 Forest covers Plumas County, about 75 percent, so.

17 COMMISSIONER THOMAS: I'm sure you'll be down at
18 the board of supervisors.

19 FRED KRUEGER: I'll be noting that to them.
20 Looking for my check there, as well.

21 DEPUTY DIR. GREENE: Commissioner Thomas, I
22 thought Butte County would be very happy, as well.

23 COMMISSIONER THOMAS: Sheriff and I will be
24 talking Monday morning.

25 JOHN HOFFMAN: John Hoffman with the Regional 826

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1 Council of Rural Counties, just a couple of comments.
2 I, too, had a concern with the non-op vehicles and
3 wondering if that was valid to include them with the
4 registrants. And I don't know, taking a look at it --
5 I guess I would encourage you to take a look at it to
6 see whether or not your statistical sample of those
7 that were non-op was consistent with the ratio of
8 non-op to registered users. Because, you know, one way
9 or another, that may be higher or low.

10 In my view probably a non-op would be closer to
11 a category of someone that didn't own one, uses the
12 same fuel. If you don't use the vehicle, you put zero
13 fuel; if you don't own one, you use zero fuel. If you
14 heavily weighed it, and I don't know if you did, but if
15 you have -- the surveys just picked up more non-op
16 people that would tend to lower the fuel usage of those
17 that actually did use it.

18 And then I also had the same kind of concern
19 with if, in fact, as we've heard today, that several
20 people that use their motor vehicles off-highway
21 extensively, they have more than one, they have
22 multiples. And those that maybe not use their vehicles
23 off-road very much, probably only have one or two. And
24 so, you know, when you weight them evenly, as far as a
25 sample, you may be skewing what the actual ratio of

827

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1 heavy use to light use might be. There's a thought.

2 CHIEF JENKINS: Just one comment that might be
3 helpful for that, just trying to jump in. I know that

4 Lou has spoken to us early on about how to handle
5 non-ops, and you have to either put them in the
6 non-registered or registered. If you put them in the
7 non-registered, then there's going to be that
8 assumption that's building up that nonexistent, you
9 know, they're not really driving, or if you put them in
10 the registered, what do you do with them.

11 I think, if I recall all of the discussions, it
12 was generally assumed, decided in the end that if an
13 individual is responsible enough to go, pay that extra
14 fee, non-op their vehicle and park it in the garage,
15 that they're probably in all likelihood going to be
16 responsible enough not to take it out and then operate
17 illegally. So that's why we ended up asking -- you
18 know, you had to put it in one or the other, and so I
19 think -- am I recalling correctly?

20 MR. BROWNING: Yes, that's correct. And for the
21 non-op question it was really for the non-registered to
22 registered ratios. When we actually did the survey, we
23 looked at registered vehicles. So we might have picked
24 up a couple non-ops, but probably very few in the
25 actual diaries or logbooks we sent out. So we weren't

828

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1 really getting that population, albeit that it's a
2 small population.

3 JOHN HOFFMAN: Okay. So when you say registered
4 vehicles, you're looking at registered operating
5 vehicles is what you actually took your study on?

6 MR. BROWNING: Yes. As far as when we mailed
Page 107

7 out logbooks, we sent them to vehicles that were
8 currently registered, and also from our component one
9 study, vehicles that we found to be unregistered to try
10 and get fuel use for that population.

11 JOHN HOFFMAN: Well, if you're satisfied with
12 it. That was a question I had is to how those worked
13 out.

14 And because the other thing that I would note,
15 and maybe, you know, time gets away from you, but it
16 seems to me at about 1990 or in 1990s you didn't need
17 to register as a non-op. If you weren't using it, you
18 just didn't register it. And then when you decided to
19 use it, you just checked the box that said I have not
20 used it in the intervening time. So that may have also
21 carried the factor of why 1990 had more unregistered
22 vehicles than you do today. I don't know, that may
23 have been '80s, you know, time gets away.

24 MR. BROWNING: I think the thought on non-ops
25 was people are eventually going to fix them and they're
829

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1 going to become registered. That's why we included
2 them in the registered category.

3 JOHN HOFFMAN: I have four, and they've been
4 non-op for so long that they're --

5 MR. BROWNING: Well, I think that's probably a
6 trend that once it becomes non-op, you start pulling
7 parts off of it, and it becomes more non-op.

8 JOHN HOFFMAN: The other concern, how did you
9 determine the counties? I know working for counties,

10 most of us don't know where the county line is. You
11 know, they'll come say, I drive my vehicles in Bear
12 River. Well, every one of our rural counties have a
13 Bear River in it.

14 MR. BROWNING: We asked a number of questions,
15 in addition to that Bear River question. We asked the
16 nearest city, the county that they thought it was in,
17 and we double checked that. We meticulously went
18 through every record and looked to see, is that the
19 correct county, and if not, we corrected it.

20 Now, it wasn't all 15,000 because, of course,
21 not everyone used fuel. We only corrected the ones
22 that used fuel. But there were probably in the
23 neighborhood of about 8,000 records that we had to
24 correct -- not correct, but we had to check.

25 JOHN HOFFMAN: I appreciate your hard work in 830

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1 this. Thank you.

2 CHAIR BRISSENDEN: I would hope RCRC would
3 because I would guess that you made out like reasonable
4 bandits.

5 JOHN HOFFMAN: Well, I don't think so. Compared
6 to the old one yes, but.

7 CHAIR BRISSENDEN: Is San Benito one of your
8 rural counties?

9 JOHN HOFFMAN: Yes, it is.

10 CHAIR BRISSENDEN: It went up 90 times, I think.
11 Overall you have 22 -- how many?

12 JOHN HOFFMAN: We have 30.
Page 109

13 CHAIR BRISSENDEN: So overall you're saying that
14 you didn't do better by this assessment.

15 JOHN HOFFMAN: We definitely did better in this.
16 So if you make out like a bandit in that terminology,
17 yes. My concern is that we still have the most usage
18 of these areas, and the fuel is -- since the fuel is
19 going down but the usage is going up, I'm not sure what
20 they're putting through these vehicles, but they are
21 putting some wear on the ground.

22 CHAIR BRISSENDEN: That was one of many reasons
23 that this study was conducted, but I do see about
24 two-and-a-half times more in lieu fees being
25 distributed to counties throughout California as a

831

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1 result of this study.

2 JOHN HOFFMAN: Much appreciated.

3 DEPUTY DIR. GREENE: And, John, if I can help
4 you on San Benito County, I think one of the things
5 that we actually have been seeing, Commissioners, is
6 Thanksgiving holiday is a perfect example. Hollister
7 Hills we reached carrying capacity. So we started
8 having to turn people away. Within San Benito County,
9 that's where Hollister Hills is located, we also have
10 Clear Creek, so Clear Creek is now closed in the
11 summertime, so what we're seeing actually is a lot more
12 use going on unfortunately down in the river areas. We
13 have been disappointed San Benito County has not come
14 in for a grant lately, but I would imagine now perhaps
15 the sheriff can help increase that enforcement along

16 their river bottom.

17 JOHN HOFFMAN: Yes. Again, thank you so much.

18 CHAIR BRISSENDEN: Any others who -- we haven't
19 exhausted all of the questions, I'm sure.

20 ELIZABETH NORTON: Good afternoon, I'm Elizabeth
21 Norton with the Lassen National Forest, and I'm going
22 to refer to slide 37, and just to get clarification on
23 what I thought I heard before.

24 On the gallons and miles and hours spent on
25 driving off-road that does or does not constitute

832

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1 travel on roughly graded road to get to an OHV area.
2 And I'll use an example. On our forest, we have two
3 managed OHV areas, it's four hours from Susanville of
4 travel to get to these two OHV areas, three hours are
5 on forest roads. So were those miles included in
6 accessing that OHV area or not?

7 MR. BROWNING: If they were on public lands,
8 yes. And the definition we used for off-road driving
9 was nonpaved.

10 ELIZABETH NORTON: Okay. Good, I was hoping you
11 would say that.

12 DEPUTY DIR. GREENE: However, Liz, just to
13 clarify -- Lou, correct me if I'm wrong -- if in fact
14 you were only counting the bike that was in the back of
15 the pickup, you would not have gotten the fuel that was
16 used to get to the staging area, that three hours of
17 the dirt road.

18 ELIZABETH NORTON: I would be driving my jeep

19 three hours on gravel roads down to an OHV area.

20 LOU BROWNING: And if we were sampling the jeep,
21 we would get that. If we were sampling whatever was in
22 the back of the jeep, we would not.

23 ELIZABETH NORTON: That's correct.

24 And then the recreational areas visited, and
25 Commissioner Thomas alluded to that, on page 44 we can
833

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1 break that down by county, but can you also break it
2 down even further to identify the area that was
3 visited, such as a BLM area or a national forest?

4 MR. BROWNING: We do have information on the
5 actual area that was visited. And in most cases, it's
6 fairly correct.

7 ELIZABETH NORTON: We would go to you or to
8 Brian?

9 DEPUTY DIR. GREENE: If you would come to the
10 Division, yes, we can provide that. And also, Liz, as
11 you see it in the Fuel Tax study itself on page 6-11,
12 it highlights the six areas with the highest fuel use
13 as the Angeles, the Imperial Sand Dunes, San Bernardino
14 County National Forest, Hungry Valley SVRA, Ocotillo
15 Wells SRVA, and Jawbone Canyon/Dove Springs.

16 ELIZABETH NORTON: Okay. And I've also made the
17 assumption that the majority of OHV use is occurring on
18 public lands.

19 VICE-CHAIR ANDERSON: Daphne, could you repeat
20 that page, please?

21 DEPUTY DIR. GREENE: Sure, page 6-11, at the top
Page 112

22 of the page.

23 ELIZABETH NORTON: Is that a reasonable
24 assumption?

25 MR. BROWNING: What was that again? Sorry.

834

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1 ELIZABETH NORTON: That the bulk of OHV
2 recreation in the state of California is occurring on
3 public lands whether it's national forest, BLM?

4 MR. BROWNING: I'm afraid we don't know that
5 because all we know is what was done on public lands.

6 ELIZABETH NORTON: Okay. Thank you.

7 CHAIR BRISSENDEN: Thank you. Other questions
8 for the consultants and/or the Division or us? We will
9 then take about an hour break and come back to provide
10 input for the program to the Commissioner for next year
11 and have the Deputy Director's report now.

12 DEPUTY DIR. GREENE: I was going to wrap up on
13 the Fuel Tax, if you may.

14 CHAIR BRISSENDEN: You may.

15 DEPUTY DIR. GREENE: Again, Lou, thank you,
16 Brian, thank you. I think there are a number of things
17 to take away from this study, but I think everybody,
18 and the partnerships that we have with the Commission
19 with the agencies, I think a couple of things. We can
20 be proud of the enforcement efforts and the education
21 efforts that we have made since 1990 to try and address
22 the unregistered. It has been something that we have
23 really focused our efforts on is to try to get people
24 to make sure they registered their vehicles. It's all

25 part of the educational campaign that we've done in 835

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1 partnership with BLM, Forest Service, and the counties.

2 Certainly, there is more work to do. There
3 always is. I think that as we look at this, and it's
4 been highlighted today, there are still some questions
5 to be asked. Some of the issues about self selecting
6 and cell phones nowadays, I think one the issues that
7 is interesting to us at the Division in particular is
8 that CARB recently came out with some statistics about
9 how many gallons of fuel are being consumed. They have
10 a statistic on dirt bike consumption, which is 1200
11 gallons a year. So it leaves us as agencies with a lot
12 of sifting out to do and to try to figure out.

13 I think as we move forward, we certainly know
14 that we've seen the increase in sales, we've seen the
15 increase in population in California, we've seen the
16 increase in green sticker registrations and number of
17 street licensed vehicles which have been purchased.

18 I think also I would just like to caution
19 people. We've heard a lot this morning about how much
20 money is in the industry. Certainly there is, but I
21 think keep in mind that actually the State of
22 California provides free training, ATV training to
23 anybody under 18. And so that is for a used vehicle.
24 And we have seen just an increase, a phenomenal
25 increase in the number of people who are attending

836

1 those classes. And an interesting fact from those
2 classes is that three-quarters of those attendees are
3 from the Latino community.

4 So I think that all of this information that
5 we've gathered today, through the study and that we
6 continue and the Commission is going to -- the public
7 will share with the Commission later on today, just
8 highlights the need for the collection of data.

9 And so, again, Lou, thank you. I think this is
10 a significant tool in our toolbox as we start to look
11 to the future. And thanks to all of the public and the
12 Commission for their patience as we have gotten this
13 study out.

14 CHAIR BRISSENDEN: You do bring up a couple of
15 points, and I should have asked the Commission if they
16 had final questions of the consultants before we
17 dismiss them for the moment. You're not dismissed
18 entirely. So I will come back to the Commission, and
19 then we will close for lunch and come back within an
20 hour. So Mark, I see you leaning into your microphone.

21 COMMISSIONER McMILLIN: Yes, I just have one.
22 Here it is, and we have it. Has it been adopted or is
23 it draft? What's the Governor office -- well, they're
24 mailing checks out based on it, so I guess it's
25 official?

837

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1 DEPUTY DIR. GREENE: I think certainly the

2 submission of the Fuel Tax Study is official. We have
3 the document in our hands. At this point in time, I
4 think as we had said, the administration's position at
5 this time is that we needed to -- we certainly wanted
6 to reach out to the Commission, be able to provide a
7 briefing. We'd also like to do a series of them
8 throughout the state and to get more public input. I
9 certainly think some of the issues which have been
10 raised today are extremely important. And then in the
11 coming months, make a decision about where, in fact, we
12 go given this information.

13 COMMISSIONER McMILLIN: So there is possible
14 opportunity if we can -- we're not trying to shoot
15 holes in this thing, but if we find areas that need
16 work done, there is an avenue to -- short of a lawsuit,
17 an avenue to make some changes in this?

18 DEPUTY DIR. GREENE: Certainly, I would hope
19 that we could avoid those lawsuits, but I think,
20 absolutely, at this point in time, I think before we
21 move forward and make such a dramatic cut within this
22 program, that the administration has said it would like
23 it hear from the Commission, certainly it would like to
24 hear from Californians, and to get that input before
25 they start to make some policy decisions.

838

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1 COMMISSIONER McMILLIN: So how is this, our
2 input, the public's input going to be bottled up and
3 shipped over to the Capitol.

4 DEPUTY DIR. GREENE: As we go through the public

5 briefings, and we will be collecting all of that
6 information, and that in turn will then go over to the
7 Governor's office.

8 COMMISSIONER McMILLIN: In a written report?

9 DEPUTY DIR. GREENE: Yes, some sort of written
10 report.

11 CHAIR BRISSENDEN: I think to answer your
12 question, too, we will be taking input this afternoon
13 in terms of priorities and where the program is going
14 from the general public. We've determined the
15 March meeting in Southern California we'll talk about
16 how to set monetary priorities, and I think within that
17 discussion, we should certainly reflect upon what the
18 study is saying and how we are to respond to it. And I
19 don't know if that's going to be appropriate timing for
20 the administration to get feedback from the Commission
21 or not, but I hope so.

22 DEPUTY DIR. GREENE: Absolutely.

23 CHAIR BRISSENDEN: Further comments from other
24 Commissioners at this time?

25 Seeing none, I, too, thank the consultants for
839

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1 all of your efforts and deliberations, and we're
2 grateful to have the document, and now let everybody
3 have at it.

4 MR. BROWNING: Thank you.

5 CHAIR BRISSENDEN: So if we could be back here
6 at 1:45 to hear the Deputy Director's report and go on
7 into public input for the future. Thank you.

2007-27-01

8 (Lunch break taken in proceedings.)

9 CHAIR BRISSENDEN: Welcome back for the final
10 round of the --

11 COMMISSIONER ANDERSON: Is this like the last
12 two minutes of the football game, it takes half an
13 hour?

14 CHAIR BRISSENDEN: It takes forever. No
15 timeouts. I do know I have two people going into the
16 air by two o'clock.

17 COMMISSIONER McMILLIN: 3:00 or 3:30.

18 CHAIR BRISSENDEN: So we will commence with the
19 Deputy Director's report, and then we will go to public
20 forum.

21 DEPUTY DIR. GREENE: I've got a couple of issues
22 just to highlight. Number one, for all of you, on
23 April 11th and 12th, the California Biodiversity
24 Council, which is made up of 40 members, including ten
25 regional associations of California supervisors and

840

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1 governors, 16 state agencies and federal agencies
2 committed to resource management, are getting together
3 for a conference this year. They hold four conferences
4 a year. This year they've identified OHV recreation
5 and how we balance that with California's biodiversity.
6 It will take place on April 11th and 12th, located in
7 San Jose.

8 On April 11th, we will be visiting Santa Clara
9 County Park, they were before you in the last two days,
10 as well as Hollister Hills State Recreation Area. And

11 then we will be back the next day for a conference.
12 The conference is headed up by Director Mike Poole of
13 the BLM and Secretary Mike Chrisman of the Resources
14 Agency of California. They're chairing the committee.

15 So it really is a unique opportunity. We will
16 highlight as well the relationship and the partnership
17 that we have with the counties, the state, and the
18 federal agencies, and all of the issues that you deal
19 with on a regular basis in the grants program. In
20 particular, we will spend a day on the 12th in the
21 conference and then out on the ground on the 11th, so
22 we're delighted for that opportunity to work with those
23 agencies.

24 Also, on a couple of other issues that have
25 occurred just recently with January 1st, the passage of
841

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1 the law now in the California Vehicle Code 38504.1,
2 which it requires parents to directly supervise their
3 children when riding on an ATV under the age of 14. In
4 the past, this has been particular difficult for our
5 law enforcement officers because they've been in a
6 situation to cite the child rather than holding the
7 accountable adult party responsible. And so this was a
8 piece of legislation that passed through and really
9 provides another tool for the law enforcement officers.

10 Recently also, CARB, California Air Resources
11 Board, reviewed their red sticker program and the way
12 that they determine the red season riding. And in an
13 effort to provide some clarity, because what would have

2007-27-01

14 happened -- or could have happened is that you would
15 perhaps be on the Forest Service or BLM lands riding on
16 a trail and unbeknownst to you transfer into a red
17 sticker riding area that, in fact, you shouldn't have
18 been on there. So we've been working with them to
19 identify more zones, so it's more clear to the rider,
20 and I think works much better in that they also provide
21 that clarity. Oceano Dunes, Heber Dunes, and Mammoth
22 Bar are year-round riding, so that also provided some
23 clarity.

24 And then a number of other points, the Division
25 continues to coordinate and fund the sound testing for
842

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1 the law enforcement officers that we do around the
2 state, as well as the event personnel staff who might
3 be at an event and are able to make sure that they're
4 testing properly for sound enforcement. So we continue
5 to do that, and I think we've trained over a hundred
6 different law enforcement officers last year in how to
7 correctly check for sound.

8 I'm going to turn to Tim LaFranchi for an
9 update. There was a lawsuit that was filed by the
10 Center for Biological Diversity and the Desert
11 Protective Council regarding the acquisition of the
12 Freeman properties, so I'm going to turn it over to Tim
13 LaFranchi for that.

14 COUNSEL LaFRANCHI: Thank you. As you may
15 recall, in May, the Commission, you, approved the
16 acquisition -- or the expenditure of funds for the

17 acquisition of about 4,000 acres of lands down in the
 18 Ocotillo Wells area known as Truckhaven, Desert
 19 CahuiIIa. The Freeman Properties were the sellers.
 20 The Center for Biological Diversity and the Desert
 21 Protective Council, two nonprofit agencies/entities,
 22 whose mission is to protect natural resources, desert
 23 resources, filed suit a week ago yesterday seeking to
 24 prevent the continued operation of off-highway vehicles
 25 on those lands on the grounds that the department

843

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1 failed to comply with CEQA, failed to do an adequate
 2 environmental analysis under CEQA, and alleging other
 3 violations of statute.

4 They sought a TRO a week ago Friday to prevent
 5 the issuance of a temporary use permit for an activity
 6 that CORVA was going to sponsor and operate. And CORVA
 7 at that point withdrew their request for the event for
 8 the permit, and the plaintiffs withdrew their request
 9 for a temporary restraining order for that permit.

10 They've since filed a petition for a further
 11 temporary restraining order, and the hearing was
 12 yesterday morning, to prevent ongoing OHV activities
 13 pending the department's development of a management
 14 plan with proper environmental analysis. The judge
 15 denied that TRO. So at the present time, the status
 16 quo is in effect. We're still operating as normal, as
 17 usual, down there. But we expect the petitioners to
 18 file a petition, set a hearing date for preliminary
 19 injunction, and we haven't seen that yet. So at this

20 point, that's the procedural status of it. We're
21 opposing the lawsuit at this point, and if you have any
22 questions, I'll be happy to try to answer them.

23 CHAIR BRISSENDEN: Mr. Thomas.

24 COMMISSIONER THOMAS: Is the Commission a named
25 defendant?

844

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1 COUNSEL LaFRANCHI: No, the Commission is not
2 named.

3 CHAIR BRISSENDEN: We're off the hook this time.

4 COMMISSIONER THOMAS: We appreciate that.

5 COUNSEL LaFRANCHI: We try.

6 DEPUTY DIR. GREENE: Along those lines, I would
7 like to just personally thank John Stewart and the
8 Tierra Del Sol 4-Wheel Drive Club, who in a month's
9 time -- for the past 45 years has held an event out on
10 the Freeman property, Truckhaven area and to the
11 understanding of the predicament that we're in, and I'd
12 say for the past 45 years -- and last year upwards of
13 20,000 people arrived and are counting on recreating in
14 that area and celebrating. And I would just like to
15 publicly thank John Stewart. They have moved that and
16 encouraged everybody not to be there because they're
17 going to move over to Ocotillo Wells. So I would just
18 like to say thank you to John for that.

19 COMMISSIONER THOMAS: What courthouse was that
20 action?

21 COUNSEL LaFRANCHI: Sacramento Superior Court it
22 was filed. Center for Biological Diversity is housed

23 in San Francisco. They filed the action here in
24 Superior Court. It's Judge Ohanesian's court,
25 Department 11.

845

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1 COMMISSIONER THOMAS: Thank you.

2 CHAIR BRISSENDEN: That's the end? Any
3 questions of Deputy Director Greene? There being none,
4 I have one. I might go to Phil.

5 Last May, I think we talked about BCP with
6 regards to restoration funds being available to other
7 State Park units where OHV resource issues have been an
8 issue.

9 DEPUTY DIR. GREENE: My apologies, I actually
10 was about to write that on my hand this morning, and I
11 thought, everybody gives me a bad time about writing
12 things on my hand.

13 Yes, in fact in the Governor's budget, you'll
14 see that the \$1.7 million in the budget change proposal
15 that we had now publicly said we're trying to move
16 forward with, has been approved or is in the Governor's
17 budget for restoration dollars to be used on other
18 State Park units. So we will provide a list of those
19 units that we have been speaking with and are
20 interested in those funds at the March meeting for you.

21 CHAIR BRISSENDEN: Thanks for doing that. Phil,
22 I'm sure you're grateful to be out of hot water at this
23 time.

24 CHIEF JENKINS: Yes, thank you. Just briefly
25 how that list was developed. So we worked with our

846

1 resources staff and coordinated with the resources
2 staff throughout the department, and we polled every
3 State Park unit in the state about, is there any impact
4 that you would like to try to use this restoration
5 money. We laid out the parameters of what would be a
6 qualifying project. So there was a number of really
7 good projects that came in. We would have gone
8 potentially higher, but all we could identify, given
9 the time frame -- I think we had two or three months to
10 develop a list. And we were able to identify about
11 \$1.7 million worth of projects.

12 So it is something that now that they know that
13 that money is available, there could be potentially
14 future projects there. We'll have to play that one by
15 ear, but this will be a good kickoff to see how we can
16 get this out there and really --

17 VICE-CHAIR ANDERSON: What's the approval
18 process?

19 CHIEF JENKINS: The approval process -- let me
20 tell you how it worked, and you can tell me if I
21 answered your question.

22 So basically we send out a request for projects.
23 The list came back.

24 VICE-CHAIR ANDERSON: This will not come before
25 the Commission? That was my question.

847

1 CHIEF JENKINS: No, this would be a budget
2 change proposal that, again, the Governor included in
3 his budget. And this was as a result of the plan that
4 the Commission asked for. Remember you had asked as a
5 group for a plan on how to spend that restoration
6 money? This was one of ours.

7 VICE-CHAIR ANDERSON: I'm not opposed to the
8 budget change proposal. I'm just trying to make it
9 clear that we don't have to look at those here.

10 CHIEF JENKINS: I got you.

11 CHAIR BRISSENDEN: But it does bring up the
12 issue of the Division looking at them.

13 VICE-CHAIR ANDERSON: So it doesn't have to
14 match our grant cycle?

15 CHIEF JENKINS: There you go, that's correct.

16 CHAIR BRISSENDEN: Which brings up the whole
17 audit issue, which I didn't hear in your report.

18 Where are we with site visits and auditing, and
19 how are you proposing to go forward with auditing the
20 new grants to the State Park units?

21 DEPUTY DIR. GREENE: Those, too, would have to
22 be audited as a grant, but it's not a grant cooperative
23 agreement. So I think we still need to sort of sort
24 through all of this as we just got approval of it, and
25 it was in the Governor's budget. I think there is some
848

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1 administrative issues that still need to be clarified
2 in terms of how we actually move forward and get those
3 funds allocated and make sure how do we have that

4 accountability on the ground that the projects have
5 been completed. So we will be working with that in the
6 audits department. That's a little bit different than
7 the site visit issue.

8 CHAIR BRISSENDEN: That was two questions.

9 DEPUTY DIR. GREENE: The site visit issue
10 continues to be that we're continuing to try to
11 clarify. I think that there is some concern on the
12 part of some of the grant applicants that it's to be
13 used as a heavy hammer, rather than a cooperative
14 spirit of being able to get out on the ground and to
15 make sure that we could provide guidance where
16 applicable for the deliverables which the applicant
17 says they're going to complete, for us to be able to
18 get an update on the progress which has been made
19 towards achieving those deliverables. I think that's
20 going to be something that's particularly important to
21 us next year, as we've always said, is that
22 accountability.

23 I think where the confusion is, and we're still
24 trying to clarify it with some of the grant applicants
25 and the agencies, is not being overburdened to them,

849

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1 what's the time frame currently in our regs. It says
2 that we would give 14-days advanced notice before we do
3 a site visit.

4 For some agencies, they indicated this is
5 somewhat difficult for them and that they would like
6 more notice before we come out on the ground. They'd

7 like to know who is coming out. They would like to
8 know the questions that we're going to ask. They'd
9 like some very specific agenda as to what that looks
10 like.

11 That on some levels is problematic to us because
12 we don't always know who that's going to be. I think
13 obviously there is a concern that we just have to be
14 able to ask questions if questions come up. But I
15 think that we are trying to sort through that, and we
16 want to be able to sort through it to keep it more in a
17 collaborative spirit to make sure that what's occurring
18 on the ground is what is, in fact, being said in the
19 application. So there's just still some discussion
20 that needs to take place so that we can try and achieve
21 that goal where everybody is understanding of the
22 situation.

23 CHAIR BRISSENDEN: Given that we have two years
24 of backlog of site visits, do you have any estimate of,
25 one, the length? Obviously each site requires

850

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1 different timing and different personnel to review.
2 But do you have any sense of could you chew through
3 that backlog in a year?

4 DEPUTY DIR. GREENE: And that's, I think, where
5 there is concern right now is because when we had the
6 most recent site visit by one of the law enforcement
7 officers, it wasn't received particularly well. And so
8 then it sort of came that we need to get the discussion
9 going again to make sure that we really have it clearly

10 I laid out so that the grant applicant knows the
11 expectation of what it is that's going to occur. It is
12 difficult. We end up -- I think there's that balance
13 of wanting to be able to just go out at 14 days' notice
14 and to say we're coming out, and we just want to meet
15 with your law enforcement officer and get an idea
16 versus a much more -- you know, a larger contingent.

17 Part of this, I think, is some confusion around
18 the issue of the terms "site visit" and "performance
19 review". And the performance review which doesn't need
20 to occur every year but is sort of a more programmatic,
21 where are you in the whole workings that you've done
22 with all of your different projects.

23 I am concerned because we really do need to make
24 sure that we are able to get people out on the ground
25 to take a look because I think that that has certainly
851

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1 been something that the Commission has instructed us to
2 do, and that we need to do and that we want to do to
3 have the accountability in the program.

4 CHAIR BRISSENDEN: I noticed Commissioner Thomas
5 leaning in to his microphone. Is there a question
6 there?

7 COMMISSIONER THOMAS: Two questions.

8 One, the cut line for yesterday's grants, I'd
9 appreciate it -- I think others in the audience would
10 appreciate, what is the tentative? Even if it's not a
11 final number, what was that number? How many points --

12 DEPUTY DIR. GREENE: I honestly don't know,
Page 128

13 Commissioner Thomas. By the time everybody left here
14 last night -- I have somebody working on it today, but
15 we won't really be able to have that up on the website
16 until Monday, so we will get that on the website on
17 Monday.

18 COMMISSIONER THOMAS: You did indicate you would
19 try to give us a tentative based on your initial -- I
20 mean this material is on a spreadsheet. It's not too
21 complicated to get a tentative number based on what was
22 on yesterday's.

23 CHAIR BRISSENDEN: I think she's indicating it's
24 going to be Monday, so I don't think we have any
25 further word now.

852

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1 COMMISSIONER THOMAS: At the end of the day,
2 nobody in the Division knows what that cut line was?

3 DEPUTY DIR. GREENE: No. We did not yesterday.
4 We started to -- I had Aaron who typically does it, but
5 Aaron was called out, so.

6 COMMISSIONER THOMAS: All right. Secondly, I'm
7 going to, under new business, ask the Commission to put
8 on the March agenda a discussion of our carbon
9 contribution and our mitigation for that carbon. And
10 we asked the staff to consider how we will deal with
11 our carbon contribution and make proposals or
12 suggestions as to what this Commission and Division can
13 do to basically run a carbon neutral program after some
14 number of years.

15 The reality is the Governor -- I don't know the
Page 129

16 exact words of the Governor's executive orders, but
17 certainly he's asking for ten percent carbon fuel
18 reduction. So at a minimum, somebody at -- the
19 Governor is asking us to reduce carbon by ten percent.
20 We have a very detailed count of exactly how much
21 carbon is being committed to the program by the result
22 of this fuel study. So now quantification won't be
23 nearly the issue it might have been, and there are many
24 ways of getting to that result, but I'll wait and work
25 hopefully with -- the Division and Commission can wait

853

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1 and work together in coming up with a reasonable
2 strategy to accomplish that goal.

3 COMMISSIONER PRIZMICH: If I can make a
4 suggestion? If we just reduce the OHV Commission
5 meeting by one time a year, we'd probably meet that and
6 possibly even exceed that.

7 CHAIR BRISSENDEN: I was going to ask him was he
8 meaning hours or the entire universe of OHV in
9 California. And I think he's referencing more than
10 just ours, so.

11 COMMISSIONER THOMAS: And I would be happy to
12 accommodate whatever seems reasonable to do our part to
13 reduce carbon.

14 CHAIR BRISSENDEN: Thank you. Any other
15 questions of --

16 VICE-CHAIR ANDERSON: Yes, I was wondering if
17 you had any kind of an update from either you or Ed on
18 strategic plan development?

19 DEPUTY DIR. GREENE: My apologies, Commissioner
20 Anderson. Strategic plan development, and again we
21 appreciate everyone's input. We have been meeting, and
22 I actually would like to say thank you to both the
23 Forest Service and BLM. Particularly the Forest
24 Service has been very helpful in some of the
25 contributions that they've been making to the strategic

854

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1 planning process. We hope to -- at this point I think
2 we've identified a date in February and one in the
3 beginning of March for public meetings to be able to
4 continue to get some input on some of the issues with
5 the strategic plan. And then I think that it's either
6 two dates in February, or the end of February and the
7 beginning of March.

8 VICE-CHAIR ANDERSON: Which is it?

9 DEPUTY DIR. GREENE: Two in February.

10 CHAIR BRISSENDEN: So would it be safe to say
11 there would be a report from the subcommittee at the
12 end of March at the meeting in Southern California?

13 DEPUTY DIR. GREENE: I think that we will have a
14 thorough report for you in March and working with the
15 subcommittee. I know that we've had a little bit of
16 problem in terms of staffing on that, but I think that
17 we actually are clear on that and moving forward. So
18 thank you for your patience.

19 CHAIR BRISSENDEN: There was a side conversation
20 a moment ago, and I wasn't clear on what Commissioner
21 Thomas was asking, but I think he wants it clear there

22 is to be some strategy discussion at the next meeting
23 with regards to carbon related issues.

24 DEPUTY DIR. GREENE: Absolutely.

25 COMMISSIONER THOMAS: I'm just wondering, we 855

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1 don't have to take a vote in order to agendaize the
2 matter?

3 DEPUTY DIR. GREENE: No, we have. No, we will
4 make sure that it's in there.

5 CHAIR BRISSENDEN: The chair has duly noted. I
6 help set the agenda.

7 COMMISSIONER THOMAS: Thank you very much,
8 Mr. Chairman and the Division.

9 CHAIR BRISSENDEN: I do have one little
10 additional thing, and I appreciate the public bearing
11 with us on this.

12 We did have a side conversation with
13 facilitating those site visits, and if you need any
14 assistance from either the Commission or myself, as
15 chair, to bring the various agencies together and get
16 some collaborative movement forward, I would be happy
17 to.

18 DEPUTY DIR. GREENE: I appreciate that offer,
19 and we will be giving you a call next week.

20 CHAIR BRISSENDEN: So that should have dealt
21 with most issues. I would like to now move to public
22 forum. Before we start that, I do want to thank the
23 consultants for sticking around in case there are more
24 fuel study questions. They're here to answer them

25 through the end of this discussion.

856

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1 I do have one blue card, and Mr. Connor was very
2 gracious to postpone his questions, so I'll start with
3 you, Mr. Connor.

4 NARVELL CONNOR: Thank you, Narvell Conner.
5 During lunch, in side discussions and this and that, I
6 got most of my answers. But I did want to elaborate on
7 one thing that was mentioned over here as far as
8 follow-up and audit of the grants that was given out
9 these last few days. I and a million other people put
10 lots of green sticker and red sticker money, gas tax
11 money out to the program, and my question is:

12 Do we have a -- well, I said quarterly
13 line-by-line audit to follow up and verify that the
14 work is being done for all of the money that we have
15 doled out in the last -- or you have doled out in the
16 last few days? It blows my mind some of these zeros
17 that's after all of this, and where that money is
18 going, and what's happening to it.

19 I think this should be a part of the process and
20 should be paid for -- the audit should be paid for by
21 each individual grant because a lot of money was given
22 in addition to what the people requested. So we upped
23 the percentages -- or you upped the percentages of a
24 lot of the grants, so they're getting a lot of extra
25 money. And the audit or anything that goes on in that

857

1 regards, what kind of a follow-up check do we have
2 going?

3 CHAIR BRISSENDEN: We responded a moment ago --
4 Deputy Director Greene responded in terms of our audit
5 schedule, and that has some problematic issues with it,
6 but there is real concern about getting those
7 completed.

8 NARVELL CONNOR: I caught most of that. That
9 was part of what we had.

10 CHAIR BRISSENDEN: I think Commissioner Thomas
11 was going to clarify what you were talking about in
12 terms of adding more money to their request, which
13 wasn't quite the case, but I'll let him respond.

14 COMMISSIONER THOMAS: None of the grants got
15 full -- maybe one or two, but the bulk of them didn't
16 get 100 percent funding. Most of them they got 70, 80
17 percent of what they asked for. And when we were
18 raising scores, that was only raising evaluation
19 scores. That wasn't funding extra over and above what
20 they asked for. In fact, nobody, with the exception of
21 a couple, got full funding.

22 NARVELL CONNOR: You know, I'm new to this
23 process, so I appreciate you bearing with me and
24 answering my dumb questions.

25 COMMISSIONER THOMAS: No, they're not dumb

858

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1 questions. They're very important questions.

2 CHAIR BRISSENDEN: Very important questions.

3 NARVELL CONNOR: Thank you.

4 DEPUTY DIR. GREENE: And if I may just for a
5 moment, just for clarity for the audience and
6 Commissioners to understand the magnitude of really
7 what we've all inherited here, which is there is
8 something in the statute which indicates that a
9 financial audit needs to be done for every project
10 every year. For anybody who has ever been in an
11 organization which allocates grants, that is huge.
12 Historically, you would find most grant programs either
13 do anywhere from 10 to 25 percent of their grants in a
14 year. We're faced with doing all, 100 percent. So
15 that means that last year there was upwards of a 165
16 projects that were allocated money for.

17 As we look back over the last 20 years, in the
18 BSA audit, it highlighted that a number of audits had,
19 in fact, not been done. So we are looking at thousands
20 of thousands of projects that still need to be audited.

21 Prior to a year ago, we only had a half-time
22 staff position to do that. And we now have a full-time
23 person and another half, but the difficulty that comes
24 into it is that when you are looking at that particular
25 project, let's say, from 10 years ago, what were the

859

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1 regulations which governed the program at that time,
2 and so you have to make sure that you're consistent.
3 So, in fact, what happens a lot of times is our auditor
4 is coming back saying that many of the costs they're

5 finding were not appropriate. We then have to go back
6 to the agencies to try to get clarification. They then
7 are trying to find documents, which they never -- they
8 haven't held on to because they didn't think they had
9 to. There is just a lot of massive bureaucracy, and I
10 apologize for that, and I apologize on behalf of the
11 Division for accountability that's not been there for
12 all of these years. But I'm committed and will tell
13 you, as anybody knows, that we are trying to find that
14 accountability today.

15 It is very difficult. It is so often why some
16 of you may think I'm stubborn or I won't do something,
17 when in fact it is about that accountability. This is
18 a terribly difficult project, and I would like to say,
19 thank you, I see Jim Keeler and Marlene Findley with
20 the Forest Service and BLM, for their assistance. This
21 is just incredibly problematic.

22 There is a part of us, I will just be honest
23 with all of you, because just this alone -- keep in
24 mind that we have limited staff, and we're trying to
25 run an entire program, and so it would take an army

860

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1 just to look at all of these back audits. There is a
2 part of us that is clearly looking at saying from 2000,
3 just everything back, we cannot spend the time to
4 continue to try and go backwards. We have got to move
5 this program forward. We've got to provide the clarity
6 to the grant applicant today that they know what is
7 expected of them, they know in time extensions, that

8 the time extension when it clearly articulates it, they
9 will have the documentation in. And if they don't have
10 the documentation in, then the money will have to come
11 back. We have got to set up a program that's clear for
12 them and clear for us. And that is what we're trying
13 to do.

14 So in response to the gentleman who had the
15 question, nobody more than I wants that clarity and
16 that accountability in the program that when the
17 Commission allocates funds for deliverables that we get
18 those deliverables, those deliverables are achieved,
19 and if they are not, then the money comes back for the
20 Commission to allocate again.

21 CHAIR BRISSENDEN: Thank you. So, Ms. Stubborn,
22 keep being so.

23 DEPUTY DIR. GREENE: It's just hell.

24 CHAIR BRISSENDEN: I have two cards for
25 Elizabeth Norton. You get the Jim Keeler sort of

861

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1 honorable mention award for two cards.

2 ELIZABETH NORTON: I do. I wasn't sure which
3 one to fill out, so I filled out both of them.

4 Good afternoon, Elizabeth Norton with the Lassen
5 National Forest, and I have specific comments on the
6 application process, the evaluation criteria, and then
7 also on the strategic planning effort that's being
8 undertaken.

9 And on the evaluation criteria I'll mention, I'm
10 referring to chapter two, page five of the application

11 guidebook, and it's regarding when projects receive the
 12 same score and they're both at the cutoff line. And
 13 this happened at the December hearing. And according
 14 to the application guidelines, it indicates the
 15 Division will use a random selection method to break
 16 ties and determine which projects will receive funding.
 17 And I believe this was with the Bureau of Land
 18 Management and the Forest Service last month regarding
 19 their law enforcement applications. They both received
 20 the same score at the funding cutoff, and a coin was
 21 tossed and BLM won and the Forest Service did not.

22 I think a more equitable way of allocating funds
 23 when we have this type of situation would be to equally
 24 split the balance of those funds between the two
 25 applicants who had that tie, two or three or however

862

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1 many, and that seems to be more of a win/win solution
 2 in resolving that situation than simply tossing a coin.
 3 I think it's much more fair that they each get a
 4 portion of the balance of those funds.

5 And then there's what I believe some redundant
 6 criteria under all of the application categories, and
 7 that's in regards to there's three subcriteria that
 8 address the use of volunteers, the use of partnerships,
 9 or the use of other in lieu funds. And to me these
 10 subcriteria are very redundant, and I would just
 11 recommend if we are going to be considering the
 12 possibility of revising the criteria that are used to
 13 score each of these applications, that you may want to

14 consider collapsing those three criteria under one just
15 general heading of partnerships.

16 I know it was hard for the Lassen to address
17 each of those criteria because they seemed about the
18 same. So partnerships would cover volunteers, in lieu,
19 or whatever other partnership opportunities are out
20 there with that project.

21 And then in the project evaluation in scoring,
22 I'll use the Lassen equipment's application as an
23 example of this. When the evaluation panel rated our
24 application and they stated how they responded to each
25 of the criteria and the subcriteria, they indicated

863

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1 that the applicant did not address several of the
2 subcriteria. And according to the information that's
3 in your application guidebook there, it states that if
4 the applicant did not address the item, then they
5 received a zero score. So because they worded their
6 response such, I made the assumption that we received a
7 zero score for four out of the five subcriteria for
8 Item No. 2 in the Lassen's equipment application. The
9 total score for Item No. 2 would have been 20, but we
10 only received a five because we did not address the
11 other four subcriteria. So I just made the assumption
12 that somehow points were deducted from that, even
13 though we only needed to address one. I think there
14 needs to be a different way in how you word your
15 response. Because according to your own instructions,
16 the way you worded it, you deducted points. You said

17 we would get zero. So it does look like that is what
18 had happened.

19 The low scores on all of the applications that
20 we saw in December and in the last couple of days seem
21 to indicate, and without doing more in-depth analysis,
22 that there is a problem with how people are filling out
23 their applications. And I don't think that a normal
24 distribution curve of these scores would necessarily
25 show that what happened would be reflective of people

864

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1 understanding the application process. It seemed to
2 me, without doing more detailed analysis, that most of
3 the applications were rated as a C minus, a D, or a
4 failing grade, that the majority of them fell below 70;
5 with the exception of the conservation and the
6 restoration categories, they received higher scores.

7 So I think it indicates that perhaps the
8 applicants need more training or an understanding of
9 the process, that the application instructions may be
10 confusing or vague and people don't understand those.
11 The evaluation panel, I think this happened not only
12 with our applications, but there's information
13 responding to, say, partnerships or whatever in other
14 parts of the application, but if they don't see it
15 exactly under trail maintenance or under facilities,
16 operation and maintenance, they assume that the
17 applicant did not respond to that particular criterion,
18 and that may not be the case at all.

19 So take a look at those factors would be my

20 recommendation and how can we certainly get more of a
21 bell-shaped curve where we have at least the average
22 application scores around a C or C plus, instead of
23 frankly most of them were a D or a failing grade. So
24 just a concern there.

25 COMMISSIONER THOMAS: I assume you're going to 865

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1 submit this in writing?

2 ELIZABETH NORTON: I would be happy to.

3 CHAIR BRISSENDEN: That would be helpful.

4 COMMISSIONER THOMAS: Many good suggestions in
5 what you said. We don't control the regulatory
6 process, the Division does. And I think it would be
7 helpful for them to have your comments in writing.

8 ELIZABETH NORTON: Okay. I would be happy to do
9 that.

10 COMMISSIONER THOMAS: Particularly about the
11 coin flip, I thought it was a bit arbitrary and
12 capricious to deny a grant funds on a coin toss.

13 CHAIR BRISSENDEN: Everybody was excited about
14 it.

15 COMMISSIONER THOMAS: It was a bit like a
16 circus.

17 ELIZABETH NORTON: The other thing I wanted to
18 mention to you was the restoration category, and I'm
19 not an expert on interpreting restoration and what's
20 eligible for a restoration project or not. But it
21 appears to me that in reading from the application
22 instructions, and I'm referring to chapter one on page

23 42, it says here:

24 "The applicant may, but is not
25 required to, group together

866

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1 restoration projects if they are
2 similar in scope or located in close
3 proximity to one another and such
4 group projects will be considered as
5 one complete project if requested by
6 the applicant."

7 And I think that's what the Pacific Southwest
8 Region attempted to do. And then also on the project
9 administration procedures, referring to chapter three,
10 page seven, it states that:

11 "Eligible costs for restoration
12 projects may include CEQA or NEPA
13 compliance requirements for the
14 restoration project."

15 So I'm hopeful that the Pacific Southwest
16 Region's planning application could indeed be funded
17 under the restoration category. If it doesn't qualify
18 this year, perhaps we can resubmit it next year under
19 restoration and have better success from that
20 particular category. But after yesterday's comments
21 and debate, it's just evident that the applicants need
22 more clarification on what is eligible under our
23 restoration project.

24 And then my last comments focus on the statewide
25 OHV strategy. I know the State Auditors recommended

867

1 that both the Commission and the Division develop a
2 shared vision and that they also develop a strategic
3 plan, and the goal for that would be to ensure that the
4 OHV Trust funds are adequately balanced between OHV
5 recreation opportunity and also addressing very
6 important environmental concerns. In addition, the
7 auditor recommended that both the Commission and the
8 Division evaluate current spending restrictions in the
9 law and whether or not they allow for the allocation of
10 funds that is properly balanced between recreation and
11 the protection of the environment. And I think with
12 the Fuel Tax Study and what you're working on now with
13 your vision and strategic plan, I'm hoping that looking
14 at the law and removing those funding constraints are
15 going to be given serious consideration.

16 Right now, in my personal opinion, the program
17 is neither balanced, nor equitable. There is
18 considerable OHV recreation occurring on federal lands,
19 in particular Bureau of Land Management and the Forest
20 Service. And I don't know that there's been any
21 statewide assessment or even an agency-wide assessment
22 of what a unit's baseline needs are or very critical
23 and essential services like law enforcement;
24 facilities, operations and maintenance; trail
25 maintenance; and equipment. And these funding

868

1 categories are critical if we hope to provide balanced
2 and sustainable OHV recreation opportunities in
3 California and protect the environment.

4 I'm walking away today knowing that several
5 Bureau of Land Management and Forest Service units are
6 severely underfunded or are receiving no funds
7 whatsoever to provide these basic essential services to
8 the recreating public. We also have some applicants
9 who are asking for over \$4 million from the various
10 funding categories. And while I don't doubt their
11 needs, this seems -- I'm sorry to say this, but it
12 seems a little bit greedy to me that they can ask for
13 that much, but I know that's how the application
14 process currently works. You can ask for any amount
15 for multiple categories. If they did receive four
16 point million or so, I'm not sure how they can spend
17 that much during the 18-month project performance
18 period that you have to complete some of the work under
19 some of these categories.

20 CHAIR BRISSENDEN: Elizabeth, I've given you
21 lots of extra time, I wish you would summarize at this
22 point.

23 ELIZABETH NORTON: I'm real close.

24 Other applicants have nothing. It appears,
25 based in your review of the applications in December, 869

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1 that there are eight Forest Service units that have no
2 law enforcement funds at a time when we're issuing
3 temporary Forest Orders, and we need to have those

4 funds to have people out on the ground to enforce those
5 orders; otherwise, I'm really worried that this is just
6 going to be a paper exercise if we don't have people
7 out on the ground and providing some baseline program
8 needs for law enforcement.

9 Without this vision and strategic plan, I don't
10 feel that there would be a balance of OHV opportunities
11 or equity in how the funds are expended. I recommend a
12 different evaluation process, one that provides more
13 benefit to the public, whether you're an OHV enthusiast
14 or a conservationist. You've left some very needy
15 applicants with little or no funds, and it's the public
16 and ultimately the environment that suffers.

17 So thank you for working on your vision, your
18 strategic plan, it's so important. I hope there is an
19 assessment of baseline needs in those units so we can
20 have greater sharing of the dollars that are available
21 under the trust fund program to all of the entities to
22 get at least something to provide some basic services.
23 Thank you.

24 CHAIR BRISSENDEN: Thank you. So now it's who
25 would like to speak next?

870

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1 JOHN STEWART: Good afternoon, Commissioners,
2 John Stewart, California Association of 4-Wheel Drive
3 Clubs, United 4-Wheel Drive Associations, Tierra Del
4 Sol 4-Wheel Drive Club. Elizabeth really stated it
5 well. There is need for change, and change is very
6 difficult to achieve.

10 unheard of. That's obscene.

11 And within the grant criteria, it's somewhat
12 problematic when the big discussion within the
13 restoration grant planning, and it is in here, is it
14 properly categorized was never really addressed so that
15 the science monitoring studies that were put under the
16 non-CESA category, those were two grants there, one for
17 \$1 million, the other for \$50, \$60,000, those were
18 grants that when you look at it, they should probably
19 have -- they were also misclassified. They should have
20 been under the conservation category, as they were
21 monitoring studies. Under the conservation category
22 were other similar monitoring studies. This hurts the
23 money that goes on the ground to trails, and we need to
24 look at a more complete and accurate classification of
25 systems.

872

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1 The Bureau of State Audits is still outstanding
2 in that they required a vision and strategic plan,
3 looking for that to come out. We'd like to see that
4 the agencies and the state and the user groups work
5 together to create a solution for this problem. And to
6 that extent, we endorse and encourage the Commission
7 and the Division to adopt this gas tax study, and let's
8 redo the program. Let's make it work. Thank you.

9 CHAIR BRISSSENDEN: Thank you, John.

10 BRUCE BRAZIL: Bruce Brazil, California Enduro
11 Riders Association, got four items I'd like to address.

12 First one, very near and dear to my heart, where
Page 147

13 are the transcripts? I'm sure we will hear about that
14 again.

15 Second one, under the grant request on a few of
16 them, there seems to be a little diversity or whatever
17 as to how does the grant really apply to OHV usage.

18 And the one that I could use as an example, I think
19 many people are familiar with, is the bat study down in
20 Southern California. The few times I've been down to
21 Southern California, gone into couple of the mine
22 shafts that were open, I never saw any OHV tracks going
23 in or out of those mine shafts, at least the horizontal
24 shafts. And I'm sure that the OHV crowds do not want
25 to put their vehicles into the vertical mine shafts.

873

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1 So why the OHV program should be paying for those bat
2 studies, I don't understand the correlation between the
3 two.

4 The next item was on the Consent list this time.
5 I was wondering what the criterion was that the Chair
6 and Vice-Chair used to determine which items -- which
7 grants were put on the list as to why with one
8 asterisk, why with two asterisks were not on the
9 Consent list. There has been no documentation or
10 anything to follow up on that.

11 Last item is on this grant cycle. There is
12 additional information generated and presented by the
13 agencies. Once right after the subcommittee hearings,
14 I think there is three volumes of information that I
15 saw posted up on the web, and then again at our final

16 meetings here we've got agencies coming in with more
17 information. I would like to see all of that
18 restricted down to after the subcommittee hearing, the
19 only additional information that can be presented,
20 would be specific information that the Commissioners
21 have requested of the grant applicants. Thank you.

22 CHAIR BRISSENDEN: Thank you.

23 Tom, before you start, I do have a question for
24 Deputy Director Greene. What is the criteria cutoff
25 date in terms of establishing new criteria for this

874

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1 next round? I know we reviewed it at one point, and I
2 can't remember the dates.

3 DEPUTY DIR. GREENE: Yes, we're looking. It's
4 sometime in the next month, I think at this point in
5 time, the third week of February. We've already
6 received -- we went out for the 45-day public comment
7 period on the regs and are making changes to those regs
8 based in large part on all of the information that the
9 Commission and grant applicants have provided us. And
10 so that is sometime next month, and we will let you
11 know. Hopefully within the next week, we can give you
12 the specific dates.

13 CHAIR BRISSENDEN: So these comments today can
14 be folded into that?

15 DEPUTY DIR. GREENE: Absolutely. I would say
16 many of them already have been, so, yes. But I do
17 thank everybody for their input.

18 CHAIR BRISSENDEN: Does the March date in

19 Southern California, are we outside our ability to
20 provide input?

21 DEPUTY DIR. GREENE: No, certainly your ability
22 will be and we will notify you immediately upon when
23 those regs are submitted, absolutely.

24 CHAIR BRISSENDEN: Okay. Tom, thanks.

25 TOM TAMMONE: Tom Tammone. Yes, I would like to
875

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1 agree with the last speaker on the issues of the
2 transcripts, we do need to get those out.

3 And on the issue of the Consent Calendar, it was
4 very confusing this year. At the beginning of the
5 meeting, there was no clarification as to which grants
6 were actually on, off Consent. There was grants that I
7 was following closely, and I know when I got here were
8 off Consent. And Sequoia's grant somehow managed to --
9 nobody communicated it needed to be pulled off.
10 Everybody assumed somebody was going to be here to do
11 it. The public obviously generated a lot of interest
12 in it. And the justification, we're hearing, it's not
13 acceptable saying that there was no way they could
14 bring it up enough points to make any difference when
15 there are several example of grants where they did,
16 where scores were dramatically increased with no public
17 input, with no justification whatsoever.

18 As far as the Fuel Tax survey, I can't believe
19 that I'm actually hearing that no in use was not
20 counted, saying, well, we only counted one vehicle per
21 household. It was a vehicle that was used, it was

22 counted, and again somebody bought fuel, somebody paid
23 taxes, and somebody got no representation for their
24 taxation. That is unacceptable.

25 And, again, with the Fuel Tax survey, they just
876

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1 simply need to count what's there and not have to
2 sample this against that. This is a motorized sport.
3 It's a motorized Division, motorized Division paid for
4 the survey. That was the whole purpose of it. The
5 purpose was not to determine the use for the whole
6 state, but, yes, that's what we all did.

7 As far as the comments about bringing in
8 information after the subcommittee meeting, everybody
9 needs to know when we need to get the information in,
10 that needs to be very clarified. There was a lot of
11 confusion there, too. Next year, I would like to see
12 the same thing, a cutoff point that everybody knows
13 about well in advance, and it would definitely save us
14 a lot of time here. Now that the applicants know what
15 everybody wants to see, they should be getting it all
16 in with their applications. It would definitely cut
17 the amount of time that we spend at these meetings when
18 everybody keeps bringing in new information.

19 But the Consent calendar needs to be done. I
20 still think the Sequoia grant should be heard at
21 perhaps a later meeting. We already heard the Consent
22 calendar twice in December, and we heard the Consent
23 calendar again in January. I don't see why we can't
24 hear the Consent calendar again in March. We do need

25 to get some clarification about what to do with the 877

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1 Consent Calendar. I've been jumping up and down on it
2 for years. Everybody tells me it's in the regs.
3 Nobody has told me where they are, and I'm not the only
4 person here that's complaining about this. We need to
5 know what's on and what's off Consent. And a lot of
6 people didn't show up because they thought that their
7 grant had a one asterisk why by it, and they think they
8 weren't going to have any input on it, so they didn't
9 bother to show up. That's wrong, too. So whatever we
10 do, we do need to get this straightened out. We need
11 to have better communications across the board.

12 Another comment about the Fuel Tax survey, I
13 remember I brought that up during the red sticker
14 debate that there is a big difference between -- well,
15 I didn't know back then, but figured there would be a
16 big difference between the fuel that CARB is saying
17 that we're using when we're causing pollution, and what
18 this survey says we're using when it comes to how much
19 money we're going to get. So there is definitely some
20 problem there. CARB says we're using gas for causing
21 pollution that's going to shorten our red sticker
22 riding season. So either we need a longer red sticker
23 riding season or we need more money. They need to meet
24 somewhere in the middle. Thanks.

25 CHAIR BRISSENDEN: Thank you. I do have a card 878

1 for Mr. Keeler. But in the meantime Kyra, if you want
2 to come on, since you were in the front row.

3 KYRA: Kyra, Nevada County Woods Riders, OHV
4 business owner, and I'm a general representative of the
5 people that are using the services that you guys are
6 trying to dole out for and the people paying the taxes.
7 And as a part of Nevada County Wood Riders, we put in
8 thousands of hours of volunteer work and materials,
9 sometimes our own, sometimes gathered from community
10 businesses, into the public lands, including time,
11 rerouting, and even closure and restoration work, which
12 isn't our main aim, but we do that with the Forest
13 Service because it's their desire and we're trying to
14 work with them, with even more plans for increasing
15 work parties and hours this year.

16 The Forest Service in our area at least, because
17 of the budgeting constraints -- and they don't even
18 know about this one -- they've come to rely on our club
19 in our area for hours, and they actually budget us in,
20 and we're just volunteers.

21 We're seeing drastic exponential growth in sales
22 of equipment, organized events and on the trails, both
23 public and private trails, legal and illegal trails.
24 Organized OHV enthusiasts want to enjoy nature. We are
25 just like everybody else. We are not trying to tear it
879

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1 up and have this terrible place to live. We want

2007-27-01

2 nature and beautiful places to go and recreate in, as
3 do non-OHV enthusiasts. Our goal is to conserve the
4 area for use for everyone to be able to use it. Our
5 method of using it just happens to be on a vehicle, and
6 in my family typically in motorcycles. We do have
7 four-wheel drives, as well. Volunteers are willing and
8 eager to maintain trails. They actively build trails
9 within the intent to have trails that are low impact
10 requiring minimal maintenance.

11 Due to the drastic growth in the sports and
12 recreational areas being closed, overcrowding
13 conditions are forcing rapid growth of the illegal
14 trails and overuse in designated areas. It's the
15 opinion of the Nevada County Woods Riders that we need
16 to work toward managed recreation opportunities in
17 partnership with state, federal land managers, and the
18 user community. Thank you.

19 CHAIR BRISSENDEN: Thank you.

20 KYRA: I stayed within my time.

21 CHAIR BRISSENDEN: Mr. Keeler.

22 JIM KEELER: Jim Keeler, BLM California State
23 Office. I just wanted to point out to Mr. Brazil, that
24 had he asked, I would have been happy to discuss the
25 bat survey with him, but what that one was is

880

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1 mitigating hazardous mines in the Mojave Desert. I
2 don't know how many fatalities there are a year for
3 people that drive into mine shafts. We had at least
4 one in Red Mountain this year. It's somewhere between

5 three and five people a year that ride OHVs into mine
6 shafts.

7 VICE-CHAIR ANDERSON: Not intentionally.

8 JIM KEELER: The guy in Ridgecrest was jumping
9 and fell through.

10 CHAIR BRISSENDEN: So how is the study with
11 bats -- is that where you follow the bat to find the
12 mine?

13 JIM KEELER: No, the point is that the State of
14 California actually dispenses federal funding for
15 mitigating hazardous mine sites. But in order to close
16 them, bats tend to inhabit abandoned mines, so we have
17 to do a survey for six months to figure out which mines
18 can be gated and which ones we have to refill -- or get
19 to refill. You can't do that if you haven't done a
20 survey. We're using a very small amount of OHV money
21 to leverage a great bigger amount of hazard mitigation
22 money to do the closures. So all BLM has to do for
23 mine closures is to do that research. We do it with
24 this small amount of bat money. So that's what that
25 program is about.

881

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1 CHAIR BRISSENDEN: Thank you. That was it, so
2 there. So he's protecting you, Bruce, in the end.

3 JIM KEELER: I'm going to bat for him.

4 CHAIR BRISSENDEN: On that note, do we get some
5 Commissioner comments, since we're closing the public
6 hearing, unless I see people moving to the microphone?
7 Thank you all for your input and your participation.

8 Now, I will bring it back to Commissioners. Any
9 additional remarks, or comments, or direction?

10 VICE-CHAIR ANDERSON: Yes. This is Judith
11 Anderson. I would like to put some things on the
12 record that I've spoken to a number of people about
13 kind of off in side conversations concerning the
14 regulations for next year and the criteria for grants.

15 I'm concerned about the additional information
16 and what's coming out at the last moment. The
17 applicant is a member of the public and can come to
18 this meeting without their uniform on and speak on
19 behalf of or in opposition to any grant that they
20 choose, so I don't -- but I think that perhaps a way to
21 get around that problem of page limits and filling out
22 your grant up to the maximum number of page limits,
23 pages allowed, and then coming to the meeting and then
24 providing 20 additional pages of information. A way to
25 maybe forestall that would be to establish some kind of
882

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1 a graduated scale for the number of pages, depending
2 upon the size of the application. So that an
3 application which is asking for \$200,000 would be
4 permitted more pages than an application for \$20,000 or
5 some other -- whatever those divisions might turn out
6 to be.

7 I also think that because we don't really have
8 information within the application, that you might
9 consider some kind of a line or some kind of background
10 information because the context of a particular grant

11 application, although it's -- we want this process to
12 be competitive and we want to know how well has an
13 applicant done on this particular application, unless
14 you've been a Commissioner for several years, you may
15 not know that a particular agency came in last year and
16 asked for a \$100,000 and got it, and this year they're
17 asking for \$700,000. And the application looks really
18 good, but you would have no way of knowing that they're
19 asking for seven times as much money, do they have
20 seven times as big a program to support, or is there
21 some extraordinary circumstance that they're trying to
22 deal with like recovering from a fire or flood. So I
23 think some kind of background information on previous
24 applications, maybe getting the applicant to where you
25 have the question on previous history, maybe you could

883

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1 ask them to be very specific about exactly how much
2 money and get them -- tell them that you want three
3 sample years, or that you want the previous three
4 years, or something that the applicant could provide
5 you with the information, so that Commissioners and the
6 public reading the application have a context for that
7 particular grant. Because I saw evidence of loading,
8 which is what you were talking about on the one
9 applicant coming in with four or five very large grants
10 and the previous year had a relatively small program,
11 or at least wasn't asking for that much.

12 I'm also wondering if there's a place within the
13 grant or review process and the application process

14 where you might incorporate the PAR reports. We didn't
15 really see very much of PAR reports within our binders.
16 And I don't know, maybe that information was available
17 on the website, and I didn't get to it, but some kind
18 of a reference so that I can go and look at a PAR
19 report if I were concerned about a particular applicant
20 and their performance.

21 In the question of categorizing grants and
22 challenges to how the grants have been categorized,
23 obviously the most recent question was between non-CESA
24 and restoration, but there were also -- there was
25 another question cited by the public today, we might

884

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1 think about some kind of an appeal process if the
2 applicant is concerned that there might be one other
3 person who -- I wouldn't even care if it was -- you
4 know, you bumped it up the staff side within the
5 department someplace, but there might be some way for
6 them to appeal. I'm not necessarily suggesting that
7 the appeal go to the Commission, but there should be
8 some way to get somebody else to look at it if they
9 really think that it's been unfair.

10 DEPUTY DIR. GREENE: And to that point,
11 Commissioner Anderson, I also think what we tried to do
12 this year, just so you know, is to make it so that
13 unlike last year, where they weren't able to call ahead
14 of time discuss it with staff or put any questions up
15 on the website, we tried to be much more available to
16 all of the grant applicants in an effort to try and

17 resolve that before the application was even applied
18 for. But absolutely I hear what you're saying.

19 VICE-CHAIR ANDERSON: And the last thing -- I
20 did remember what my last point was, which was I'm very
21 interested in what your training process is for
22 applicants. There's been questions of that training,
23 and I would like to be invited to training sessions,
24 please.

25 CHIEF JENKINS: We will make sure to get you the
885

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1 dates as soon as we have those.

2 On the one thing you mentioned about the PAR
3 specifically, were there specific things on the PAR
4 that you were most interested in? That would help us
5 if we knew exactly the types of things you were looking
6 for.

7 VICE-CHAIR ANDERSON: I haven't seen one in a
8 while. I've forgotten how long they are.

9 DEPUTY DIR. GREENE: What we've heard from the
10 grant applicants, because we did the follow-up
11 conversations with them after the date at the deadline
12 for the applications this year, and there was a lot of
13 feedback to us that really the PAR is not particularly
14 useful and is somewhat confusing. I think -- Jeff
15 Applegate, absolutely.

16 I think what we're trying to work with is, it
17 has morphed in its years of a project accomplishment
18 report, which would be more that the grant applicant
19 says these are the deliverables we will do in our

20 application, that that PAR, the project accomplishment
21 report, will actually get done on the back end to make
22 sure then that they do what they say they're going to
23 do, which would then be available for your review in
24 the next cycle.

25 VICE-CHAIR ANDERSON: But it's a back end on a 886

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1 previous application?

2 DEPUTY DIR. GREENE: Correct.

3 VICE-CHAIR ANDERSON: What I'm trying to do is
4 kind of front load as opposed to audit at the end,
5 which is to actually verify what are claimed to be bits
6 of factual information within the reports. And I'm
7 interested in people not being encouraged to exaggerate
8 numbers, users, or miles, or whatever the kinds of
9 claims that they're making, without some way to check
10 on that, at least occasionally so that people are
11 discouraged from that sort of exaggeration. And if
12 you're not checking on it, then there's a tendency to,
13 well, nobody will catch that, kind of thing.

14 CHIEF JENKINS: And that's something that as we
15 begin to look at -- that's why I was asking
16 specifically what portions of the PAR you're looking
17 at. So as we're looking at that PAR to which parts we
18 want to hang our hat on, part of what we've been trying
19 to build in this year is what would we require to
20 substantiate those numbers. So we would need some sort
21 of official documentation instead of just put the
22 number on the PAR and we take it at face value.

23 VICE-CHAIR ANDERSON: I really think one of the
24 most helpful things will be additional information
25 that's required for grants over \$50,000 or over a

887

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1 \$100,000. You know, in addition to outlining the
2 project, you better give us not just pretty
3 photographs, but some fairly specific problems that are
4 going to be addressed.

5 DEPUTY DIR. GREENE: One of the other issues
6 that we see in the PAR, and perhaps Commissioner
7 Prizmich might be able to reflect on that, is somewhat
8 of the tension that exists between the sheriffs and the
9 federal agencies because the sheriffs are responsible
10 for the entire county, but then on their PAR, they
11 indicate number of acres that include all of the
12 federal lands by which they may not be out there
13 patrolling, so we're trying to clean all of that up.

14 VICE-CHAIR ANDERSON: If they have an agreement
15 with the federal agency whereby they will indeed
16 patrol, then that's fair to count.

17 Thoughts come and go. I'll stop.

18 CHAIR BRISSENDEN: You're not suggesting that
19 sheriffs are embellishing?

20 DEPUTY DIR. GREENE: As I said, perhaps
21 Commissioner Prizmich could address that issue.

22 COMMISSIONER PRIZMICH: No, they're not.

23 CHAIR BRISSENDEN: That's all I wanted to hear.
24 Other thoughts? Mark.

25 COMMISSIONER McMILLIN: Well, if we are saying

888

1 good-bye, I agree with everything, the closing remarks
2 by the last three or four members of the public had to
3 say about the process, as well as what Judith had to
4 say, because I, too, think there's a lot of
5 exaggeration going on. I whispered hocus-pocus up here
6 a couple of times on some of these numbers. So I'm
7 anxious to see the process, the regs. I'll look them
8 up on the website, I guess, if they're out for public
9 review and review them myself as a member of the
10 public.

11 But I just wanted to give some encouraging
12 words. As frustrating as this can be, can you imagine
13 how bad it would be if we weren't involved? And that's
14 for fellow Commissioners, Daphne and her staff, and
15 everybody in the public. I mean I get recharged by the
16 young lady from Nevada County, the older gentleman --
17 sorry, about the older comment -- from Fresno. This
18 can get confusing. But you know what, the reason I
19 agreed to do this about a year ago was to try to bring
20 it back, and it doesn't have to be this confusing, I
21 don't believe. So that's the reason I'm here is to try
22 to help Daphne. You know, Daphne, I'm your friend, and
23 I'm here to help you, but you got to help me, and I'm
24 going to be asking more and more. I kind of went in
25 between the last meeting and this meeting without doing
889

1 as much homework as I probably needed to do. So anyway
2 and also I hope our fellow Commissioner, Gary Willard,
3 will be back next meeting. So everybody have a nice
4 February.

5 CHAIR BRISSENDEN: Thank you. Commissioner
6 Thomas?

7 COMMISSIONER THOMAS: Very briefly, I'd like to
8 see program targets within the CESA budget. If a
9 program has to be put together, you have to provide a
10 budget. We all have budgets at home. We have food, we
11 have housing, mortgage. I don't like the idea of
12 trading off a science study against trail maintenance.
13 And the competitive process drives you into that box,
14 and I don't think it's the right way to be when you're
15 trying to manage a program. As well, there are some
16 targets, as opposed to legislative budgets, could be
17 the vehicle if the Commission adopted targets, at some
18 point then we would have at least a guideline.

19 Perhaps you can have a preemptory challenge, as
20 opposed to an appeal process, preemptory challenge as
21 to the advising panel or reviewing panel, because it
22 would be remarkably arbitrary if somebody had a problem
23 with a Forest Service or the BLM and happened to be
24 sitting on that panel, and then just decided that they
25 were going to knock them down five points, because five
890

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1 points in this business is out. So maybe there's a
2 possibility of a preemptory arrangement so that the
3 panel members, the reviewing panel, is known and

4 obvious to all. You could say, look, I don't want to
5 see X or Y or Z on the panel because I think that it
6 wouldn't be fair. That's a thought.

7 It's a thought because the arbitration panel --
8 the arbitration laws in the state have preemptory
9 judges, and preemptory attorneys, and preemptory. It's
10 the way you interject fairness into an adjudicatory
11 system. And now we've created an adjudicatory system,
12 as much as I don't believe that's appropriate.

13 And finally, the allocation between the rural
14 northern counties and coastal and desert uses might be
15 worth establishing some targets. There's certainly an
16 allocation that is created by the fuel consumption, and
17 I was looking at this.

18 It looks to me like at least 60 percent of the
19 gallons of fuel used in the sport are consumed south of
20 the Tehachapis, and that tells you about the equities
21 involved.

22 As much as I'd like to argue that Lassen County
23 should be receiving more, if we were to use gallons
24 consumed, the north would be receiving very little. So
25 we might want to consider those factors in the

891

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1 problematic discussion. That's it.

2 DEPUTY DIR. GREENE: Commissioner Thomas, can I
3 ask for you -- I wasn't sure when you say the program
4 targets. How are you differentiating between the
5 targets and the buckets?

6 VICE-CHAIR ANDERSON: Targets per bucket.

7 COMMISSIONER THOMAS: Science, facilities and
8 trails are all in non-CESA, right?

9 DEPUTY DIR. GREENE: Correct.

10 COMMISSIONER THOMAS: There's no bucket for
11 science, no buckets for facilities, and no buckets for
12 trail maintenance.

13 DEPUTY DIR. GREENE: Life does come full circle.
14 That's what we proposed two years ago, so.

15 COMMISSIONER THOMAS: Before you say I told you
16 so, you have created the problem by which you get to
17 say I told you so.

18 DEPUTY DIR. GREENE: No, I understand what
19 you're saying.

20 COMMISSIONER THOMAS: I am accommodating the
21 problem that you have created.

22 DEPUTY DIR. GREENE: We continue to refine it.
23 I'm not pointing any fingers on anybody. I just find
24 it -- I'm like, oh my goodness, I think what we need to
25 do is, yes, as we continue to refine it, we identify

892

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1 those areas.

2 COMMISSIONER THOMAS: I'm glad you agree with my
3 suggestion.

4 DEPUTY DIR. GREENE: I think certainly we've
5 seen where the issue of scientific research perhaps, as
6 you look at it, really is it planning -- is it
7 conservation, you know, is it really more. That's what
8 we're talking about, conservation. As we look at some
9 of the studies that are done, those really are better

10 suited under conservation.

11 COMMISSIONER THOMAS: Lastly, I forgot this, I
12 do think BLM and the Forest Service should not try to
13 allow every unit to come in and then come in as the
14 master grantee on their own. The phenomenon of having
15 40 people to try to get through a single door in a
16 single meeting leaves a very competitive process, but
17 it sort of Darwinian. Only the people -- the strong
18 survive and the victims are on the side of the road.

19 It would be a lot more logical in my view to
20 have the Forest Service Central Office and the BLM sit
21 down with each other and carve up the budget on a
22 programmatic basis and make some preliminary
23 discussions with staff and share those discussions with
24 the Commission, so we can actually participate, so that
25 we don't have 40 people trying to go through the same

893

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1 door in the same meeting. Thank you.

2 CHAIR BRISSENDEN: Thank you. Thoughtful
3 suggestions all the way around. I would just echo
4 probably everyone's, and how we accomplish that over
5 the next year is going to be very, very difficult given
6 the constraints, both budget and personnel wise, and
7 the backlog of audits that need to be addressed, and
8 bunch of other things.

9 I'm tired. I'm sure the rest of you who have
10 spent the last three days here probably are in that
11 same boat, ready for a relaxing evening. So without
12 further ado, I will call this meeting, if I can have a

2007-27-01

13 motion, to adjourn.

14 COMMISSIONER PRIZMICH: I'll move it.

15 VICE-CHAIR ANDERSON: Second.

16 CHAIR BRISSENDEN: Seconded, and that sounds
17 like roll call. So we're done.

18 (Meeting adjourned at 3:06 p.m.)

19 Respectfully submitted,

20 Cheryl Kyle

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894