

1
2 STATE OF CALIFORNIA
3 OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION
4 MEETING MINUTES SYNOPSIS- APPROVED

5 November 4, 2009

6 Marriott Ontario Airport Hotel
7 Ballroom Salon
8 2200 East Holt Boulevard
9 Ontario, California 91761

10 IN ATTENDANCE:

11 **OHMVR COMMISSIONERS:**

12 Gary Willard, Chair
13 Mark McMillin, Vice-Chair
14 Brad Franklin
15 Kane Silverberg
16 Paul Slavik
17 Stan Van Velsor

18 Eric Lueder - Absent

19 **CALIFORNIA STATE PARKS OHMVR STAFF:**

20 Daphne Greene, Deputy Director, OHMVR Division
21 Phil Jenkins, Chief, OHMVR Division
22 Tim La Franchi, Legal Counsel, OHMVR Division

23 **OTHER OHMVR STAFF AND REGISTERED VISITORS**

24 **AGENDA ITEM I. CALL TO ORDER**

25 Chair Willard called the meeting to order at 1:07 p.m.

AGENDA ITEM I(A). PLEDGE OF ALLEGIANCE

Commissioner Slavik led the meeting attendees in the
Pledge of Allegiance.

AGENDA ITEM I(B). ROLL CALL

Six Commission Members were present.

1 CHAIR WILLARD: Last year the Commission decided
2 to have its meetings throughout the state. Once again,
3 we are here in Southern California. We were here in
4 the last meeting just six weeks ago in Lake Arrowhead.
5 The reason we're down in the same general area is
6 because unfortunately we were unable to get to the
7 workshop that was planned for that meeting, we ran out
8 of time. So we decided to come back to this area to
9 have the workshop. The workshop begins this evening
10 from 6:00 to 9:00 p.m. It should be a very informative
11 group discussion with a number of topics to go over,
12 and we really value your input.

13 **AGENDA ITEM II. APPROVAL OF AGENDA**

14 CHAIR WILLARD: Ask for a motion to approve the
15 agenda.

16 COMMISSIONER McMILLIN: So moved.

17 COMMISSIONER SLAVIK: Second.

18 CHAIR WILLARD: All those in favor?

19 (Commissioners voted to pass agenda.)

20 **AGENDA ITEM III. APPROVAL OF MINUTES**

21 CHAIR WILLARD: Call for a motion to approve
22 last meeting's minutes.

23 COMMISSIONER McMILLIN: So moved.

24 COMMISSIONER VAN VELSOR: Second.

25 CHAIR WILLARD: All those in favor?

1 (Commissioners simultaneously voted.)

2 CHAIR WILLARD: Motion approved.

3 **AGENDA ITEM IV(A) . REPORTS**

4 CHAIR WILLARD: Are there any subcommittees that
5 have reports or comments they'd like to make?

6 Before the Deputy Director gets into her report,
7 we will have public comment during individual business
8 items and also at the end of the reports. Also, at
9 three o'clock we will stop the meeting with the
10 business items and shift to an open public comment
11 period. So we will accept comment from the public on
12 anything that has to do with the OHV program at three
13 o'clock.

14 **AGENDA ITEM IV(B) . DEPUTY DIRECTOR'S REPORTS**

15 DEPUTY DIR. GREENE: Good afternoon,
16 Commissioners, members of the public, nice to see
17 people here today. We have a number of items,
18 Commissioners, to update you on.

19 First of all, I know that Commissioner McMillin
20 always will ask about the DMV study. We were just in
21 contact with DMV about two weeks ago, and they say that
22 now due to the budget changes that they will be able to
23 attend the next Commission meeting whether it be in
24 Sacramento area or in Southern California. So that's
25 good news. We anticipate being able to have a

1 representative from DMV here to be able to provide you
2 the update that they have per the statute and the due
3 date they had of July 1st.

4 In terms of due dates, the strategic plan is
5 still moving its way through the administration and the
6 various processes it needs to have approval. It
7 currently is with the Department of Finance, and so my
8 hope is by the next meeting we will have an approved
9 strategic plan. Later we'll be talking about the 2011
10 Report and the amount of time that we need to make sure
11 that we give the administration to review that 2011
12 Report so that you can meet the deadline of
13 January 1st, 2011. I think this gives a better
14 understanding of the length of time it does take.

15 In terms of legislation and updates, I'm going
16 to ask the Chief if he would provide an update on
17 various pieces of legislation.

18 CHIEF JENKINS: Thank you, Commissioners. Very
19 briefly, rather than go through the entire list again,
20 to summarize what happened this year, Assembly Bill 134
21 is the one bill that made it through that we were
22 tracking as far as state legislation. This was the
23 bill that required parental responsibility for children
24 to make sure that they could reach and operate all
25 controls on off-highway vehicles. It went through, I

1 might add, quite handily with 111 aye votes within the
2 Senate and no nays at all; received very strong
3 support, very encouraging.

4 The other pieces of state legislation that were
5 being proposed were either held over to the next
6 session or a couple of them were vetoed. So we felt
7 very positive that this safety bill essentially for
8 children was able to make it through.

9 COMMISSIONER VAN VELSOR: That was signed by the
10 Governor?

11 CHIEF JENKINS: I don't have the exact date,
12 but, yes, it was signed by the Governor. It is now in
13 law, so we will be updating our little quick code books
14 for the rangers out in the field. We've been
15 developing some information to send out to the law
16 enforcement community in California to give them
17 regular updates that this is now a law which they can
18 start citing on the first of the year.

19 The smoking legislation is on the inactive
20 file, which means it's not going anywhere right now.
21 That was the one not allowing smoking in State Parks,
22 which, as we discussed in the past, can be very
23 problematic in some of our areas where the camping and
24 general-use areas are not very well defined. This bill
25 would only allow smoking within the camping areas, so a

1 place like Oceano Dunes where camping and activities
2 are intermixed, it's very problematic. We'll continue
3 to watch that one. It wasn't vetoed so it could crop
4 back up next year, but right now it's not moving
5 anywhere.

6 DEPUTY DIR. GREENE: In the midst of some of the
7 challenges we have at State Parks, one of the bright
8 moments occurred three weeks ago as we were able to
9 celebrate the 40th anniversary of the Canine Program
10 for State Parks. This is a remarkable program and one
11 that we're very proud of. Andy Ahlberg, here in the
12 back today, is a canine handler at Ocotillo Wells. The
13 amount of time, energy and effort that they put into
14 the training and the service and partnership that they
15 provide for the public is really unique, not only from
16 a law enforcement perspective but really an outreach
17 perspective for many members of the community who might
18 not otherwise talk to a law enforcement officer, but
19 when they see the dog then feel free to walk up and
20 then a conversation can ensue. So it really was a
21 magical day for Phil and myself. We were there, and
22 they had a number of demonstrations of the canines in
23 action and then celebrated the 40 years with the State
24 Parks. So we're looking to see if we can expand it for
25 the OHV Division, possibly get a canine handler at

1 Oceano Dunes.

2 Another update, if you could mark your calendars
3 for December 5th and 6th. I know in the past you've
4 received this pamphlet, the California Archeological
5 Site Stewardship Program. We've had a partnership with
6 them for ten years now. CASSP Month was in October.
7 On December 5th and 6th, they're holding a two-day
8 course. The first day will be in Sacramento where they
9 pair professional archeologists with members of the
10 public, volunteers who have an interest in going out
11 and monitoring and observing the archeological sites
12 and historic sites we have throughout California. So
13 we're going to be at Carnegie on Sunday, which is the
14 6th. In particular, as you look at Carnegie, just an
15 incredible history out there. Tesla Coal Mine was the
16 first coal mine in California. The clay that they
17 found in conjunction with the coal turned out to be
18 ideal for manufacturing brick. By 1910, as many as
19 110,000 bricks a day were being shipped throughout
20 California stamped with the name Carnegie, so
21 everything from the Palace Hotel in San Francisco, the
22 post office in Oakland, and buildings downtown in
23 Stockton. So any members of the public who have an
24 interest in volunteering to get that training to become
25 site stewards, we would encourage you to attend. That

1 will occur on December 5th and 6th.

2 I'm going to turn to Tim for an update on Oceano
3 Dunes. Many of you will recall the 584 acres which is
4 county-owned land. We've been in discussions with the
5 county for a number of years now in order to purchase
6 that land. I'm going to ask Tim to expand on where we
7 are currently.

8 ATTORNEY LA FRANCHI: Good afternoon, Chair and
9 Commissioners. The process for acquiring the 584 acres
10 we commonly refer to as the La Grande tract, back in
11 the early part of the century it was developed as a
12 subdivision, along the way Bank of America
13 foreclosed -- this is kind of a short-hand version --
14 and turned the property over to the county for unpaid
15 taxes. And in the '70s and '80, it was included as
16 part of the State Parks operation. And since about
17 '72, '75 it's been a part of the Oceano Dunes, then
18 Pismo Dunes State Vehicular Recreation Area, and it
19 represents about a third of the remaining open riding
20 areas. As a lot of you know, there used to be 14 miles
21 of coastline that could be ridden on, motor vehicles
22 used on. That's been part of the State Parks
23 operations. It was narrowed down to about 1500 acres;
24 300 acres of that during the bird nesting season is
25 closed to riding. So this 500 acres represents a

1 pretty significant portion of the park that's available
2 for recreation.

3 From the inception, the concept and the intent
4 was for the property to be acquired by State Parks for
5 the SVRA. Since 1983, it's been operated through an
6 operating agreement with the county by State Parks for
7 purposes of the SVRA system. And the property is
8 operated pursuant to a coastal development permit
9 issued by the Coastal Commission, and the property is
10 also discussed and covered as part of the county's
11 coastal program.

12 One interesting glitch in the sale occurred in
13 December '06, January '07, when the local planning
14 commission determined that the sale would not be in
15 conformance with the county's general plan by reason of
16 two issues: One, Open Space Policy No. 30 in their
17 general plan, which basically states the county will
18 consult with other agencies in an attempt to reconcile
19 conflicts, prevent motorized recreation in areas with
20 resources and residential and other activities in the
21 county; and, number two, by reason of what we refer to
22 as Figure 4. Figure 4 is a graphic that was left in
23 the county's local coastal plan when the Coastal
24 Commission certified it that basically shows the
25 property as being non-motorized buffer. In essence,

1 there is a conflict between this Figure 4 with what the
2 rest of the county's local coastal plan says and what
3 has been permitted for 25 years by the Coastal
4 Commission and the county with respect to coastal
5 development permits issued on the property.

6 That finding of the Planning Commission was
7 appealed by State Parks and a nonprofit called Friends
8 of Oceano Dunes and others to the San Luis Obispo Board
9 of Supervisors. The board of supervisors in essence
10 upheld that conclusion but said that that would not
11 prevent the property from being sold or being used for
12 motorized recreation.

13 The next thing that happened was Friends of
14 Oceano Dunes believed that that decision represented a
15 threat to the continuing operation of the park if that
16 decision were used to block or prevent further use
17 because Figure 4, of course, does not provide or allow
18 for motorized recreation and brought suit, and we
19 continued to negotiate with the county to try to find a
20 resolution and go proceed with the sale.

21 About a year later in April of '08, the local
22 chapter of the Sierra Club filed suit, based on
23 Figure 4 and the local coastal plan, to compel State
24 Parks to amend its general plan to bar the use of
25 motorized recreation on the property. We have since

1 then tried to negotiate again a settlement of the
2 lawsuit and eventually were unsuccessful, and the
3 issues are now being briefed before the court.

4 State Parks and Friends have filed their opening
5 briefs basically contending that Figure 4 is not
6 applicable and to State Parks' operations should not
7 have any weight or consequence. The county, the
8 Coastal Commission, and the Sierra Club have filed
9 their opposition briefs to the State Parks' briefs. We
10 are in the process of filing the reply briefs to the
11 Coastal Commission and Sierra Club opposition. And
12 tomorrow morning we will have another court call,
13 conference with the court, to decide what date the
14 hearing will be held on these issues. So we expect
15 that sometime in December we will be in court arguing
16 or presenting oral arguments before the court. And
17 sometime within two to three weeks following that,
18 around the first of the year, we will have a decision
19 from the court at least on some preliminary legal
20 threshold questions. It won't be the end of the
21 lawsuits necessarily, the Sierra Club's lawsuit and the
22 Friends' lawsuit have been consolidated, but we hope to
23 have a good understanding from the court of how it's
24 viewing the various arguments and whether or not, in
25 essence, Figure 4 should apply to prevent State Parks

1 from continuing to operate the La Grande tract, in
2 which case there is a significant question about
3 whether State Parks should purchase the property if it
4 can't be used for motorized recreation.

5 So that's kind of the long story. It's got a
6 long, tortured history, 30-plus years now, and we're
7 hopeful, and we're vigorously pursuing it, and we feel
8 pretty good about the State's position. But with
9 litigation, you never know. We'll be able to report
10 back after the first of the year how successful we've
11 been.

12 CHAIR WILLARD: How long has the sale been going
13 on and do we have monies allocated for it?

14 ATTORNEY LA FRANCHI: \$4.8 million have been
15 appropriated, which reverts next June 2010. So there
16 are timing problems in relation to that.

17 The Deputy Director just reminded me, the
18 Department has decided to go ahead with an EIR process,
19 CEQA process; had a notice of preparation scoping
20 meeting a couple of weeks ago down in San Luis Obispo.
21 The Department decided it would be a little problematic
22 to have gone to all of this trouble with successful
23 litigation to go forward with the sale and then not be
24 in a position CEQA-wise to proceed with the sale. So
25 concurrently with the litigation and everything else

1 going on, the consultants are preparing an EIR, which
2 should be ready March, April in time for decisions that
3 need to be made by the State Public Works Board and the
4 county if they want to proceed with the sale.

5 CHAIR WILLARD: So the \$4.8 million reverts back
6 to the OHV Trust Fund?

7 ATTORNEY LA FRANCHI: That's right.

8 COMMISSIONER McMILLIN: We're probably not going
9 to purchase it if we can't use it?

10 ATTORNEY LA FRANCHI: I think that's the current
11 thinking. With this cloud, we've been holding off.
12 Part of the settlement discussions were can we go ahead
13 and render a purchase arrangement contingent on the
14 outcome of litigation to smooth things. We weren't
15 able to reach that. But the big problem for the
16 Division, for the Department, in purchasing this
17 property it would be like purchasing property and you
18 didn't know if you had an easement to get to it.
19 That's a cloud over the property, if it could be used.

20 COMMISSIONER SLAVIK: That money that's
21 appropriated is going to run out next year. If this
22 drags on further, is there a backup plan if we were, in
23 fact, successful two years from now?

24 COUNSEL LaFRANCHI: I'm a little reluctant to
25 talk too much in public because it's all part of the

1 litigation strategy, but we're in conversations with
2 internal control agencies, Department of Finance,
3 Department of General Services, internally about what
4 plan B would be, how we would do that. So we're
5 working on backup plans, what we think would be the
6 appropriate strategies in that regard.

7 DEPUTY DIR. GREENE: I can share that having
8 been before the Department of Finance last time asking
9 for a reappropriation of the monies for this fund, it
10 was not a pleasant discussion. And so this is not an
11 easy process to say, can you please reappropriate the
12 money, particularly in this difficult climate because
13 really their feeling is there is a deal or no deal. So
14 that is the difficulty that we're running into. As Tim
15 said, we're trying to weigh all of our options.

16 COMMISSIONER SLAVIK: Worst case scenario, this
17 couldn't go through, does that mean that the park is
18 cut in half?

19 ATTORNEY LA FRANCHI: I would say that's not a
20 certainty. I think what the issue here is, what's
21 brought into play with these cases is the interplay
22 between local regulatory powers, the ability of the
23 county to regulate what goes on on a State operation.
24 And even if under the Coastal Act the court were to
25 decide that in some fashion Figure 4 or the local

1 coastal plan does affect the operation, there's still
2 some other operations. The county could amend their
3 local coastal plan to clarify. So we just have to see
4 how that plays out. So it's not a foregone conclusion
5 that it would shut down. There are a lot of variables
6 in play here. It's very complex. It brings into play
7 a lot of complex local planning versus state planning
8 jurisdictional issues, how the Coastal Act works. It's
9 just not a foregone conclusion.

10 CHIEF JENKINS: Let me add, we've had
11 discussions with the county about the worst case
12 scenario, which would be that we didn't purchase the
13 property and due to all of the legal issues they
14 decided that OHV activities were no longer allowed,
15 what that really does is create quite a nightmare for
16 local jurisdiction because it's a very large area.
17 It's very difficult to keep people out of there because
18 they've been recreating there for going on 100 years.
19 And they are very concerned if they don't find someone
20 to operate it and it falls back into their hands,
21 they'll have all the liability issues, all of the
22 public safety costs. It is expensive to run these
23 areas, as you all know as you look at our budget, and
24 they're not prepared right now to take on that cost.
25 So it really is something that is high stakes. If we

1 can't all figure out between us and the county and
2 various parties that are wrangling on this how to make
3 it work and continue the status quo, then it's going to
4 get very dicy figuring out how to manage it.

5 CHAIR WILLARD: Thank you on that. If there is
6 a role that the Commission can play in this, let us
7 know, be happy to chime in.

8 DEPUTY DIR. GREENE: I know we've spoken at one
9 point in time about perhaps having a meeting in the
10 Oceano area, and so I think maybe we will look at our
11 calendar and keep that in mind for some point in time
12 for next year, that would be a good thing. I can
13 assure you, you will have a large crowd.

14 John Pelonio, public safety update, please.

15 OHV SUPT. PELONIO: Good afternoon, John
16 Pelonio, Public Safety Superintendent for OHMVR
17 District Headquarters. At the last Commission meeting,
18 there were concerns about the Green Valley Crab Flats
19 area here in the San Bernardino National Forest. We've
20 been in contact with Brad Burns, an L.A. law
21 enforcement officer for the area. I drove through that
22 area yesterday. The portion of Crab Flats Road that's
23 opened to highway registered vehicles only is posted
24 clearly, and the only evidence I found of non-street
25 legal vehicles being operated on that section were

1 tracks that looked like they were from a tractor and
2 some other pieces of equipment. I didn't see any
3 evidence of off-highway vehicle activity on that closed
4 portion. The whole area burned in 2007. The Forest
5 Service has installed fences to keep vehicles out where
6 there isn't an existing natural barrier. Salvage
7 timber harvest has been done and some of the debris
8 from that has been chipped and scattered on site as a
9 mulch to protect the soil. They're still issuing fuel
10 wood gathering permits for gathering downed and
11 deadwood in that area. There were some tire tracks
12 just off the edge of the road that appeared to be
13 associated with the fuel wood gathering permits. I
14 understand that is legal. As part of the permit
15 process, they're allowed to drive just off the road.
16 Just inside the OHV portion of Crab Flats Road, there
17 were some motorcycle tracks where someone had driven
18 around the fence. The fence should have been about ten
19 feet longer, and it could have kept them out, but they
20 got around and did some damage.

21 This morning I met with Brad Burns again, and he
22 said that there's a new forest protection officer
23 assigned to the OHV program in the forest, and they've
24 got a new law enforcement officer, as well. He said
25 that the CHP Running Springs Office and San Bernardino

1 Sheriff's Department Twin Peaks Station helped the
2 forest in dealing with OHV areas, especially riding on
3 the highways just outside of the forest area at Green
4 Valley Lake. He felt that most of the activity in the
5 subdivision is what we call garage riding, where people
6 ride from their house out into the forest. There's no
7 legal access to the forest there for off-highway
8 vehicles. There is one street legal vehicle only road,
9 Edison Road, and then there are a couple of illegal
10 access points. He said that it's an occasional
11 problem, mostly youth after school. So between that
12 time period when the kids get off of school and before
13 mom and dad get home, out riding in the forest.

14 We discussed techniques and strategies to be
15 used to address the problem and will have a conference
16 call to develop a specific plan on how to address that.
17 As part of the discussion, we came up some suggestions
18 that the community can use to assist the forest to
19 address the problems. One is to encourage the families
20 in that community to keep on eye on their kids and keep
21 them from riding illegally into the forest. They can
22 participate in the grant writing process for when the
23 forest is applying for their grants. They can comment
24 on the grant application once it's posted. And the new
25 adventure passes that the Forest Service have are a way

1 for people to support their local forest. So he said
2 that at least 80 percent of the income from the
3 adventure passes stay at the forest, and the buyer can
4 indicate where they would like those funds spent. So
5 if they want a way to help the forest to address that
6 problem, they could buy the adventure passes and say
7 that they'd like for those funds to be used for that
8 area. And the adventure pass is \$30.

9 Next item, just after the September meeting, we
10 taught an OHV law enforcement update class in
11 El Centro. It was attended by nine officers from BLM,
12 two from Calexico Police Department and one from
13 Imperial Police Department. It's an annual update
14 class on OHV laws, officer safety, specific law
15 enforcement techniques, and we remind them of the
16 resources we have available to help them.

17 On September 28th at 8:20 in the evening, one of
18 our officers patrolled through Wonder Valley and did
19 not see any activities of OHVs. We've conducted two
20 law enforcement site visits since the last Commission
21 meeting. Last week we taught an OHV law enforcement
22 class in Bishop. It was attended by ten officers from
23 Inyo County Sheriff's Department, four from Inyo
24 National Forest, and one from Bishop Police Department.
25 Three BLM officers attended the sound test training on

1 the last day.

2 Two of our supervising rangers assisted at
3 Ocotillo Wells State Vehicular Recreation Area for
4 Halloween weekend, and the proposed revision to the
5 regulations for Oceano Dunes that we talked about
6 before, those are currently in the review process with
7 the Office of Administrative Law. They have until
8 November 15th to either approve them or send them back
9 to us for more work. Assuming that they approve them
10 on time, then we're set up to be able to implement it
11 effective January 1st, 2010 which will tie in well with
12 the assembly bill.

13 DEPUTY DIR. GREENE: When we do the tours, it
14 allows us to see some of the issues that we heard about
15 from members of the community about where they have got
16 some concerns. So I think part of our role is to help
17 facilitate, where we can, to try and come up with some
18 meaningful solutions. And so I just want to thank John
19 for engaging with the San Bernardino LE team.

20 SUPT. PELONIO: We were actually pretty close to
21 this area and, in fact, that Black Diamond Road that
22 continued up from where we had lunch ends up at Crab
23 Flats.

24 DEPUTY DIR. GREENE: I can promise you those
25 Tahoes were not going to make it up that road.

1 COMMISSIONER SILVERBERG: John, you mentioned
2 that you visited Wonder Valley again. Is it because
3 there's been more complaints out there or you're just
4 following up on the previous?

5 SUPT. PELONIO: We're just following up. The
6 Commission asked us to continue to monitor, so whenever
7 we are in a problem area, we make an effort to drive
8 through and see how it's doing.

9 COMMISSIONER SILVERBERG: Have there been any
10 further complaints since it was looked at last time?

11 SUPT. PELONIO: There have been representatives
12 show up at Commission meetings, but no new complaints
13 of additional problems.

14 COMMISSIONER VAN VELSOR: I'm curious, what was
15 the participation level of the community members in
16 forest and did you feel that they were quite receptive
17 to some of your ideas? You mentioned that you talked
18 with members of the community to work out some of the
19 problems with --

20 SUPT. PELONIO: No, I was working with
21 Brad Burns with the Forest Service to discuss some of
22 the issues, and we came up with those ideas that we can
23 then pass on.

24 COMMISSIONER VAN VELSOR: So you didn't meet
25 directly with community members?

1 SUPT. PELONIO: No.

2 COMMISSIONER VAN VELSOR: All right. I
3 misunderstood. Thanks, John.

4 DEPUTY DIR. GREENE: And then if I may,
5 Commissioners, we weren't able to coordinate with
6 San Bernardino National Forest, but we're going to be
7 presenting this both to the forest and then to the
8 association in gratitude for them. If you're
9 interested in the photograph, for those of you who
10 can't see, it's just a commemorative to the forest and
11 San Bernardino National Association, and it's a photo
12 from when we had our tour.

13 COMMISSIONER SLAVIK: Is that available online?

14 DEPUTY DIR. GREENE: No, it's not available
15 online.

16 At this point in time, Connie Latham has an
17 update on a couple of items for us.

18 OHV STAFF LATHAM: Connie Latham, OHV Division.
19 Good afternoon, Commissioners, it's been a short five
20 weeks since we last spoke, but to be honest it feels
21 like yesterday when you have a report of this magnitude
22 to put together. The OHV Division continues to make
23 forward progress on the development of the 2011 Report.
24 The core project team, as I labeled us, continues to
25 meet bimonthly, and we currently are still in what I

1 think I alluded to at the last meeting, that compiling
2 and editing phase to pull in some report data, put
3 together tables and charts, still a few little loose
4 ends at this point; however, we're about to move into
5 the next phase, and I call it the report building
6 phase, bring all of the summary reports together, go
7 into the layout, the editing and so forth.

8 So our next core staff meeting will be in about
9 two weeks. At that point, my goal is to have a very
10 rough draft of this report. There will still be a
11 couple of summary reports we'll be missing at that
12 point that we're still getting some data from the field
13 on; however, we're making some good strides in that
14 direction. My goal, of course, is to still meet our
15 deadline of having our final draft after the first of
16 the year and having it ready for review at the first
17 Commission meeting next year.

18 COMMISSIONER SLAVIK: Could you give, for the
19 benefit of the audience -- a lot of those folks
20 probably have no idea what we're talking about -- just
21 the genesis of this report real quick?

22 OHV STAFF LATHAM: Yes, I apologize. As a
23 reminder to most of the folks back here, there is what
24 we're calling the 2011 program report. This is a
25 requirement that is outlined in the Public Resources

1 Code 5090.24 under the duties and responsibilities of
2 the Commission. And this is a report that basically is
3 the overview of the program, the Division, what has
4 been going on. And the time period for this report is
5 2004 through 2010. The report is due to the
6 Legislature January 2011, hence its title. So there
7 are also very key elements that we need to address in
8 that report.

9 Other items I've been asked to address would be
10 the status of the Mammoth Bar and Corral fires. First,
11 I'll give you the later update we have on the Mammoth
12 Bar fire. As a reminder, it started June 16. It
13 totalled 640 acres in the park, and that was a total of
14 about 70 percent of the OHV area. There were nine
15 miles of trail that were burned. The status today
16 following the rain events that we had in October, there
17 was quite a bit of green up there, and they were very
18 happy about that. The hill contours and the gullies
19 held up very well so far.

20 One of the big challenges is the prevention of
21 riding off designated trails. They've had quite a bit
22 of issues with that. They continue to do a lot of
23 fencing and putting up hay bale wattles to enforce
24 that. One other area that they had a lot of impact
25 because of that fire was the Castle Rock restoration

1 area. It was severely impacted, so they're in the
2 process of coming up with a plan to actually go back in
3 and restore that area, as well. They are also doing
4 pretty extensive photo monitoring so they can really
5 keep track of how things go post fire.

6 The Corral Fire at Carnegie, as a reminder, it
7 started August 14th. It was 226 acres within the park.
8 Keep in mind that was over 15,000 acres in size, but
9 only 226 in the park. There were again, similar to
10 Mammoth Bar, nine miles of trail that were burned. All
11 of the trails at Mammoth Bar were open the week after
12 the fire. At Carnegie on the Corral Fire, all of those
13 trails remain closed at this time. What they did to
14 reduce any off-trail riding or illegal riding, they
15 created a buffer zone just adjacent to the fire within
16 the park. That buffer zone has been reopened. It was
17 reopened in September, but because of that buffer zone,
18 there was no evidence of any illegal riding in the
19 fire, so it was a really good effort. As with Mammoth
20 Bar, they also have a lot of green up after the rain
21 events in October; happy to see that. However, the
22 fire at Carnegie was a lot hotter fire, so they're
23 still doing a lot of assessment on the seed banks with
24 a lot of the shrubs that were burned there to see
25 really what's going to come back which is one of the

1 reasons that that area will be closed probably for
2 awhile.

3 CHAIR WILLARD: What percentage of the riding
4 opportunities at Carnegie is impacted by the fire?

5 OHV STAFF LATHAM: 226 acres in Carnegie is
6 approximately one-sixth of the park. The park has 1600
7 acres.

8 COMMISSIONER VAN VELSOR: Connie, do you folks
9 tend to re-vegetate or do you try to let the vegetation
10 recover naturally before you do that?

11 OHV STAFF LATHAM: I think it's site specific.
12 At Mammoth Bar things are coming back -- this is
13 preliminary. The green up seems to be coming back very
14 nicely. It was a low intensity burn. Actually, they
15 could not have done a better prescribed burn is what I
16 was told.

17 At Carnegie, it was a very hot intense burn. It
18 did damage the seed bank of some the chaparral and the
19 shrubs, so they have to wait and see what truly comes
20 back after the winter months with the rain events.

21 COMMISSIONER VAN VELSOR: Then if it's not
22 acceptable, you will replant?

23 OHV STAFF LATHAM: They plan on doing that.
24 That's a given. They said as an estimate, it's not for
25 sure, they're probably looking at 60 percent of it to

1 be rehabbed.

2 COMMISSIONER VAN VELSOR: When you re-vegetate
3 or when you try to restore the area, do you use plants
4 that generally existed there or do you consider
5 possibly other plantings?

6 OHV STAFF LATHAM: Always native.

7 ATTORNEY LA FRANCHI: To update you from the
8 last meeting where we reported on the pending
9 litigation at Carnegie with regard to water quality, as
10 we reported briefly at your last meeting, one of the
11 activities that's been going on heavily at Carnegie by
12 the Division staff, resource management staff,
13 operations staff is to begin to develop a water quality
14 or watershed management plan. And as a part of that,
15 the staff have been working and consulting closely with
16 the Regional Water Quality Control Board with regard to
17 what should be going on out at Carnegie with regard to
18 water quality permitting and those sorts of things. So
19 based on those consultations, the staff and Water Board
20 had put in place permits where they thought they were
21 needed and other strategies as needed. We're working
22 on longer term strategies.

23 One of the concerns from the litigation that was
24 filed was that there really was no program defined by
25 the Water Board that the operations at Carnegie fit

1 into. That was the reason a lot of the consultation
2 was going on. So based on that, one of the strategies
3 that were reported last time, the plaintiffs in this
4 case filed suit to require the Department to submit a
5 report of waste discharge to the Regional Water Quality
6 Control Board and bring Carnegie under the jurisdiction
7 of the Regional Water Quality Control Board.

8 So pursuant to that basic strategy, we believe
9 the best way to proceed with the situation at Carnegie
10 water quality wise, watershed management wise, was to
11 try to maintain the status quo, that is, the working
12 relationship that had gone on between the Water Board
13 and the staff at the SVRA because it was a very useful,
14 very helpful, and very productive relationship.

15 Based on that objective, two things have been
16 filed with the court leading up to the court hearing on
17 December 4th. The first thing is a pleading referred
18 to as an opposition to the alternative writ application
19 by the plaintiffs in this case. As you may recall, the
20 plaintiffs said, one, the Division, the Department
21 should file a report of waste discharge. Two, until
22 the Water Board had ruled on that and/or given waivers,
23 then the park should be closed. So this pleading or
24 this opposition does request two things of the court.
25 It makes the argument that I just outlined that the

1 Water Board and staff have been working very closely to
2 resolve and deal with water quality issues, and a lot
3 of strategies are already in place, a lot of work is
4 already underway, and on that basis there is no reason
5 for the court to order the park closed while these
6 conflicts or disputes are resolved through the court
7 process.

8 The second piece of that opposition basically
9 submits to the court that the court should stay the
10 litigation, that means put it on the shelf; refer the
11 issues back to the Water Board and the Department to go
12 forward and figure out what should be done. Water
13 quality control is a highly technical field. Experts
14 need to be involved. The point is it's really
15 troublesome or difficult for the court, who doesn't
16 have that kind of expertise, to try to oversee that
17 activity. And also the effect of this staying would
18 take the plaintiffs out of the picture. They would not
19 be at the table. It would be up to the Water Board and
20 the Division to work together to try to come up with a
21 solution.

22 So for the litigation, that's the first
23 proposal, no closure for the reasons we talked about
24 and that the court should send the issue back to the
25 administrative agencies to work it out under a theory

1 known as primary jurisdiction. It's more appropriate
2 for the administrative agencies to have responsibility
3 working on this than for the court.

4 The second piece of the filing by the Attorney
5 General on behalf of the Department is what's referred
6 to technically as a demurrer. Basically a demurrer
7 says regardless of the facts and the allegations that
8 are made in the complaint, the plaintiffs have no cause
9 of action, and their causes of action should be
10 dismissed. So the Attorney General has filed as a
11 backup or as a concurrent filing that the water quality
12 issues should be dismissed if the court decides not to
13 refer this back to the administrative agencies. The
14 demurrer basically says if the court decides not to do
15 that, the court should dismiss the water quality cause
16 of action in this lawsuit because the Water Board is
17 not named as a party. The Water Board is an
18 indispensable party, they need to be in the lawsuit.

19 So basically it's a very vigorous response
20 opposition to the litigation, trying to get it back
21 into the appropriate arena with the administrative
22 agencies where it belongs. We'll see what happens in
23 December, see how the court responds to that.

24 DEPUTY DIR. GREENE: Dan Canfield.

25 OHV STAFF CANFIELD: Good afternoon,

1 Commissioners. Dan Canfield, California State Parks,
2 OHMVR Division. I'm a grants administrator, and I'll
3 be providing you with a grants program update. The OHV
4 Division is preparing for the upcoming 2009/2010 OHV
5 grant program. We are set to kick off January 2010.
6 January 11th, 2010 is the date the application material
7 will be available online through our online grant
8 application system. Applicants can begin work on their
9 applications at that time.

10 The Division will be conducting application
11 workshops soon after that. Typically we'll do one in
12 the Sacramento area and one in Southern California,
13 with a preliminary filing date of March 1st, 2010.
14 Many of our grant applicants are very mindful of these
15 dates and anxiously awaiting for the kickoff of this
16 program.

17 The funding for the 2009/2010 OHV grant program
18 is very similar to the previous year. I do have a
19 handout on this. I also put this handout at the table
20 for the public to look at. Through the budget
21 appropriation process, we received \$27.1 million for
22 the 2009/2010 OHV grant program. That funding is
23 distributed among four subcategories or funding
24 categories that I put on the handout there: Education
25 and safety, 1.3 million; law enforcement, 5.2 million;

1 operations and maintenance, 13 million; and
2 restoration, 7.6 million. Again, very similar to the
3 previous year.

4 In support of the upcoming grant program, the
5 Division has a regulatory amendment package working its
6 way through the administrative law process, and I spoke
7 on this subject at previous Commission meetings. As a
8 result of a 45-day public comment period, in which we
9 received public feedback on the proposed changes, we
10 did modify some of the proposed changes, and we went
11 back out for a 15-day supplemental public review
12 period. Today, November 4, 2009, is the last day of
13 that 15-day supplemental public comment period.

14 That concludes my update on the OHV Trust Fund
15 grant program.

16 CHIEF JENKINS: One small clarification, on the
17 \$27.1 million that's divided into these four
18 categories, if you do the math -- people do this and
19 call us all the time, it's not working out --
20 25 percent of 27.1 isn't the number that you're
21 showing. When you do the math on the breakdown of
22 those various categories, for instance, restoration is
23 25 percent of the 26 million. The 1.1 million that's
24 added on, which is 1.1 million leftover CESA money for
25 restoration from the pre-SB 742 days is all restoration

1 money. So to get the restoration money, you would be
2 25 percent of 26 million, plus 1.1 million, for
3 instance. And then when you're looking at the law
4 enforcement money, it's 20 percent of 26 million, not
5 20 percent of 27.1 million, so a little clarification
6 there.

7 And also just a note, that money that was left
8 over in the account at the time the 742 was put
9 through, there was about \$14 million of CESA money left
10 in the account obligated to be used for restoration.
11 When this last budget cycle they swept the 90 million
12 first and then the 22 million after that, that included
13 that 14 million that was in there. So that cash is
14 gone out of account. The obligation did not go away,
15 but the cash is gone. And so until we get that money
16 repaid, likely we will not be able, the cycle after
17 this, to do the \$1.1 million add-on for restoration
18 until that money is put back into the account so we can
19 continue to pay that money out based on old CESA
20 obligations.

21 DEPUTY DIR. GREENE: Actually, just one point of
22 clarification on that, of the \$14 million, 5.6 million
23 was set aside for route designation and implementation.
24 The remaining monies were the ones that were then
25 allocated as a 1.1 million every year in restoration.

1 CHIEF JENKINS: And the 5.6 had been given out.
2 It was allocated to us, and that's one of those that we
3 asked for reappropriation, and it was not granted, and
4 so it reverted to the account.

5 CHAIR WILLARD: So then in subsequent years, we
6 really won't have that carryover happening because we
7 don't have the funds there?

8 CHIEF JENKINS: Not until that money is repaid
9 that was borrowed out.

10 CHAIR WILLARD: So next year when Dan is giving
11 his report on this, these numbers --

12 OHV STAFF CANFIELD: They will be subject to
13 legislation actions.

14 CHIEF JENKINS: Unless we do a negative BCP or
15 positive BCP to change that 26 million, that number
16 just keeps repeating. And so the anticipation would be
17 that the next Governor's budget would include
18 \$26 million for the grant program.

19 CHAIR WILLARD: So all of the category would
20 line up with their required percentages?

21 CHIEF JENKINS: Correct.

22 COMMISSIONER VAN VELSOR: If you could explain
23 to me again the process that you went through for the
24 review of the grant regulations? You said there was a
25 45-day comment period and you took those comments.

1 Based on those comments, you then issued another 15-day
2 supplemental comment period, correct?

3 OHV STAFF CANFIELD: That's correct. So we
4 prepared the package of proposed regulatory amendments.
5 They went to the public for the 45-day public review
6 period. On top of that, we had two public hearings in
7 which interested parties could attend and provide
8 comment on the proposed amendments. And so we gathered
9 all of that information together, and as a result of
10 that, we made a couple of changes to the proposed
11 changes. And so only those proposed changes to the
12 changes went back out for the follow-up supplemental
13 15-day period which is winding up today.

14 COMMISSIONER VAN VELSOR: I'm wondering if the
15 Commission was briefed on this. And if so, I might
16 have missed it because I don't recall seeing that
17 information that there was an additional 15-day
18 supplemental. And if we weren't, I wish we would be in
19 the future. If we were, I'm curious why I missed it.

20 DEPUTY DIR. GREENE: Well, we hadn't gone out to
21 the 15-day. At the last meeting, we heard quite a few
22 people stand up during public comment and share their
23 views about what our proposals were. We then also had
24 a follow-up public meeting. So as Dan said, when we
25 came back together on the 15-day public comment, I

1 believe there was an e-mail blast to everybody who is
2 on all of our lists for any regulation change to
3 indicate we were going back out for that 15-day public
4 comment period, but we can double check on that, we
5 certainly will.

6 OHV STAFF CANFIELD: So at the last meeting when
7 I presented the grant program update, we were within
8 the 45-day public comment period. And so subsequent to
9 that, we would have done a public notice. And as
10 Deputy Director mentioned, we would do an e-mail blast
11 with the notice and that would have been the process,
12 but I'll follow up and make sure that you're on that
13 e-mail list.

14 COMMISSIONER VAN VELSOR: I may have overlooked
15 it.

16 OHV STAFF CANFIELD: I believe you are on that
17 list.

18 COMMISSIONER VAN VELSOR: I should be.

19 COMMISSIONER SLAVIK: I hope this is the right
20 time and place for this. I don't see any Forest
21 Service personnel here. Am I wrong about that?
22 Looking out the front door, there's Angeles National
23 Forest. There is huge devastation that I'm wondering
24 when we talk about restoration if you've got anything
25 from the Forest Service about trying to do something

1 out here?

2 OHV STAFF CANFIELD: I did have additional
3 information in my report not germane to that subject,
4 but if you would like me to continue with my report at
5 this point, and then I can pick up that question at the
6 end as best I can.

7 COMMISSIONER SLAVIK: I have a second question,
8 too. Tell me if I'm premature in this, but we were
9 discussing cost recovery, and there has been e-mails
10 floating around about cost recovery. Can you maybe
11 address how that may fit into the programmatic side of
12 OLGA, of our grant program, whether there is some way
13 we can insert that into the program or not?

14 OHV STAFF CANFIELD: The cost recovery item will
15 be discussed. It's under a different agenda item.
16 It's under a business item, at which time we can
17 discuss those issues.

18 That wraps up my update on the OHV Trust Fund
19 grant program, and that's what I've been speaking to
20 this organization about for the last few months.

21 I also wanted at this point to talk a little bit
22 about another grant program that is administered by the
23 OHMVR Division. That's the Recreational Trails Program
24 or RTP. The RTP program provides financial assistance
25 to cities, counties, state agencies, federal agencies,

1 districts, and nonprofits organizations for the
2 acquisition, development and rehabilitation of
3 recreational trails and trail site facilities. You
4 might have noticed that is also the identical applicant
5 pool to the OHV Trust grant program that I'm normally
6 talking about.

7 Funding from RTP program comes from the federal
8 government, and it's a portion of the federal gasoline
9 tax. This funding is distributed amongst all 50 states
10 based on a very complicated fuel tax formula that the
11 federal government has developed. In the federal
12 fiscal year 2009, that's the federal fiscal year that
13 just wrapped up, the California apportionment for the
14 recreational program was \$4.6 million. State law
15 directs that in California this funding is divided
16 70 percent for non-motorized trail programs and
17 30 percent for motorized trail programs. The OHMVR
18 Division is responsible for administering the motorized
19 side of the program. We do so in cooperation with the
20 Federal Highway Commission and the Federal Department
21 of Transportation. I want to highlight a few of the
22 accomplishments of this RTP program over the last ten
23 years.

24 The RTP program, specifically the motorized
25 portion of the RTP program, has been instrumental in

1 educating California youth on the safe operation of
2 ATVs; has been responsible for producing numerous OHV
3 maps; constructing motorized trails and trailhead
4 facilities; has been instrumental in maintaining the
5 historic Rubicon Trail; has helped in the installation
6 of restroom facilities at BLM Barstow and Ridgecrest
7 OHV areas; and has helped in the construction of
8 snowmobile trailheads in the national forests. Those
9 are just a few of the highlights over the ten years
10 that I pulled out from my report.

11 Current status of the RTP motorized program.
12 Currently the program is experiencing what I would
13 categorize as a funding challenge. Funding for the
14 program has been reduced over the last couple of years,
15 and the rate at which projects have been approved by
16 the federal government has also been restricted. As a
17 result, we have a backlog of projects. Five projects
18 from 2007 and four projects from 2008 are currently in
19 this backlog. On top of that, we have a brand new
20 batch of proposed projects that have been submitted. I
21 have another handout, which is available to the public
22 on the back table.

23 In the RTP program, applications are due on
24 October 1st of every year. That's the beginning of the
25 federal fiscal year. And as you can see in the handout

1 there, we have 11 proposed projects requesting roughly
2 \$1.4 million in RTP funding. So taking into
3 consideration the backlog that we're experiencing and
4 this crop of new projects that we've now received, the
5 Division is working to overcome this backlog. And I'm
6 happy to report I do believe that we have some movement
7 from the federal government to help alleviate some of
8 the backlog, which will allow us to get these projects
9 moving again, which is our goal, and allow these
10 projects to start providing recreational trails and
11 trail site facilities for California once again.

12 That is the end of my presentation, and I can
13 take any questions at this point.

14 CHAIR WILLARD: These are just the recently
15 proposed projects. It doesn't include the backlogged
16 projects.

17 OHV STAFF CANFIELD: I did not provide the
18 backlog, but I can provide that.

19 CHAIR WILLARD: Is the backlog roughly a similar
20 amount; is it twice this?

21 OHV STAFF CANFIELD: The backlog is about that
22 same amount. I would like to think there is some
23 positive movement in the program within just the last
24 few days, which I'm hopeful will get the gears moving
25 again.

1 CHAIR WILLARD: How do we allocate it; first
2 come, first served?

3 OHV STAFF CANFIELD: Basically, the abbreviated
4 version is the Division receives proposed projects,
5 like you have a list there. We review them, and we
6 score them based on a set of criteria that the program
7 has developed. The Division then recommends projects
8 typically based on score and how much money was
9 available, similar to what we do in the OHV Trust Fund
10 grant program. The recommended projects are then
11 submitted to the Federal Highways Administration, who
12 is our control agency in this case. They in turn
13 approve projects based on their criteria. So we have
14 some control, and specifically the way that I have to
15 control it is not releasing proposed projects to the
16 federal government until they clear out the old
17 projects. That's kind of been my practice is to work
18 out the oldest ones first. It's been difficult as this
19 backlog has grown.

20 DEPUTY DIR. GREENE: Dan, how much money is
21 available in RTP in the given year?

22 OHV STAFF CANFIELD: It's on the decline,
23 \$4.6 million for the state, take 30 percent of that,
24 and then there is an admin fee that comes off the top
25 to pay for administration of the work, about

1 \$1.2 million available for the program.

2 What's interesting to report is that the
3 congressional appropriation, the abbreviation is
4 SAFETEA-LU, expired September 30th of 2009. Congress
5 has indicated they're going to reissue the program.
6 Keep in mind, this program does more than recreational
7 trails. It builds bridges, highways, et cetera. This
8 is a very small piece of it. Congress has approved the
9 project on a month-to-month basis, so they are
10 releasing packets of money, which doesn't really aid us
11 in our attempts to clear out a backlog when they're
12 just dribbling out the funds. But, again, I also see
13 some positive movement on that front, as well, and I'm
14 hopeful we will get the programs going again.

15 COMMISSIONER VAN VELSOR: I'm curious, who
16 administers the non-motorized portion of that?

17 OHV STAFF CANFIELD: California State Parks
18 Office of Grants and Local Assistance; they're my
19 associates.

20 COMMISSIONER SLAVIK: Are they under the same
21 challenges that you're under?

22 OHV STAFF CANFIELD: Affirmative. They have a
23 larger program, and so compounded even more. I believe
24 they're feeling some of the same frustrations.

25 COMMISSIONER McMILLIN: I do have one question.

1 Is the backlog being backlogged at a 70/30 split?

2 OHV STAFF CANFIELD: Yes, the program is
3 administered on a very, very level playing ground, once
4 you take the 70/30 into account. So, yes, when these
5 packets of money became available, it's usually the
6 70/30 split is applied, then we go forward from there.

7 DEPUTY DIR. GREENE: And, Dan, because it's
8 related to the grants program, I'm just going to pass
9 this down if I could. Nonprofits are able to apply for
10 grants this year for the first time. The American
11 Desert Foundation was created, and you'll see on this
12 brochure here they're providing ATV safety certificate
13 classes. They're bringing classes out to the areas.
14 This is a concept we've been talking about for quite
15 some time. Just delighted that we're able to have this
16 organization be able to get established and now be able
17 to go out to Glamis and Imperial Sand Dunes to provide
18 the training that's so needed out there. It's just a
19 good thing. Thank you, Dan.

20 I know there's just tons of information, so
21 we're trying to glean -- again, that will be a
22 discussion, Commissioner Willard, during the policies
23 of determining how you want to lay out the agenda so
24 that we have good guidance of knowing how much time.
25 There are so many things going on. I know that,

1 Commissioner Slavik, you asked last time for just an
2 update on the RTP, just want to be cognizant of that.

3 In this regard, I would also like to recognize
4 the passing of two individuals since we last met. Roy
5 Denner and Harriet Allen, both very committed to
6 responsible land management in California, both came at
7 it from different angles, but both were committed to
8 the land, and their passing leaves a void for all of
9 us. Harriet died at age 95. She was committed to
10 protecting the desert; had been a staunch supporter of
11 State Parks both acquiring land at Anza Borrego and
12 Torrey Pines; was very active with the Desert Protective
13 Council.

14 Roy Denner was a member of the TRT for Imperial
15 Sand Dunes; was appointed to the DAC. He recognized
16 that industry needed to have a place in trying to get
17 responsible OHV in California and created the Off-Road
18 Business Association. Harriet was a member of the
19 California Roundtable Stakeholders Group. Both of
20 these individuals really championed for what they
21 believed was responsible use and the preservation of
22 public lands. I just want to acknowledge their
23 passing; it leaves a void for all of us.

24 On a brighter note, I would like to take a
25 moment and introduce a new member of the Division,

1 Ellen Clark. Ellen started her career in the private
2 sector back in 1986 working as a paralegal. At that
3 point in time she said, you know what, I'm going to
4 spend some time at Santa Cruz State Park. And so she
5 became a docent. That led to what has been a 22-year
6 career with State Parks from a docent, to a guide, to a
7 regional interpretive specialist. She came to us from
8 Sierra Buttes, so she knows the northern part of the
9 state backwards and forward. I think she has been in
10 15 different State Parks, all sorts of interpretive
11 messaging from cooperating association to volunteer
12 education. We're delighted to have her. I know that
13 Ed Waldheim has a direct speed dial line, so you can go
14 to Ellen now for everything educational. Welcome,
15 happy to have you here.

16 OHV STAFF CLARK: Thank you very much, and I
17 look forward to working with all on a long-term visions
18 of interpretation for the Division. Good to meet you.

19 DEPUTY DIR. GREENE: Then finally, as we wrap
20 things up, Kathy Dolinar, if you would, a couple of
21 updates in the desert.

22 KATHY DOLINAR: Good afternoon, Commissioners,
23 Kathy Dolinar for Ocotillo Wells. I just wanted to
24 give you a brief update. Our general plans are going
25 forward for Ocotillo Wells, Freeman, and Heber Dunes.

1 Ocotillo Wells has an amended general plan. There is
2 an existing one that was passed in 1981 when the park
3 consisted of 13,000 acres. Since that time, we are up
4 to 85,000 acres, and a lot of territory to cover. So
5 the general plans were delayed, some by the budget
6 crisis. They've been contracted out. They just
7 cleared through General Services. They were let to a
8 contract with a company formerly called EDAH, now
9 called AECOM out of San Diego, and we will be going
10 ahead with public meetings and input. As the processes
11 go along, I'll keep you updated. And I would love to
12 plan a field trip to the southern area for all of you
13 to get to go on a tour with us of all three areas as we
14 look towards outcomes from the general plan.

15 CHAIR WILLARD: So is that something that the
16 Commission will be taking up probably next year at one
17 of our meetings or two meetings perhaps even? What do
18 you think?

19 DEPUTY DIR. GREENE: Probably will take a look
20 at our schedule, but hopefully one or two meetings.

21 CHAIR WILLARD: It might be good to get out on
22 the ground before that or at some time.

23 KATHY DOLINAR: Excellent. Anytime anyone would
24 like to visit, give me a call, love to give you a tour,
25 and I'm sure we will be doing it as a group before the

1 general plan goes too far forward.

2 DEPUTY DIR. GREENE: You have a very special day
3 on Monday at Ocotillo Wells.

4 KATHY DOLINAR: On Monday morning at 10:00, we
5 will be doing a dedication for Watchable Wildlife
6 signs. Have you driven down the highway and seen the
7 brown binoculars anywhere, and you went, oh my gosh,
8 this is significant, I've got to stop and take a look?
9 We now have one outside Ocotillo Wells. It took almost
10 a year. It passed through last year, but Caltrans just
11 came out with the signs, and we're doing the official
12 dedication Monday morning at 10:00. So we'll now be a
13 Watchable Wildlife area. During your tour when you
14 come down, we will take you to some of the places where
15 you can observe statewide significant wildlife.

16 DEPUTY DIR. GREENE: Is this something that the
17 park applies for, is this something that's done on
18 behalf of the park? If you could give a little bit of
19 an overview because Ocotillo Wells and Oceano Dunes
20 have both been named as Watchable Wildlife areas.

21 KATHY DOLINAR: Many names are turned in from
22 both the public and state agencies and county property,
23 any kind of public or private property. The names are
24 looked through. They went through 150 down to about 75
25 this year, and then they sent someone out on the

1 ground. They spend about four days looking through
2 areas to make sure that what they were seeing was
3 indeed there and significant enough to be one of the
4 Watchable Wildlife sites. Out of the four that were
5 chosen for California State Parks this year, two of
6 them were SVRAs, Oceano Dunes and Ocotillo Wells.
7 We're very proud of that as a Division.

8 DEPUTY DIR. GREENE: One last one, the Freeman
9 integration proposal has been raised.

10 KATHY DOLINAR: Currently we have been meeting,
11 and there was a proposal by SDG&E to purchase the
12 California state lands in the Freeman area. The goal
13 of the Division years ago when we embarked on this four
14 years ago was to ultimately purchase under California
15 State Parks all of the parcels that are now
16 checkerboarded through one form or another. We had
17 originally proposed purchasing it with OHV Trust Funds.
18 That proposal did not get very far. We kept looking
19 that direction. We're looking to either lease or
20 through a management agreement come to an understanding
21 with State Lands that we're able to manage that unit as
22 a whole. In the meantime SDG&E had approached the
23 conservation community to go through Anza Borrego
24 Foundation Institute and purchase the property for Anza
25 Borrego. We've had several meetings with them. The

1 idea behind the purchase of the property was to
2 purchase it in lieu of building a large bridge across
3 Highway 8 for bighorn sheep mitigation, as well as
4 mesquite habitat. There were various reasons into it.

5 We're currently working towards some kind of an
6 agreement where the best case scenario would be just to
7 manage the property until we come to an agreement and
8 make sure that we're not purchasing it with something
9 that has a lot of strings attached. Thank you.

10 DEPUTY DIR. GREENE: And that's it for the
11 Division report. My apologies for the length of it,
12 but obviously there is a lot going on. I want to make
13 sure you're aware.

14 CHAIR WILLARD: Thank you, Deputy Director.
15 Lots of things going on we need to be informed of, so
16 we appreciate your report.

17 Open for public comment on the Deputy Director's
18 report.

19 ED WALDHEIM: Ed Waldheim, California Trail
20 Users Coalition. Good afternoon, thank you for having
21 the meeting here. Thank you, Ms. Greene, for having
22 it. We put the meeting notice in the newspaper. We
23 did our part. I don't know about the rest of the
24 people. We've got it in our newspaper.

25 Several things for the Deputy Director, and I

1 would like to just if you want -- I don't know if you
2 can answer or not answer, but at least take note of it
3 and then in the future follow up if possible. We
4 didn't get a report on the State Parks, what the
5 Governor wants to do about closings and how is that
6 going to affect us. I'm specifically interested in Red
7 Rock State Park, what is going to happen with us in
8 that area. We didn't get a report on Gold Hill Road
9 coming through Hungry Valley. Since 1977, I've been
10 trying to get the people off of Gold Hill Road on the
11 trail from the Forest Service into the SVRA, and I have
12 not been successful to this point.

13 The Commission awards, I have not seen you come
14 up with an awards program. I think the Commission
15 needs to come up with an awards program. There are
16 people out there like myself, Friends of Jawbone,
17 Friends of El Mirage, CTUC, and there's a whole bunch
18 of other people. They bust their actual tail working
19 on behalf of the public and they get zero recognition.
20 At least the worker bee, I don't care so much
21 personally for myself, but there's a lot of people who
22 make it happen, and I think it would be kind of cool.
23 We used to do that, and we haven't done it in awhile.
24 We had what's called a Gold Helmet award; it's in the
25 policy, and we haven't done anything on that.

1 The Forest Service is not here, so they can't
2 defend themselves at this point, but Jan McGarvie,
3 former commissioner, she called me yesterday, she was
4 really upset. She received a grant for \$25,000 from
5 Yamaha to build a little kids' corner in Corral Canyon.
6 We have our quarterly meetings with six national
7 forests with all of the BLM people. Well, the Forest
8 Supervisor was -- everybody was in agreement on this
9 and all of a sudden an employee said you are not
10 allowed to do that, you don't qualify, blah, blah,
11 blah. I don't know if Jan is going to work with the
12 Forest Supervisor on how to resolve it, but kids is the
13 most important thing for us. We need to get the kids
14 off of the road to go and play where they can be in a
15 safe environment, similar to like we had in Rower
16 Flats, the kids area.

17 Talking about Rower Flats, Randy Banis informed
18 me, I didn't realize it, but we were going to get Rower
19 Flats opened up in the Angeles Forest. That did
20 happen; however, they're going to move the kiddy track
21 over on the other site and so the trials with the kiddy
22 track is now a concern, and we want the staff to follow
23 up there. We do not want the kids to have to wait
24 another five years to be able to recreate, when right
25 now they can recreate, just to accommodate another

1 opportunity of another sport, which is trials, which
2 hasn't been used for awhile. So there's some issues
3 there that we need staff's help on that.

4 I'm very concerned about the wildlife watch. I
5 know everybody toots their horn, they think that's
6 great. It's ironic that SVRAs has the best wildlife of
7 anyplace. We've proven that over and over since '77 in
8 Hungry Valley, but I'm very suspicious, very worried
9 that all of a sudden somebody is going to: Oh my god,
10 you have all of these beautiful animals; you can't have
11 OHV there, you've got to close this area. Be careful,
12 I am worried about that.

13 I was worried at the off-road show when we went
14 there. You went to the booth for Ocotillo Wells, the
15 State Parks booth that Aaron had over there, and there
16 is a bad thing from my point. I'm supposed to be an
17 optimist, but I was very disappointed. People kept
18 coming to me at the booth that I had for Ridgecrest
19 saying that's not OHV over there, that's a wildlife
20 sanctuary. There was nothing about OHV on our booth
21 for State Parks. I don't want to lose our focus. We
22 are OHV access to the public lands. Animals we have to
23 save; nobody argues that point. Let's not lose the
24 focus of what we're about. It's OHV. You would have
25 never known that that display at the Barona Fairgrounds

1 had anything to do with OHV, except the name OHV.
2 That's kind of a bummer for me to have to say that.
3 There has to be a balance, and somehow we're kind of
4 losing that if we're not careful. Go to the Commission
5 up there up in San Bernardino, it's all about the
6 animals. There was nothing about the kids' motorcycle
7 safety training and so forth.

8 And the last thing is the safety part of it.
9 I'm still very disappointed that we have no safety
10 program statewide going on. Friends of Jawbone now
11 came up with two new signs on Highways 14 and 395. If
12 we, as a little group, can do it, the big group of you
13 guys certainly can do it on a statewide basis. Thank
14 you.

15 DAVE PICKETT: Good morning, Commissioners,
16 Chairman Willard. I'm Dave Pickett, District 36
17 Motorcycle Sports Committee. In Dan Canfield's report,
18 he talked about the \$7.6 million for restoration, and
19 Chief Jenkins made a clarification on the additional
20 rollover money. In the '08/'09 cycle, Dan, maybe you
21 can answer this for me, I wonder if the applications
22 from the grant program are still coming in
23 substantially lower than the amount of money that's
24 available. Dan, can you answer that for me? It's just
25 a question I have.

1 And there was discussion on the fire that was at
2 Carnegie, and I didn't hear whether or not SRA, SRI or
3 the property owner where the fire started is going to
4 be a responsible party for restoration costs? So I
5 think that's something that needs to be discussed.

6 And Mr. LaFranchi made a great presentation on
7 the updates for the legal side of what's happening
8 there to protect the facilities. That kind of
9 information for the public would help somebody like me
10 so I can stop the rumor mills, where these are the
11 facts and this is where we move forward. And I think
12 that the defense on this lawsuit is moving forward in a
13 great manner, and I appreciate the Division and the
14 legal counsel's efforts. Thank you.

15 VICKI COSSEY: Good afternoon, I'm Vicki Cossey
16 with the American Desert Foundation and American Sand
17 Association. I just wanted to address you all about
18 that postcard regarding our ATV safety classes that
19 we've been able to put on this year. And we're really
20 excited about some new safety things that we are really
21 pushing forward. Imperial Sand Dunes Recreation Area
22 is our main focus, and we have some great interpretive
23 designs that we're doing in the Cahuilla Ranger
24 Station. We partnered with BLM. We've working with
25 the state. I know this is the beginning of great

1 partnerships. I hope in the future we can come to you
2 and look for some things we can partnership on
3 together, too. And that's all. Thank you.

4 **AGENDA ITEM IV(D). U.S. FOREST SERVICE REPORT**

5 CHAIR WILLARD: And with that, we'll move on to
6 the U.S. Forest Service report. I don't know if there
7 is someone here.

8 DEPUTY DIR. GREENE: I don't believe there is
9 somebody from the Forest Service here today.
10 Certainly, there is someone from BLM.

11 **AGENDA ITEM IV(C). BLM REPORT**

12 MIKE AHRENS: Good afternoon, Mike Ahrens. I'm
13 the recreational wilderness program chief in our
14 Needles Field Office. I'm here today sadly to announce
15 that Jim Keeler, our normal off-road vehicle
16 coordinator here, has been diagnosed with a form of
17 bone cancer, and has asked for a leave of absence so
18 obviously he can aggressively treat that and attack
19 that. For most of you that I haven't had the
20 opportunity to meet me yet, I've had the opportunity to
21 work in off-highway vehicle management here in
22 California for 20-odd years, probably been a Commission
23 groupie most of that time, and a groupie of Jim Keeler
24 as well for most that time, as well. So as he began to
25 understand that diagnosis and the corresponding

1 commitments to treatment that he's going to have to
2 have, he asked his leadership to allow me to kind of
3 fill in for him a little bit. I won't be doing his
4 entire job. In fact, the job that I'll be doing for
5 him, I'll do remotely from Needles. But I will be a
6 contact to yourselves, the Division, interested public,
7 and certainly all of our field offices for off-highway
8 vehicle issues statewide. And we will be trying to
9 keep at least those principal statewide issues moving
10 ahead while Jim is fighting that cancer. My
11 understanding is the condition is very treatable, and
12 so we fully anticipate him coming back and look forward
13 to that.

14 Unfortunately, as you might guess, this came
15 about fairly quickly, so we don't have much in the way
16 of a report this week. I would just say that Halloween
17 weekend has occurred and that as you probably all know
18 is the unofficial/official start of the off-highway
19 vehicle in sand season for the California Desert.
20 Generally, it went very well.

21 Again, we haven't quite gotten all of my lines
22 of communications for the various offices together yet,
23 but specifically the Imperial Sand Dunes, a couple of
24 things of note, use may be down just a little bit,
25 probably a product of our begrudging economy, but

1 visitors are very happy with the new wash road which we
2 managed to construct over the summer. You might recall
3 we relied on access along the Union Pacific Railroad
4 grade on the eastside of the Dunes. The railroad
5 indicated they didn't want us to utilize that any
6 longer, so over the summer we performed the necessary
7 environmental planning and design for that road and
8 developed a road there to replace that road and give
9 our users and visitors legal access to that side of the
10 Dunes all the way down to Wash 25. My understanding is
11 that it's worked out very well. In fact, I guess it's
12 a reverse complaint, that the road is so nice we can
13 get way down there, much further away than we used to.
14 So we're glad folks are happy with that.

15 Use may be down just a little bit. Daphne and
16 Vicki mentioned ATV training was down out there. I
17 understand that was very well received. I think
18 classes were filled all weekend. Really happy to see
19 that happening, as well.

20 That's all I have to share. I'm available for
21 questions. At this point I may not have a lot of
22 answers, but I have a pen. If I can't answer a
23 question, I'll certainly get it and respond back to
24 you.

25 CHAIR WILLARD: Thank you for coming in Jim's

1 stead. I was really sadden to hear he came down with
2 the illness. Give him our best wishes. Tell him we're
3 thinking of him, certainly hope he's back here soon.
4 I'm sure you're going to do a very good job standing in
5 for him, but we really wish him well with that. It's
6 really good to hear it's a good prognosis at least.

7 MIKE AHRENS: I think it is. I intend to be
8 talking to him. I'll pass that along.

9 CHAIR WILLARD: Please do. Thank you.
10 Commissioners, any questions for BLM?

11 COMMISSIONER SLAVIK: Do you have anything to
12 add on Johnson Valley? Is there any new developments?

13 MIKE AHRENS: I do not.

14 DEPUTY DIR. GREENE: For you information,
15 Senator Feinstein is working on legislation that would
16 be proposed with Johnson Valley as a portion of that
17 legislation. The Marine Corps is also in the middle of
18 their process. Right now nothing has been released.
19 Certainly we will let all of you know at any point in
20 time when the senator releases the documents.

21 MIKE AHRENS: Pretty much the same answer for
22 us. Our cartographic office has been working with the
23 senator helping to provide mapping or what have you for
24 that. That's obviously something they're going to
25 forward to the senator. And they don't even allow a

1 lot of that information out into the agency. We look
2 forward to the introduction of that bill as they come
3 along.

4 As far as Clear Creek, the plan, my
5 understanding is the administrative draft is complete.
6 It's in our Washington office for review. Sometimes
7 that goes quickly, sometimes it doesn't. So I honestly
8 don't have a prognosis of when that might come back out
9 and then be released to the public.

10 CHAIR WILLARD: We had asked Jim once it was
11 available for public comment, if we could have a look
12 at it so that we might provide our input as well, that
13 might be great.

14 MIKE AHRENS: We will make a special point to
15 get it into your hands and perhaps do a briefing.

16 CHAIR WILLARD: But if it works where the timing
17 is such that we don't have a meeting, we don't want
18 that to get in the way of at least getting a look at
19 it, and if we need to call a special meeting, we can.

20 MIKE AHRENS: We'll certainly try to accommodate
21 that any way we can.

22 CHAIR WILLARD: Thank you.

23 Public comment on BLM.

24 ED WALDHEIM: Ed Waldheim, Friends of Jawbone,
25 Friends of El Mirage. I didn't know about Jim Keeler,

1 had no clue, shocked about that.

2 At El Mirage we had our two-day event. We were
3 absolutely delighted that we had staff there with us.
4 Barbara and Dan showed up, and it was fantastic giving
5 them a tour of the facility in that area. So we had a
6 good cleanup. It's the first time we had a two-dayer
7 in that area.

8 The fees issues coming in, it was incredible. I
9 personally worked the window on Friday night. We made
10 \$2,000 in sales on Friday. We were open until ten
11 o'clock Saturday. We did \$3,000. On Sunday, we did
12 \$6,000. Just out of the windows in the sales of the
13 tickets in advance. So El Mirage is moving along very
14 nicely, still struggling with the staffing, but we'll
15 be working with the BLM. We will go with Mickey and
16 see how we can get things going to make sure we can
17 have the proper staffing in there. Mr. Slavik, he took
18 a picture of it, so he can share that with you. If
19 not, I'll give a copy of that picture, of the overview.
20 He said where are the people, the place was empty.
21 They're there, trust me; they're in there.

22 Mr. Canfield, he suggested that we continue to
23 ask for grants adding the ramadas and SSTs in the
24 northern portion of El Mirage, so we kind of moved the
25 people from the lake bed more to the area where there

1 is so much opportunity so that the BLM will be working
2 on that.

3 Jawbone, the first time ever, the staff did an
4 incredible job of safety awareness. We put two
5 billboards on the highways also. First time we've ever
6 done that, and the credit goes to the BLM. I'm
7 bringing this up because of Mike. He didn't know all
8 of that was taking place in those two field offices.
9 And we had every law enforcement person there, and it
10 was a poker run, but it was a social gathering of all
11 of the agencies, and they just talked and talked and
12 visited with each other. We had three helicopters,
13 made demonstrations coming down showing rescue
14 operations, and then each agency had a poker run at a
15 checkpoint at the end. It was a great success, so
16 we're going to make that into an annual event. So the
17 Ridgecrest BLM office is really standing behind that.

18 The BLM office continues with two SCA crews, one
19 in Rands and one in Dove Springs, where they're doing
20 restoration work. Friends of Jawbone is intimately
21 involved in restoration right now. As we speak, we
22 have four people working in the Rands doing restoration
23 work in that area too, as well as in Jawbone. So there
24 is an awful lot going on. We have four full-time
25 people working in the field now thanks to the OHV grant

1 and thanks to the RTP grants. So my thanks go to
2 Daphne Greene and to their OLGA team and Dan Canfield
3 for the RTP grants. Without that, we would not be able
4 to survive and do what we're doing. That's it.

5 CHAIR WILLARD: Pam Nelson, Alliance for
6 Responsible Recreation. My apologies, this was a
7 comment for the Deputy Director's report.

8 PAM NELSON: Thank you. I'm Pam Nelson from
9 Warner Springs, Alliance for Responsible Recreation.
10 If I may pass these out and put one I guess in the
11 record. I don't know if that's how it goes, so you
12 need six.

13 Welcome back to Southern California where the
14 impacts of our burgeoning human population is
15 exemplified. Competition and shortages of water,
16 space, resources are easily seen, and the difficulty of
17 placing high-impact recreation such as off-roading are
18 clear. This is true worldwide, but at least here in
19 California we have you to grapple with these problems.
20 I passed out this little kind of checklist.

21 The reason I'm making a comment here is I think
22 that it might work well for the grant comment period,
23 since this is the last day. There are some things --
24 it's sort of a checklist to see whether we're covering
25 all of the things that might come up -- they probably

1 don't have everything, just came out of my head -- to
2 cover in the grant programs, in any of the programs
3 that might come up. The state in the beginning says
4 it's necessary to provide high-quality environment that
5 at all times is helpful and pleasing to the senses of
6 man. It goes on to say, all agencies of the state
7 government which regulate activities of private
8 individuals, corporations, and public agencies which
9 are found to affect the quality of the environment
10 shall regulate such activities so that major
11 consideration is given to preventing environment damage
12 while providing a decent home and satisfying living
13 environment for every Californian.

14 This is where under the list of concerns there's
15 some deficits, I would say, in some of the grant
16 distribution, maybe the types of grants, maybe there
17 needs to be another way of funding things, maybe we
18 have to get the manufacturers to help sales, fees, I
19 don't know what we could come up with. But if you
20 notice out there, public lands destroyed, I'm wondering
21 in the grant distribution or in any of the funding
22 where the money comes from for mitigating the land
23 that's destroyed. Are there acquisition funds? You
24 know, if there is something set up so that that land
25 can be replaced by mitigation. I know that's been

1 spoken of, but I don't know where that money comes in
2 the grant update. Well, there are several things down
3 here, air quality, hydrology, are we having engineered
4 roads, trails so that we can reduce the chances of
5 these water quality problems that exist.

6 Under public services, where since there is a
7 reduction of services to the general public that are
8 adjacent to a lot of these lands, where does the
9 funding come from to help those people? I don't know
10 if that comes -- it doesn't sound like law enforcement
11 to me, so is there another category needed?

12 Associated impacts, we have lots of reports of
13 residents that have trespass, vandalism, intimidation,
14 even cyber stalking now. Is there funding for criminal
15 investigation? I don't know where that would come
16 from. Of course, there is property devaluation.
17 Native American, cultural destruction, are there monies
18 to pay for maybe Native American consultants so whole
19 areas because we don't know, we might fence off a
20 particular area, but the region was used as a village
21 or a burial ground. We don't know that unless we have
22 real paid consultants I would say.

23 I guess those are mostly my, you know, just
24 examples. So those are my questions, and hopefully
25 they will be sort of like the -- within the comment

1 period for the grants, too. So thank you.

2 COMMISSIONER VAN VELSOR: I'm curious, is public
3 comment at this point in time, are those comments
4 official, and will they be considered in the comment
5 period for the grant regulations?

6 DEPUTY DIR. GREENE: I don't think so. I
7 believe that comments that we receive have to be
8 specifically submitted on behalf of regulations; is
9 that correct?

10 OHV STAFF CANFIELD: They have to be germane to
11 the amendments.

12 DEPUTY DIR. GREENE: They have to be germane to
13 the specific amendments, the reason we went out for the
14 15-day public comment period and the items that we
15 adjusted as a result of the public input that we
16 received. So what I would suggest is that when -- as
17 we're looking next year at revising regulations, that
18 we certainly hold on to this, and then the public
19 meetings that we hold, these would then be -- make sure
20 that you get to those meetings.

21 PAM NELSON: Thank you.

22 CHAIR WILLARD: Thank you. I think this is a
23 good point to take a break.

24 DEPUTY DIR. GREENE: Two quick things. One, we
25 had heard a recommendation earlier that perhaps we look

1 at providing some more outreach regarding the Carnegie
2 lawsuit, and certainly I think that might be helpful to
3 all interested members of the communities.

4 I also, though, would like to push back a little
5 bit and just hope that as we approach looking at
6 education and the way that we all do outreach, that we
7 look at how unique and diverse the OHV community is,
8 everything from the four-wheel drive touring to racing,
9 we are all providing off-highway vehicle recreation.
10 So we have a broad range of people and diverse
11 educational needs to meet. I would hope the members of
12 the public would refrain from taking digs on where we
13 are all trying to get to the same end.

14 We work very hard at all of our shows to try and
15 educate people. It is our responsibility in the
16 statute that we protect our resources and OHV
17 recreation. So I will be somewhat defensive at this
18 moment and say that as we're coming to solutions, I
19 believe we need to work together rather than tearing
20 people down.

21 (Break taken from 2:48 to 3:07 p.m.)

22 **PUBLIC COMMENT PERIOD**

23 RANDY BANIS: Good afternoon, Mr. Chairman,
24 Commissioners, Deputy Director and staff, and my
25 friends, my name is Randy Banis, and I'm editor of

1 deathvalley.com, a website blog about the things,
2 people, and places in the Death Valley region. I'm
3 also fortunate to represent the public at large on the
4 BLM California District Advisory Committee. I
5 appreciate this opportunity to introduce myself to you,
6 as well as the opportunity to introduce my Off-Highway
7 Information Initiative for the 21st Century. This is
8 just a very brief white paper outlining some of the key
9 concepts and goals behind what I think is going to be
10 the way in which route information is databased and
11 disseminated to the public, as those of us who are
12 getting older and see those who are younger coming up,
13 to be able to have this information and the tools that
14 they use to help them stay on the trails and enjoy the
15 public lands.

16 The key goals of this program are first to
17 protect the sensitive resources in the great outdoors
18 of our golden state by helping to keep OHV motorists on
19 the trails; number two, to help preserve the
20 ever-shrinking motorized opportunities that they have
21 today by keeping people on the trails; and, third, to
22 enhance the public safety by keeping them on the
23 trails.

24 As you know, route designation has been a
25 process that many of the agencies have conducted. Some

1 are in the middle of it; some are finishing it; some
2 have done route designations to fight it in the court
3 and having it invalidated. Right now very few people
4 know where it's legal and appropriate to put the
5 motorized vehicle on the ground. Things are changing
6 faster now than they have ever changed before, not only
7 in this arena but in all of our lives. And as digital
8 data makes its way greater into our lives, we're seeing
9 more and more people embracing the new technologies and
10 finding ways to use it to guide them and to better
11 enjoy the places that they visit in the back country.

12 But this is going to be a way in which route
13 data for legal designated motorized routes can be
14 cataloged online and be made publicly available and
15 accessible by the motorized users. They can register,
16 find legal route data through a series of drill-down
17 menus for areas specifically or areas generally,
18 capture that data to their own computer, and use that
19 in their mobile GPS devices to ensure that they're
20 staying on designated routes.

21 As these routes change due to new designations,
22 due to changes on the ground, due to court actions,
23 legislative actions, and any other things that might
24 change the route designations on the ground, as those
25 changes are made and added to the database, those that

1 have downloaded those data sets would be tickled if
2 told that new data is now available for this area you
3 downloaded recently, please download this new data and
4 help us keep these opportunities available by staying
5 on the trails.

6 And I just hope you get the opportunity to take
7 a few minutes, and if you have any suggestions, any
8 ideas on anything I should be considering, this is
9 essentially a scoping document for me as I embark on
10 this journey over the next few years. I appreciate
11 this opportunity, and thank you again for your time.

12 COMMISSIONER SILVERBERG: The information for
13 the route designation, how is that gathered and put in
14 a platform that people can access?

15 RANDY BANIS: This data would have to come
16 officially from the agencies.

17 COMMISSIONER SILVERBERG: So you're proposing
18 that the agencies work on this. This isn't something
19 that you're trying to partner up with the agencies?

20 RANDY BANIS: I'm attempting to partner up with
21 the agencies, yes.

22 COMMISSIONER SILVERBERG: You are. I wasn't
23 clear on that. Is this the first moment that you
24 you're revealing this partnership, or has anything been
25 noticed to the agencies?

1 RANDY BANIS: This partnership was unveiled
2 perhaps three to four months ago through my BLM
3 meetings, and we have been working on pilot data out of
4 the Ridgecrest Field Office right now. We have two
5 data sets that we've worked on and processed and made
6 available to the public in a very small pilot program,
7 that being, number one, the Rands Management Area,
8 which, as you know, is a high-visibility area and is
9 accompanied by a permit program; therefore, we think
10 it's important that people have that GPS route data.
11 And number two, we've just added the Jawbone ACEC area
12 routes in hopes, again, of keeping people on those
13 trails.

14 My vision is for a larger, more comprehensive --
15 really if the word full blown says it, that is my goal,
16 and I would hope to reach partnerships with national
17 parks, with the Forest Service, Bureau of Land
18 Management, with State Parks to be able to have this
19 data for the golden state. And take some time and my
20 vision would be a formal database with a good user
21 interface. But at this time, our pilot programs is
22 rather straightforward and can be accessed, by the way,
23 through the Jawbone.org website. Click on the
24 upper-left corner, the Rand Permit Program. From there
25 you'll find a menu item that says GPS routes, and you

1 can see the routes that we have in the various formats
2 for those of you who would like to play with the GIS
3 data, we have GPS format, KML format, KMZ and also a
4 direct link to all of those routes on Google Maps, and
5 they're available today.

6 COMMISSIONER SLAVIK: A quick question. Is this
7 going to be a pay-as-you-play kind of thing? Are you
8 offering this service free of charge? The information
9 is coming from public records, so how do you fit into
10 this?

11 RANDY BANIS: I believe it should be, yes,
12 absolutely, I believe it should be. And I'm moving
13 forward with the current route data as public
14 information available through the Friends of Jawbone.
15 I don't think it's a good idea to keep this in the
16 private sector because the very last sentence -- or one
17 of the last sentences also envisions our sharing this
18 data with NavTak and TeleAtlas who maintains the route
19 databases that are found on everybody's ordinary GPSes
20 that they have in their care. Have you noticed
21 perhaps, if you look at the back country on your GPS
22 that you have in your car, and you may find routes that
23 will surprise you that are on there, routes that you
24 wouldn't think that they would have, and that's nice
25 when those routes are legally open motorized routes.

1 It's not so nice when they're actually routes that I
2 know have been closed.

3 And there isn't much incentive for those
4 companies to go out and get that deep dark back country
5 data. And I've been in contact with NavTak, and they
6 have expressed the hottest of interest in being able to
7 have accurate route data. There is no reason for them
8 not to have good route data. And just to continue, in
9 their data just because a route is not open to
10 motorized, does not mean that it has to disappear from
11 a GIS database. Simply reattribute that route as a
12 non-motorized route so it can still be used by members
13 of our recreation communities who aren't using a motor
14 vehicle or, let's say, that use a motorized vehicle to
15 get to the trailhead and they want to proceed by boots.

16 COMMISSIONER VAN VELSOR: I'm just curious,
17 Randy, if you know -- and if not, maybe somebody from
18 the Division would know -- what percentage of riders
19 actually use GPS system?

20 RANDY BANIS: I couldn't guess. Because this is
21 one of my favorite hobbies and I'm plugged in, it seems
22 to me that many people do because I'm in that
23 community. I'm afraid I couldn't guess. Now, the only
24 thing I can say with relative surety is that number is
25 getting larger every day and will only grow, and that's

1 why my vision is for the 21st century.

2 CHIEF JENKINS: Our experience at Ocotillo
3 Wells, if that's any indication, they're putting out a
4 lot of park-sponsored geocaching sites. And apparently
5 there is quite a large, very active community that's
6 carrying these GIS units to find the geocaching sites.
7 So those same types of units can be used to map data.

8 DEPUTY DIR. GREENE: Just as a follow up, Randy,
9 I think your vision goes right in line with the
10 Legislature and the Governor because in the passage
11 SB 742, 5090.34 dictates that State Parks oversee and
12 work in conjunction with BLM and Forest Service in
13 doing exactly what Randy is talking about. So we are
14 legislatively mandated to do that. We've been working
15 with it, but, Randy, we will be talking a lot.

16 RANDY BANIS: Thank you. I'd like that.

17 DEPUTY DIR. GREENE: Part of the challenge for
18 us, just as we are trying to provide a window to the
19 world, which is where we actually may be able to
20 partnership because for us right now to move forward
21 with the purchase of any IT equipment is virtually
22 impossible. So while we're still developing and have
23 begun working on this project, some outside sourcing
24 would be beneficial if we can find a partner there.

25 CHAIR WILLARD: Maybe there is a grant

1 available?

2 DEPUTY DIR. GREENE: There you go.

3 COMMISSIONER SLAVIK: Can I digress a second
4 here. This is something that's been of interest to me
5 a long time, although I'm not very proficient at it at
6 all. At one point in time the Division was looking at
7 a piece of property in the Clear Creek area, the
8 previous Deputy Director Cliff was there, and we did a
9 tour of this property. It was a beautiful piece of
10 property. It had been a hunting preserve, and it was
11 in somewhat high country, a very steep topography. And
12 the question was if we bought this property for State
13 Parks, how could we keep people on trails. And the
14 resolution that came up is why couldn't you literally
15 rent or lease a piece of this equipment as people
16 entered the park, and they're tracked and you know
17 exactly where they are. If they go off the trail, you
18 give them a ticket. So there are a lot of ways we can
19 go down the road on this thing. The technology is
20 there, and we need to start looking at this thing
21 hardily.

22 DEPUTY DIR. GREENE: We have had many
23 discussions on this topic. The reality is that, yes,
24 it may be that if you want to go into an incredible
25 area that we have spent millions of dollars on, you

1 might have to swipe your card. And you know what,
2 track me. I'm not going off the trail. And so at the
3 end of the day, yes, there is a compliance issue. We
4 need to achieve that.

5 CHAIR WILLARD: I can't resist, so I'll go down
6 the same path. If you had an electric off-highway
7 vehicle, you could actually have this GPS hooked into
8 the chip, which would turn the vehicle off should it
9 veer off the path.

10 ATTORNEY LA FRANCHI: Great minds work alike.

11 CHAIR WILLARD: Or you can have it so that if
12 you go into a certain trail system, the maximum speed
13 would be adjusted downward. That's all definitely
14 possible with the new electric technology.

15 RANDY BANIS: My only comment would be that for
16 every stick there should be a carrot. And I believe
17 this would be the carrot, and what you're talking about
18 would be the stick.

19 CHAIR WILLARD: I think the carrot is more
20 available riding area because it's better used, it's
21 cared for, it's more responsible use of resources, and
22 so therefore you have fewer closures because people
23 aren't doing what they're not supposed to do. That's
24 the whole idea behind it.

25 CHIEF JENKINS: I know we're kind of tongue and

1 cheek a little bit, but a very realistic application of
2 this that would be possible -- the technology is
3 getting there, it's just expensive. Ocotillo Wells,
4 once again, they're the cutting-edge forest in the
5 system right now where they've developed very refined
6 GIS layers of their trails and resources in the park.
7 And I was just out there a few weeks ago touring with
8 them, and as we rode along, they had a little
9 all-weather GPS unit that you could mount to an ATV
10 handlebar or the dash of your vehicle, and as you're
11 driving you're looking at an aerial photograph of the
12 grounds over which you're traveling, and there is a dot
13 that represents you on a highlighted trail. And if you
14 could ever make that readily accessible to the public,
15 the beauty of it is a lot of the off-trail excursions,
16 if you will, are just people that don't know that
17 they're not in the right place. And so providing
18 information like this, then they know where they're
19 supposed to go, and they know when they're on the right
20 trail, and we're back to education is often the best
21 answer we can come to. We don't have to shock anybody.

22 CHAIR WILLARD: It's good to see the Division is
23 somewhat on top of it, so I hope there is some
24 corroboration that comes out of it. Thank you, Randy.

25 PAM NELSON: Thank you. I was just going to

1 continue on this long list that you have from me. But
2 some of the things that I won't be here to address at
3 the workshop, I just wondered if there would be a
4 discussion of -- I work with a state agency, and we
5 have this discussion all the time -- does the State
6 Parks have the discussion of how to find more funding
7 and be able to diversify in their grants a little more?
8 That's one of my questions. Are we looking at other
9 funds besides the -- funding other than what's the
10 traditional right now? Is there an increase in looking
11 for more funding? That would be the one thing I would
12 hope for a workshop, come up with creative ideas to
13 find more money to support all of these programs,
14 especially all these ones that I brought up here.
15 Because the people that I deal with worry about the
16 public services and how those services can be improved
17 because of the drain on those services near where they
18 live, you know, say ambulances, paramedics, all of
19 that, also the sheriff's staff. Because it isn't
20 specifically having to do necessarily with the BLM
21 property, it might be nearby, so how do we get more
22 funding out.

23 Also, just with acquisition of land where you
24 just can't mitigate the damage, is there a fund for
25 purchasing land to replace what is impacted by a new

1 route, a new area? So those are the kinds of things
2 I'm wondering when the workshop happens if that will be
3 addressed. And then I didn't bring up the wildlife
4 corridor thing now with climate change, and are the
5 State Parks focusing on that and how maybe the OHV
6 parks might be fragmented? Those kinds of paths now
7 that we have to worry about climate change. We always
8 worry about fire and flood, et cetera. Thank you.

9 JIM WOOD: Thank you, Division; thank you,
10 Commissioners; thank you for all letting us speak here
11 as the public. I only have one question, probably for
12 Daphne. What's going on with Hungry Valley with Quail
13 Canyon? Jim Wood, California Off-Road Vehicle
14 Association. Do you have anything on that, and what
15 can we tell our customers?

16 DEPUTY DIR. GREENE: My apologies. Commissioner
17 Willard, all right if I respond?

18 CHAIR WILLARD: Please, we will make an
19 exception.

20 DEPUTY DIR. GREENE: My apologies. It should
21 have been in our report. Quail Canyon, as many of you
22 know, is a special event area at Hungry Valley. It was
23 operated by a concessionaire. That concessionaire had
24 some issues, and so the concessionaire left. This was
25 back in June. We subsequently have gone in, done a

1 great deal of work to upgrade the facility to get it
2 back on track. We had concerns, though, in looking at
3 whether or not do we go ahead and get new
4 concessionaires with the benefits and the challenges
5 that that holds, or do we as State Parks try and
6 operate the facility on our own. We've also been
7 dealing with the various attorneys from the AG's office
8 because we, in fact, had two lawsuits there by the
9 concessionaire that was operating it.

10 So in response to that, our goal is we have been
11 trying to get it open. We've had a couple of hurdles.
12 We did have a special event there. The Prospectors
13 have held an event there; I believe it's been going on
14 over 30 years. And the goal with Quail Canyon is to
15 effectively find a balance where we can start to make
16 the entire facility more available to the public for
17 different recreational activities for part of the time,
18 and then the rest of the time keeping it open as a
19 trail and track facility. So that's the goal. We hope
20 to do a soft opening sometime either this month or
21 next. We've had a couple of bumps in the road, but
22 that is the long-term goal, certainly to have it up and
23 running by the first of the year.

24 ED WALDHEIM: Ed Waldheim, CTUC. Commissioner
25 Stan, 70 percent of the dual sport folks now have GPS.

1 More and more people have GPS, and they continually
2 barrage me to get the Jawbone map on a GPS. They're
3 delighted that Mr. Banis has put it on the Jawbone
4 website that you can go and download it. We sell the
5 map, and it's a sort of income for us. So more and
6 more folks are going to GPS as we go along, so it's
7 very important. And with Mr. Banis' presentation, we
8 definitely hope to come in with a grant for that
9 program. So the staff will get to work with them, see
10 what kind of a grant we can do to make this happen
11 because it's definitely going to move forward, and with
12 the DAC office, the BLM office, and the State Parks.
13 So we're really excited having that program to kick
14 off. We're going to designated routes, unless it's an
15 designated open area, pretty much throughout the United
16 States, so that's a plus on that one.

17 Talking on the grants, I still bring up, for
18 those of you who have a little bit of memory, the
19 Waldheim budget. I talked to Ms. Greene and
20 Mr. Jenkins about bringing it up to date. For the
21 current expenditures that we have had since 1999, we
22 have no record that you can download or you can look
23 at. How much money have you spent in the Barstow BLM
24 Office, you have no clue. The only way you have it for
25 1999, you have it from day one since 1972 to 1999.

1 Since then you have nothing. When you go look at the
2 grants, I always like to see okay, Mr. Kane, how much
3 did you spend on X project. You have no clue. You're
4 asking for more money. Well, what did you do before?
5 You have no way of measuring it. I still to this day
6 use my Waldheim budget, which this is '95 to '96 --
7 they're up to date up to that point when we developed
8 the Waldheim budget. And I can pretty much tell you in
9 El Mirage with \$650,000, we can pretty much run that
10 whole facility. Dumont Dunes, we can run for \$540,000.
11 Mr. Mike Ahrens was part of that when we developed that
12 budget in Dumont Dunes when we tried to figure out what
13 the fees were.

14 The next issue I want to bring up to you is that
15 we have areas in the BLM, Glamis, Dumont and El Mirage
16 where you have a fee. We need to get some
17 accountability for these fees when we start doing the
18 grants. El Mirage, zero, we've had grants, we've had
19 fees starting since October 1. To this date, we have
20 no idea how much was taken in, how much was spent,
21 zero, absolutely no reporting whatsoever. And it's
22 getting worrisome because at what point are we going to
23 be helping the agencies and everybody is not
24 necessarily accountable. But let's have it aboveboard
25 to see what's really going on, and how is what they're

1 collecting going to go in with what we want to do into
2 the grants program. There's got to be a tie-in, so I
3 really urge the Commission to participate, and actually
4 Mr. Jenkins and Ms. Greene, to figure out with staff
5 how we're going to deal with these things.

6 The last issue we have is the WEMO lawsuit that
7 was not brought up, and this one really has me
8 concerned. The Ninth Circuit Court of Appeals, they
9 kind of told the BLM to go back and study the route
10 designation of the WEMO. Well, we lost 8,000 miles of
11 trails in fifteen years of working on the WEMO. Now
12 they are attacking the 5,000 miles of trails we have
13 left in the WEMO, never mentioning a word about the
14 8,000 we gave at the alter when we were negotiating the
15 West Mojave Plan in the first place. Do you see what's
16 happening? Cut, cut, cut. Where is this going to
17 stop? We're going to have a meeting with the BLM, with
18 all of the BLM field offices on the 17th. You'll be on
19 the conference call, Ms. Greene, I hope you have it on
20 your calendar. Greg Thompson was supposed to tell you
21 about it. It's on the 17th at 12:30. We want to find
22 out what has the BLM really done to fight this lawsuit.
23 They're supposed to have an answer within 30 days, and
24 I've heard no news whatsoever.

25 You all know that Mr. Steve Borchard is

1 retiring. After the 1st of January, he's leaving, and
2 so there is a break in that, and it's kind of sad to
3 see him go because he was a real good steward of the
4 land. So we need to figure out which way we can go on
5 that West Mojave Plan. We need your help on that.
6 Thank you.

7 DAVE PICKETT: Dave Pickett, District 36. A
8 couple of things here. I believe this is going to be
9 the last Commission meeting for this year. I just
10 wanted to say thank you for the work put forth this
11 year. It has actually been refreshing to come to OHV
12 Commission meetings. I'm dead serious. And you guys
13 know I've been coming here for a long time. The work
14 you guys are doing, staff, Daphne, Phil, it's so
15 refreshing to be able to communicate and have what you
16 say heard and acknowledged. That was one thing.

17 You know we've had a \$100 million of our Trust
18 Fund taken by the Legislature to help balance the
19 budget. Florida is going through a similar situation.
20 The last two years they've had \$5 million taken from
21 their education and safety fund, same kind of issue, so
22 it's not just us. But I wanted to do a reminder, we
23 had some funds that were transferred for an acquisition
24 to a conservancy in the Sacramento area to help them to
25 pick up a piece of property called Deer Creek Hills. I

1 don't want that to go away, and my understanding is
2 that those funds are to be paid back to us. It's been
3 a number of years, so I just wanted to have that
4 mentioned.

5 So in these tough times, we may need to say,
6 okay, we would like our money back. So that's
7 basically what I had to say. Thank you.

8 DAN MATRISCIANO: I'm Dan Matrisciano, Director
9 of Wine Country Area, and I was asked to represent some
10 of the organizations from the Alliance for Responsible
11 Recreation and also I'm with Save the Wine Country.

12 From what I'm seeing, I think that the ORV
13 organizations and manufacturers need to work on their
14 public relations a little more. Some of them are
15 looking like thugs and vandals. They've begun to tear
16 down and deface public signs, ORV signs, for example,
17 and also they started on stop signs, too, when they ran
18 out of those. They're using several techniques, racial
19 epitaphs, elder abuse, animal torture. These are from
20 all of the areas I've talked about. But the activities
21 is widespread throughout Kern County, San Bruno County,
22 Riverside County, San Diego County and the coastal
23 communities. Generally it's harassment, intimidation,
24 threats, assaults, physical assaults, and also Internet
25 assaults. There's a lot more, but that's it for now.

1 Thank you.

2 **AGENDA ITEM V(A)**

3 CHAIR WILLARD: That concludes the public
4 comment, so we will move on to the next business item,
5 and that is the amendment to the Commission policies
6 and procedures document.

7 At the last meeting we discussed some amendments
8 to make the way so we conduct our meetings more user
9 friendly, try to do a better job of taking in public
10 comment, et cetera. And so as directed by the
11 Commission, I've come up with some draft language for
12 amendments. It's included in your booklets. If you
13 have an opportunity to look it over or if staff has any
14 initial comments.

15 DEPUTY DIR. GREENE: I think you'll find in your
16 binders, Commissioners, those areas that are
17 highlighted are the areas that are being presented by
18 the Chair today as discussion items. And so we simply
19 put them in here to fit in with where they would
20 possibly be appropriate within the established policies
21 and procedures of the Commission. I can walk you
22 through them, unless the Chair would like to.

23 CHAIR WILLARD: My ideas, my suggestions, I can
24 walk everyone through it. Unless you had any other
25 comments just as a preamble to it.

1 The first one is public comment period before
2 Commission discussion and after any motion to act.
3 Where this has come up is we'll take public comment on
4 a business item, and then we'll talk about it, we'll
5 debate it, and then we will come up with a motion. But
6 oftentimes I, myself, would like to know what the
7 public thinks of that motion, are there some other
8 things we have to think about, some unintended
9 consequences, pros and cons, whatever. So in some
10 circumstances I can see where it would be very
11 beneficial to once again open the mike up for public
12 comment specifically on that motion so we can receive
13 that input. So that's the idea here, the concept, and
14 certainly willing to take any wordsmithing that anyone
15 might have.

16 COMMISSIONER VAN VELSOR: I'm a little confused.
17 There seems to be some inconsistency or I'm just
18 misinterpreting this. On the staff report where you
19 identify the options, option one, and it says public
20 comment period before Commission discussion and after
21 any motion to act. But then in the language in our
22 procedures it says before the Commission makes a motion
23 to act. So those are inconsistent.

24 DEPUTY DIR. GREENE: You're absolutely correct;
25 my apologies. So I think clearly what is articulated

1 in yellow is what is being proposed.

2 CHAIR WILLARD: That's just the staff report.
3 That's trying to lead the discussion. So the wording
4 that we're looking at that is important is in yellow
5 because that will become part of the policies and
6 procedures.

7 COMMISSIONER VAN VELSOR: So then the intent is
8 the discussion would be before the motion to act?

9 CHAIR WILLARD: Well, that's the way we've been
10 doing it. But, again, the Chair has discretion. I
11 think that's the important part here. We can lay out
12 guidelines on how things should be conducted, the
13 public comment should be taken; however, the Chair
14 needs to have some discretion to call for additional
15 public comment. Now, the problem that we've had is
16 just the time element gets to be the issue. How much
17 time do we have. So you want to keep the meeting
18 flowing at a good pace, but at the same time we really
19 do want to get the public comment. That's the
20 balancing act. The chair needs to be the one person to
21 make that decision. Obviously, if I were the chair to
22 make that decision, I would do it in concert with
23 fellow commissioners and get your view on it as well at
24 that time as to whether we should open it up for public
25 comment.

1 COMMISSIONER VAN VELSOR: So there is the
2 possibility then there would be discussion by the
3 Commission, there would be public comment, we would
4 make a motion, and then it's possible that depending on
5 your assessment you might open it up to public comment
6 again?

7 CHAIR WILLARD: Depending on the chair's
8 desires, yes. If the chair thinks that would be
9 beneficial for the Commission and we have time, yes,
10 that's correct.

11 COMMISSIONER VAN VELSOR: I guess my question
12 would be then why not just have the public comment
13 after the motion?

14 CHAIR WILLARD: Because I think it's important
15 to get the public comment to know how to frame the
16 motion or to see if there are any twists and turns in
17 the issue that need to be considered before framing the
18 motion.

19 DEPUTY DIR. GREENE: If I may, having sat where
20 you are, I think part of this for the public is to try
21 to get the feedback from everybody. There are ways
22 which a chair can have the public come up and speak on
23 an issue after a staff report, and then go back and
24 have your dialogue. There are methods where sometimes
25 the Commission will have a discussion in order to give

1 the public a sense of where they're going, or sometimes
2 not because they don't want the public to know where
3 they're going. So it's a sort of mixture of how do you
4 try and gather from the public and how does the
5 Commission try and share information with the public.
6 It is a balancing act and timing, of course, tends to
7 be an issue. Because you could, in fact, have public
8 comment, and then have a motion, and then go back out
9 for public comment, and then you could have an
10 amendment to the motion, and have public comment on
11 that again. And then on some level you might be
12 leaving here at ten o'clock at night. So in some
13 measure, how do you try and get something that works
14 for the Commission in a format that makes all of you
15 comfortable that you've heard from the public.

16 CHAIR WILLARD: And speaking of the public, I
17 think the way I'd like to handle this is go through
18 these one at a time, have this discussion like we just
19 did on this one, then open it up to public comment, and
20 then come back and see if there's a motion to approve
21 these, then we go through them one by one. If there
22 are any amendments or redrafting, we can talk about it
23 as we are going through it.

24 So moving on then to number two, create a link
25 on the Division website allowing the public to provide

1 comment to the Commission regarding specific agenda
2 items and comments under the public comments portion of
3 the agenda. Right now if someone wants to get public
4 comment into the public record, they need to show up or
5 give a written statement to Division. So I just wanted
6 to use more modern technology to facilitate that. So
7 we would create 5(D), the Commission portion of the
8 Division's website shall contain a specific link that
9 allows the public to write comment to the Commission
10 regarding specific agenda items and comments under
11 public comments. These comments must be submitted
12 24-hours before the Commission meetings. These
13 comments, as well as any other written comments
14 submitted 24 hours prior to a Commission meeting will
15 be provided to the Commissioners prior to or at the
16 meeting and entered into the meeting record so they
17 become part of the official public record so we get to
18 view them and consider them in our deliberations. So I
19 think that's pretty straightforward.

20 Commissioners, any thoughts on that?

21 COMMISSIONER SLAVIK: Do we have time to
22 consider -- if there's relatively involved comments on
23 some subject, we really don't have time during the
24 business of the meeting to do that.

25 CHAIR WILLARD: Well, it's just like any other

1 comment you might hear in a four-minute dissertation by
2 a speaker. If there are pages and pages, no, that's
3 not the idea here. If someone goes to the trouble to
4 submit ten pages of documents, I'm personally going to
5 skim through it. It's up to the provider of the
6 comment to do it in such a manner that it's something
7 that we can digest. They need to communicate
8 effectively.

9 COMMISSIONER SLAVIK: I was coming from the
10 point if we need to set aside some time to review
11 comments.

12 CHAIR WILLARD: I don't think so. I would look
13 at it on the flight down if I was going somewhere, that
14 type of thing.

15 COMMISSIONER SLAVIK: 24 hours or here. You
16 might be getting them here.

17 CHAIR WILLARD: Yes, we will need to play that
18 by ear.

19 ATTORNEY LA FRANCHI: Usually the way it
20 happens, one or more of the commissioners might pick
21 out a particular comment. You can bring it up during
22 the discussion as, I received this comment and I think
23 it's important that we really be aware that this
24 comment came in.

25 Another way that I've seen it done, but it does

1 take time, is to take the time to specifically read in
2 each comment into the record, but I don't think that's
3 necessary, and it's a little burdensome. The best way
4 that I've seen it done, a letter comes in, a particular
5 commissioner wants to carry that forward, makes sure
6 the rest of the commissioners have seen it and were
7 aware of it.

8 CHAIR WILLARD: I think we have to be a work in
9 progress, get this idea rolling, and have them come in
10 and see how it works. And if there are some issues on
11 how we deal with them, then we will take it up.

12 COMMISSIONER FRANKLIN: Limit the size of the
13 written documents to X number of characters to keep it
14 within a two- or four-minute format.

15 CHAIR WILLARD: That's a good idea. Deputy
16 Director, maybe you can come up with some verbiage to
17 include that would generally limit the comment. And
18 then when you do set up the website, there could be a
19 notice on there that any written statement shouldn't be
20 more than 500 words or whatever.

21 DEPUTY DIR. GREENE: And if I may, I would also
22 suggest that we say submitted 24 hours before the start
23 of a Commission meeting so that we're consistent. If
24 you start at 9:00, we expect them 24 hours ahead of
25 time.

1 CHAIR WILLARD: Number three, this is again
2 trying to utilize public comment. It's great to get
3 public comment, but then where does it go. I'd like to
4 see it get better used, if that's the right
5 terminology. So I'd like to facilitate taking certain
6 public comments and disseminating them to appropriate
7 third parties, whether they be U.S. Forest Service,
8 BLM, the El Centro Sheriff's Department, whatever. If
9 we hear that there's specifically some specific OHV
10 violations in a certain area, maybe we need to make the
11 local jurisdictions aware of that if they're not. So
12 that was the idea here. I will read that. That's
13 5(E), the Commission should facilitate reporting the
14 public's input on the program activity to other parties
15 affected by the comment as appropriate. In
16 consultation with Deputy Director, Division staff will
17 follow up with the appropriate agency regarding the
18 public comments heard at the meeting.

19 Commissioners, any comments on that one?

20 COMMISSIONER McMILLIN: That's a good idea.

21 CHAIR WILLARD: Item six, the idea here is that
22 we'd like to have the Commission have the opportunity
23 to act on as many different issues that might come up,
24 and we are bound by certain laws, statutes,
25 Bagley-Keene Meeting Act specifically, which states

1 that any business or any action that a commission takes
2 must be agendized according to agenda rules.

3 So perhaps, Mr. LaFranchi, you can comment on
4 this on whether or not we're going about this the right
5 way. If we have an agenda that's more detailed than
6 the one we have that has sub-items, does that then give
7 the public the notice so that if the Commission wants
8 to take an action, we can?

9 ATTORNEY LA FRANCHI: Probably best thing is
10 using today's agenda as an example. If you look at the
11 Deputy Director's report under general program update,
12 you'll see four items listed there, update on
13 Commission 2011 Report, et cetera. That is generally
14 specific enough information. The public knows what the
15 topic is. They can more or less be prepared if they
16 want to comment on whatever. As contrasted with the
17 BLM report, the public doesn't really know what
18 specific items are on the BLM report, what the
19 representative from BLM is going to address in the
20 report. So under the Deputy Director's report, the
21 Commission could take some action; notice to the public
22 is adequate. In the BLM report situation, the notice
23 isn't adequate. There would need to be more
24 information along the lines as listed in the Deputy
25 Director's report. That's the idea, give enough

1 information so at least the public knows that this is
2 about the status report, this is about strategic plan,
3 and that sort of thing.

4 CHAIR WILLARD: That was my intent. That's
5 exactly what I had wanted to see happen was to have the
6 sub-list under the different reports specifically. And
7 so we'd have to work with BLM and U.S. Forest Service
8 to find out what specific items are going to be in
9 their report, or just list things that are important to
10 us hoping that they talk about it. I think that's a
11 better way to do it. Just as an example, BLM might
12 have Clear Creek, just have it there because that's
13 something that's going to be important to us at some
14 point. So that's the idea here.

15 COMMISSIONER VAN VELSOR: I guess the wording is
16 confusing me a little bit. So I'll go ahead and read
17 it and then see if I can explain what I mean. All
18 meeting agendas shall list reports, including the
19 Commission reports, the Deputy Director's report, and
20 BLM and Forest Service reports. Prior to finalizing
21 the OHMVR Commission agenda, the chair will confer with
22 the Deputy Director to determine which individual
23 report topics are significant and should be on the
24 agenda. This sub-report should provide enough
25 specificity.

1 From that I don't understand what is meant by
2 the sub-report. Do we mean which individual report
3 topics are significant? So are we saying which
4 individual report topics are significant enough to have
5 a sub-report? And if so, the sub-report should provide
6 enough specificity.

7 CHAIR WILLARD: Maybe sub-report is not the
8 right language. Maybe it should be the report
9 subtopic.

10 COMMISSIONER VAN VELSOR: So which individual
11 report subtopics are significant and should be on the
12 agenda?

13 CHAIR WILLARD: Right. Does that make better
14 sense?

15 COMMISSIONER VAN VELSOR: So we would be
16 referring then to identifying the subtopic for
17 agendizing?

18 CHAIR WILLARD: Right.

19 COMMISSIONER VAN VELSOR: That's what I assumed
20 was meant. It just didn't seem to be straightforward
21 enough.

22 CHAIR WILLARD: Before we leave that, Deputy
23 Director, does that make sense to you?

24 DEPUTY DIR. GREENE: I always want to try to
25 work in examples. So if we were to take BLM, if under

1 the BLM report you had a standing report time which
2 would be Clear Creek and Johnson Valley, then is what
3 you're saying here is that those wouldn't be standing
4 items, that those would be determined whether or not
5 they were going to be on the agenda?

6 CHAIR WILLARD: Correct. Those would be
7 predetermined before every meeting, and these would be
8 the subtopics.

9 DEPUTY DIR. GREENE: And part of that would be
10 discussions amongst the Commissioners to make sure that
11 you identified at least --

12 CHAIR WILLARD: That would be included in the
13 process that the chair and deputy director go through
14 in setting the agenda.

15 DEPUTY DIR. GREENE: Thank you.

16 COMMISSIONER VAN VELSOR: Referring back to the
17 Bagley-Keene Open Meeting Act, it states, the agenda
18 should be drafted to provide interested laypersons with
19 enough information to allow them to decide whether to
20 attend the meeting or to participate in that particular
21 agenda item. And based on Tim's example using today's
22 agenda, that doesn't seem to be enough information for
23 the public to determine whether or not there could be
24 action and whether or not they should spend time coming
25 to the meeting to respond to that action. We need to

1 make sure that the public has adequate information to
2 determine whether or not there's going to be an action
3 or there's a high likelihood of an action so they take
4 the time to attend the meeting. So it's a matter of
5 interpreting how much information needs to be provided
6 to them. My sense is the example you gave isn't
7 enough.

8 ATTORNEY LA FRANCHI: Report on the 2011 Report,
9 you don't believe that's enough for the public to know
10 that the 2011 Report is going to be discussed, and if
11 they have input and an interest in that, that they
12 should be here? Normally, that's been considered
13 adequate. If not more than 20 words, and I guess we
14 can all differ, but normally that would be -- maybe
15 just listing Johnson Valley isn't enough. You would
16 need a little more information. Listing the report on
17 the status of activities at Johnson Valley, you need a
18 something little more like that. I think you could
19 kind of debate what it is you want to say or what it is
20 you want the report to consist of, so there is some
21 room.

22 COMMISSIONER VAN VELSOR: We could debate that,
23 but I think it's important that there is enough
24 information so the public knows. And so from my
25 perspective, better too much information than not

1 enough.

2 CHAIR WILLARD: Agreed. I just don't want to
3 find ourselves in a position where we can't really
4 fully define an item. We may know that there is going
5 to be something that comes up on it, but it can't be
6 fully -- I'm not sure how much specificity you're
7 really looking for. Are you looking for four or five
8 sentences on it or just the one line?

9 COMMISSIONER VAN VELSOR: I don't think we need
10 the four or five sentences. I think we need a one
11 liner. Status on the 2011 report, that doesn't seem to
12 be enough. The 2011 Report is just an update. We knew
13 there was no action on that, but the public may not
14 know that because they don't necessarily know what the
15 2011 Report is.

16 DEPUTY DIR. GREENE: This brings up the whole
17 can of worms, I will just say in terms of the Deputy
18 Director's report, because the Chief and I have gone
19 back and forth on this. There are times, for instance,
20 Quail Canyon, I just wanted to provide that update to
21 you, but it's not listed here. The RTP program, I feel
22 like today perhaps we should have had the RTP program
23 more spelled out because if, in fact, in Washington we
24 need to have an action because Washington isn't moving,
25 I would really appreciate some of the firepower from

1 this Commission to say something. But where do you put
2 yourself in such a straightjacket that you can't share
3 information that maybe we found out in the last ten
4 days, so how do you have some flexibility in the deputy
5 director's report to share information? Does it all
6 become a business item?

7 I understand what you're saying, Stan, in the
8 sense of you could start drilling down into the 2011
9 Report when, in fact, all Connie is doing is saying,
10 Commissioners, I want to provide you an update. We are
11 having another meeting. That's where it's a little
12 tough. We've been grappling with this one, as well.

13 CHAIR WILLARD: It is a tough balancing act. On
14 the one hand, you want to make sure the public is well
15 informed, knows whether to come to the meeting or not.
16 But on the other hand, we don't want to hamstring
17 ourselves so that we can't take action which is
18 ultimately serving the public. Any action we do is
19 with the specific purpose of serving the OHV program,
20 which is the public. So it's a dilemma, but it's a
21 balancing act.

22 So I'm trying to come up with a method of
23 meeting the statutory requirements and at the same time
24 giving ourselves the flexibility to take actions when
25 we want to. I think that perhaps having more than just

1 one or two words is appropriate, but we're getting into
2 a whole lot of discussion within the agenda.

3 COMMISSIONER VAN VELSOR: I agree. I don't
4 think that's necessary.

5 CHAIR WILLARD: Do you have any recommended
6 edits to this language?

7 COMMISSIONER VAN VELSOR: The issue is the
8 interpretation of what's enough information.

9 CHAIR WILLARD: As the chair, I will rely on
10 counsel for his recommendations and interpretation.

11 ATTORNEY LA FRANCHI: I think this could evolve,
12 and we could add a few words, be a little more
13 descriptive on what's going to be presented on the
14 2011 Report.

15 CHAIR WILLARD: That's good. I would agree with
16 that. So maybe when we get to making a motion, we
17 might ask Deputy Director.

18 Stan, doesn't it really say that, though?

19 COMMISSIONER VAN VELSOR: It does. I have no
20 problem with the way it's stated, but it's an
21 interpretation issue.

22 CHAIR WILLARD: It does say should provide
23 enough specificity, so I think that does what you are
24 looking for. And I think the chair and Commission
25 needs to be watching how the agenda comes out and

1 making comments if there is not enough specificity.

2 COMMISSIONER VAN VELSOR: Is that an option?

3 CHAIR WILLARD: Certainly.

4 COMMISSIONER VAN VELSOR: Would we see an agenda
5 item?

6 CHAIR WILLARD: I think it's just in general,
7 not on a specific case. Generally, if you're seeing
8 agendas come out, and you say, I think you should have
9 worded this differently, then you would just make the
10 comment to staff that the next time when they're
11 working on the agenda, you want to see more information
12 provided on the specific subtopic. Kind of have to go
13 through this a little bit to see how it works.

14 CHIEF JENKINS: Just to help frame the entirety
15 of what you're discussing, so for instance, on the
16 current format, the agendas that we have been working
17 from, there is a footnote that's always listed on the
18 report section, footnote one, it's on the back of this
19 agenda, which essentially says we can't act on anything
20 unless it's in the business item. So what you're
21 essentially contemplating is saying we're going to get
22 rid of that footnote, which really means there is no
23 point in having business items anymore. Everything is
24 just reports, and then we can act on anything that's on
25 the agenda. So just so you can frame where you're

1 going with it.

2 DEPUTY DIR. GREENE: That makes me a little
3 nervous in terms of allocation of staff to make sure
4 that we are as prepared for all of you as we can be.
5 So I'm happy to work, of course. So under every
6 report, would we look at identifying within the deputy
7 director's report some standing items? Because, again,
8 if I'm just going to say Quail Canyon, well, I've got
9 to be able to have a staff report. So today I think I
10 had 12 items that I shared with you. The level of
11 where I would want that if we're going to present a
12 report of which you may take an action on, what I
13 presented this morning was not the quality of what all
14 of our staff would present to you.

15 So if, in fact, you're saying that at every
16 Commission meeting we need to have staff who are ready
17 to act on 15 different business items, that's what you
18 are saying. But it's going to change the world a
19 little bit.

20 CHAIR WILLARD: I don't think our intent is to
21 have you go through a complete staff report on all of
22 these subtopics. Maybe this particular one deserves a
23 little bit more consideration.

24 DEPUTY DIR. GREENE: Maybe you can have some
25 standing reports within the deputy director's report

1 that we know, for instance, Dan Canfield will always
2 present something on the grants, you're always going to
3 get that. If there are some specific items that you
4 would like, similar to how we have it now, we can
5 change those, modify them.

6 CHIEF JENKINS: And also, if I may, what we have
7 done in the past is when there were items that were
8 normally going to be a report item, years back, the
9 Commission indicated they were going to want to take
10 some action on, we would still have it listed on the
11 report item. We would essentially say very briefly,
12 we're working on this, it's a business item later on.
13 Then it would be listed as a separate business item, so
14 that discussion is described in this brief paragraph
15 here where you can get together with the deputy
16 director on the phone and decide which items you really
17 want to be business items.

18 The alternative would be instead of saying we
19 can act on anything in the reports, leave it the way it
20 is, make sure that anything that's normally in the
21 report that you know you're going to want to act on,
22 have it down on the business items. That way you can
23 get its full description. That way you can act on it
24 or not.

25 CHAIR WILLARD: It's the items that we don't

1 know if we're going to act on or not that I'm trying to
2 pick up.

3 CHIEF JENKINS: If we don't know we're going to
4 act on them, we don't know if we need to prepare for
5 them. That's the conundrum.

6 The normal pace, of course, I think what we're
7 all recognizing and not stating explicitly what the
8 problem is, given that the meetings are months apart,
9 two to three months apart, bringing up something on
10 report, the Commission would say, wait a minute, we
11 want to talk about that and act on it, you wouldn't be
12 able to act until the next meeting.

13 CHAIR WILLARD: That's the problem.

14 COMMISSIONER VAN VELSOR: But the issue again is
15 you want to make sure you have enough information in
16 order to make a good decision, so you want to make sure
17 that you have the ability to present the information
18 you need to present. We need to have people in the
19 audience that can comment on the issue with any
20 different perspectives that we do want to hear. It's
21 just critical that it's well-known enough so that we
22 have that level of information available.

23 CHAIR WILLARD: I'm thinking maybe we take this
24 one out for now and just give it some more thought
25 because I don't want to create a situation that's

1 unworkable or problematic for the public or staff
2 either. So this wasn't a make-work thing. I didn't
3 anticipate putting an additional burden on staff. If
4 you think it does, then I think we need to rethink it.

5 DEPUTY DIR. GREENE: I think, as always, we are
6 staff to you, so we recognize and take that
7 responsibility seriously. As we've all said, if it's
8 in a report, does the public know it's a business item.
9 Tim and I have gone back and forth on this one. A
10 business item to me is something that this Commission
11 will act on maybe. You don't know. It could be we're
12 just providing information, you'll tell us to go back
13 and get additional information.

14 At the same time, as an example, let's go back
15 to the May meeting when we were in San Jose and the
16 issue of the travel management came up and the
17 Commission wanted to act, but clearly there had not
18 been enough notice on that. I think what we were
19 trying to get is if we had a standing -- whether it be
20 Johnson Valley and Clear Creek, that that would allow
21 the Commission to take that action.

22 CHAIR WILLARD: That's a good example.

23 DEPUTY DIR. GREENE: And not have it as a
24 business item. So if, in fact, there is a way to draft
25 it under these reports that these are items that you're

1 interested in and you may take action on meeting after
2 meeting after meeting, then perhaps. But will you have
3 enough information, to Commissioner Van Velsor's point,
4 to make those thoughtful decisions? That's up to you.
5 I can't guide you there.

6 CHAIR WILLARD: Well, if it was travel
7 management, I don't think you need to go and have staff
8 prepare a report and do research on that. We know
9 enough about it to have discussion on the fly, right?

10 DEPUTY DIR. GREENE: That would be up to you.

11 COMMISSIONER VAN VELSOR: We needed to have
12 Forest Service people here that aren't here.

13 CHAIR WILLARD: Yes.

14 DEPUTY DIR. GREENE: Right.

15 COMMISSIONER VAN VELSOR: Is it possible that on
16 any report item where we think we may take action, just
17 say: May take action?

18 ATTORNEY LA FRANCHI: I don't think it's
19 necessary to be able to anticipate whether you will or
20 won't take action. That isn't really the test. The
21 test is just enough information so the public knows
22 what it is that's going to be reported to the
23 Commission. You're not going to know if you want to
24 take action on some items. Like the specific item
25 here, we knew in advance that this was being presented

1 because Commission was going to consider and possibly
2 adopt changes to the policies. There may be other
3 business items that could be like that. Report items
4 you may not know until you hear what the report is that
5 something needs to be done. So that was the gap that
6 we were trying to bridge or that we thought we were
7 trying to bridge.

8 And certainly if you've got some standing items
9 like Johnson Valley or travel management or whatever
10 where you don't know in advance but you at least want
11 to follow it, keep track of it in the event that you
12 hear something that you think needs some attention from
13 the Commission, they've risen enough on the radar
14 screen that the Commission as a whole feels that's
15 important enough to track those, certainly that doesn't
16 rule out important items like Quail Canyon that doesn't
17 show up on here, reports can still be made on other
18 items that the Deputy Director, something came up
19 yesterday that she wants to let the Commission know
20 about. But in that instance, she could still report on
21 it, but the Commission wouldn't be able to take action,
22 there wouldn't be enough information. Whether or not
23 on any item there is enough information before the
24 Commission to make a decision, that's up to the
25 Commission because the administrative test for decision

1 making is is there substantial information. Because of
2 that test, there could be just one comment from
3 somebody the Commissioners feel is credible, the
4 Commission could say we think that's important enough
5 to do something about. So it's really a judgment call
6 whether or not there's enough information from the
7 public for the Commission to take action, as long as
8 the agenda item is specific enough, so.

9 CHAIR WILLARD: The recommendation I think I'm
10 going to make is that we have this as a business item
11 on the agenda next time, that we go ahead and prepare
12 the next agenda as if this item was part of the
13 procedures and see how it goes. And then at the next
14 meeting, we can officially adopt it. I don't think
15 there is anyone that would prevent us from having an
16 agenda that's more detailed that would be in concert
17 with what these guidelines are, without having the
18 guideline. We can do that, right?

19 DEPUTY DIR. GREENE: And I think the key, quite
20 frankly, Chair, is to figure out a structure by which
21 you can gather the information but do it in a timely
22 fashion. Because for some reason, never before have we
23 had reports prior to this Commission where the public
24 would comment on those reports on each item. And we
25 continue to run up against the clock. So that's the

1 key is how do we structure something where the
2 Commission is able to get that business done.

3 CHAIR WILLARD: That's another reason. One of
4 the rationales was not just having a whole bunch of
5 business items. Every business item then demands a
6 public comment period. So if you have one in reports,
7 then you can have public comment with that report,
8 which would include all of the subtopics; does that
9 make sense?

10 COMMISSIONER FRANKLIN: So your recommendation
11 is to make this as a business item for next meeting?

12 CHAIR WILLARD: Just for this specific one we're
13 talking about. The other ones I think we can adopt
14 today. But this one, I think we sort of move forward
15 on a trial basis, set up our next agenda as if it were
16 in place, see how it goes. We can all think about it,
17 and then next time we can have another discussion about
18 it and decide whether or not we want to adopt this. We
19 might think of some different language. We can all
20 give it some more thought. I think it's important
21 enough to demand that, so let's sort of deal with that
22 in that way.

23 Change in language regarding hard copy mailing
24 of the notice and agenda as regulated by statute.
25 That's 1(B)(4). So I'll read it, e-mail of a hard copy

1 of the meeting notice and agenda shall be sent to
2 interested parties that have requested notification no
3 later than the statutory required date, that is, ten
4 days prior to the scheduled meeting. That's pretty
5 straightforward. Any questions on that one?

6 Maybe it could be good now to take public
7 comment on this. If anyone in the public has any
8 comments on this really exciting stuff we can do that
9 and then move forward to some specific motions.

10 ED WALDHEIM: Ed Waldheim, former commissioner,
11 CTUC. You're kind of reinventing the wheel here, I
12 hate to say it. You should be having an action log of
13 all of the items, and hopefully tonight, this afternoon
14 when we come to the workshop, you will have the
15 beginnings of a way to building an action log. We
16 always had an action log. And in that action log, you,
17 as commissioners, make the decision, with the public's
18 help, which are the important items, which items do we
19 need to do. And only at that time when you set the
20 agenda, not staff, when you set the agenda with staff,
21 you take the items on that, have a due date. And so
22 it's very simple. The public will know exactly when
23 something is going to be coming up, then you have some
24 organized fashion in which to proceed because we can't
25 keep going from meeting to meeting and trying to cover

1 everything. It's impossible. The stuff that I brought
2 up, if it were in the action log, I knew it was going
3 to be covered at some point. Nobody is going to
4 forget. It's your job to figure out how to proceed
5 with the staff's help to get things done. Everybody
6 should have an action log. That's your guide. It's a
7 cue for memory, and it's a way for you, in an organized
8 fashion, to move forward. We do it with the Forest
9 Service, BLM, and my pool has an action log, so it
10 keeps track of things.

11 As far as the motions are concerned, it's key
12 that when you get public comments after you discuss the
13 issue that's on the agenda, get a feel of what the
14 public feels like. Normally, once you make the motion,
15 I would say the public shouldn't have an opportunity to
16 talk. But more times than not, you have changed your
17 thinking or your motion or the way you want to go where
18 we originally commented on is completely different than
19 what the motion ended up with, and, therefore, we don't
20 have the opportunity to talk again. I know you have
21 the opportunity to say yes, no not to do it, but I
22 would strongly urge you -- does anybody have a problem
23 the way the motion now has been written under public
24 comment? And you always have the last say, last word
25 anyway. I've seen so many times when I thought the way

1 it was going to go on a motion, next thing you know
2 Mark comes up with a different idea and the whole
3 motion has completely changed around. It gives another
4 way for the public to participate. Thank you.

5 CHAIR WILLARD: Thank you. Maybe take these one
6 at a time because some of them we do want to make some
7 changes.

8 So I'll make a motion just to keep it moving.
9 5(C) number one, which is Item 5(C), I would like to
10 make a motion that the amendment to the Commission's
11 policies and procedures document be modified as noted
12 in the draft that was provided.

13 COMMISSIONER McMILLIN: Second.

14 CHAIR WILLARD: Discussion?

15 COMMISSIONER VAN VELSOR: Which one are we
16 talking about?

17 CHAIR WILLARD: 5(c).

18 COMMISSIONER SLAVIK: I second the motion.

19 CHAIR WILLARD: Call for the vote. All those in
20 favor?

21 (Commissioners simultaneously voted.)

22 CHAIR WILLARD: Okay. That one is passed.

23 The next one is the 5(D), having to do with the
24 creation of a link on the Division's website that would
25 provide for public comment.

1 I think this needs to be modified, so I'll make
2 a motion that the language in the draft document be
3 accepted with an edit that Deputy Director's staff will
4 insert limiting the length of any e-mail or written
5 document provided via the website. That's a motion.

6 ATTORNEY LA FRANCHI: And I think the second
7 part of that was 24 hours prior to the start of a
8 Commission meeting.

9 CHAIR WILLARD: Thank you. So that change, as
10 well.

11 COMMISSIONER FRANKLIN: With those two changes,
12 I'll second.

13 CHAIR WILLARD: Discussion? All those in favor?
14 (Commissioners simultaneously voted.)

15 CHAIR WILLARD: The motion passes.

16 So number three is 5(E), and this is providing
17 comment to appropriate agencies. So I'll make a motion
18 that the amended language be adopted into the
19 Commission's policies and procedures.

20 COMMISSIONER SLAVIK: Second the motion.

21 CHAIR WILLARD: Discussion.

22 COMMISSIONER VAN VELSOR: I would like to
23 propose a change in the language.

24 CHAIR WILLARD: Sure.

25 COMMISSIONER VAN VELSOR: What I interpret there

1 to mean is that we will facilitate a public comment by
2 an individual to the impacted party, in other words,
3 that seems like a pretty active action on our part.
4 What I would propose is: The Commission should
5 facilitate purporting public input to the appropriate
6 parties, and then in consultation with the Deputy
7 Director.

8 CHAIR WILLARD: I don't think I follow the
9 difference.

10 COMMISSIONER VAN VELSOR: When I first read it,
11 I didn't understand what we were saying. And it seems
12 like we could be saying that when a person makes a
13 comment, we will take that person's comment and
14 actively go wherever we need to go in order to have
15 that taken care of. Is that what we're saying?

16 CHAIR WILLARD: Well, it's at our discretion and
17 in consultation with the Deputy Director.

18 COMMISSIONER SLAVIK: But the question is the
19 wording on the program activity, correct, Stan? I see
20 that as a qualifier, and appropriate for this.

21 CHAIR WILLARD: Well, it says the Commission
22 should facilitate reporting the public's input on the
23 program activities to other parties affected as
24 appropriate. To me those are, like you say, qualifiers
25 so we don't have to take every comment and disseminate

1 it. We will get the comments and say that's one that's
2 important enough to send to so and so.

3 COMMISSIONER VAN VELSOR: But what parties are
4 affected by the comment?

5 CHAIR WILLARD: Local law enforcement, local
6 landowners, like U.S. Forest Service, BLM.

7 COMMISSIONER SLAVIK: Or it could be a private
8 landowner adjacent to the SVRA or something.

9 COMMISSIONER VAN VELSOR: I guess I'm struggling
10 with the word affected parties, affected by the
11 comments. They're not necessarily affected. They're
12 the people that can help solve the issue. They're not
13 necessarily affected by the comments.

14 ATTORNEY LA FRANCHI: I think the original issue
15 came up, going back to the comment, the May meeting and
16 the travel management public participation issue was
17 that the Commission wanted to take action to make sure
18 that those comments were forwarded to the Forest
19 Service. What I'm sensing that maybe Commissioner Van
20 Velsor is reading here is other parties. Certainly if
21 the public inputs like today about a problem down at
22 Wonder Valley, what Commissioner Van Velsor may be
23 interpreting this to mean that the Commission should
24 somehow facilitate getting her comment back to all of
25 the people down at Wonder Valley, not just local law

1 enforcement; is that what your problem is with that?

2 COMMISSIONER VAN VELSOR: By using the word
3 affected parties, it is a real broad interpretation of
4 the statement as opposed to we want to get to the
5 people that can help us solve the problem.

6 ATTORNEY LA FRANCHI: So maybe the alternative
7 concept, at least, maybe not specific language but
8 facilitate reporting the public comments or input to
9 those parties who may be able to effect a change or
10 solve the problem.

11 CHAIR WILLARD: My intent here was to have
12 something that dealt with things more broadly than just
13 dealing with problems. For instance, the information
14 that we received about the GPS mapping system, maybe if
15 U.S. Forest Service, for instance, didn't know about
16 that, maybe that's the type of thing we would want to
17 make sure got passed along to the U.S. Forest Service.
18 We can send it to them saying, hey, it's a pretty nifty
19 idea, maybe you can think about partnering with them
20 for GPS route designation, as an example. Just looking
21 for anything that comes across our podium here, we may
22 want to pass it on. It's public input. Not
23 necessarily all of the negative stuff that we hear
24 about, which OHVers are not obeying the law. That's
25 certainly part of it, but there are other things, as

1 well.

2 I don't know if affected is the right term.
3 Interested parties, maybe that's a better term.

4 COMMISSIONER FRANKLIN: Appropriate parties.

5 CHAIR WILLARD: Interested, appropriate as
6 opposed to affected?

7 DEPUTY DIR. GREENE: Is there anything that
8 would prevent you from doing this now?

9 CHAIR WILLARD: No. If it's not in the policies
10 and procedures, I think it gets sort of lost.
11 Certainly if I was to take this on as something I would
12 do as the chair, then the next chair will do it. The
13 thought here is to have a document that we sort of have
14 a roadmap as to how we conduct ourselves. Obviously,
15 this is something we can change as we see fit.

16 DEPUTY DIR. GREENE: I do think looking at it
17 more closely now, because I think what would be
18 challenging is to identify how we determine the word
19 affected. So is there an action. One would say that
20 certainly after that May meeting, we would let the
21 Forest Service know that many members of the public had
22 commented on a particular issue. What about some of
23 the OHV communities, some of the conservation
24 communities, would we be getting those comments out to
25 those different parties, as well? And then are we

1 capturing each one of the OHV communities, does one
2 club say you didn't contact me? I don't mean to be
3 overdramatic. I just want to make sure when you say
4 affected, maybe it is specifically where the owner who
5 has jurisdiction on that land that's in discussion.

6 CHAIR WILLARD: How about to other parties as
7 deemed important by the chair or something like that so
8 that we have more discretion? I wasn't looking to
9 create a big workload here for getting all of the
10 comments out to people, but just that there were
11 comments that I've heard that it would be good if those
12 comments could be sent along to somebody, as well.

13 COMMISSIONER SLAVIK: You may insert the word
14 "may" before "affected".

15 COMMISSIONER FRANKLIN: If you're doing this
16 just as a roadmap for the future, it sounds like we
17 have the ability to do this now, correct? I would
18 prefer that you took out should and make it may. Don't
19 make it something finite. As you said, to somebody
20 down the road, that means every comment coming up we
21 have to send it along. So the Commission may.

22 CHAIR WILLARD: Take out should. May, should,
23 shall?

24 COMMISSIONER FRANKLIN: Shall indicates you have
25 to do it.

1 CHAIR WILLARD: Should is sort of a
2 recommendation.

3 COMMISSIONER FRANKLIN: I would take it more as
4 may.

5 COMMISSIONER McMILLIN: I think we ought to vote
6 on the motion. I think the intent of what we're
7 describing to do here by all six of us today is the
8 same thing, is to more widely disperse what we're doing
9 and get feedback. It's not to make it any narrower
10 than it currently is. And I trust staff and the chair
11 and everybody to get the word out.

12 CHAIR WILLARD: Yes, that's definitely the
13 intent. I just want to be careful that we're not
14 creating a situation that's cumbersome or doesn't work,
15 so that's why I'm listening to all of these comments
16 and thinking about them.

17 DEPUTY DIR. GREENE: Can you move forward with
18 it? If it doesn't work, you can change it.

19 CHAIR WILLARD: That's definitely the way this
20 works. This is a document we can change as we see fit.

21 COMMISSIONER SLAVIK: I would definitely change
22 should to may, not have it such a finite statement.
23 That gives you latitude.

24 CHAIR WILLARD: As the maker of the motion, I
25 will amend the motion to read the Commission may

1 facility reporting the public's input on program
2 activities to other parties that may be interested or
3 affected by the comments. As appropriate, in
4 consultation with the deputy director, the Division
5 staff will follow up with the appropriate agency
6 regarding the public comment. That's the amended
7 motion. Second?

8 COMMISSIONER SLAVIK: Second.

9 CHAIR WILLARD: Discussion. All those in favor?
10 (Commissioners simultaneously voted.)

11 CHAIR WILLARD: Motion passes.

12 (Break taken from 4:31 to 4:46 p.m.)

13 **AGENDA ITEM V(B)**

14 CHAIR WILLARD: Next item is discussion and
15 approval of Commission meeting dates for 2010.

16 (After discussion public comment was heard.)

17 DAVE PICKETT: Dave Pickett, District 36.
18 February 25th; April 29, 30; July 22, 23; October 19,
19 20; is that correct? The only conflict I might have,
20 as a member of the public, is October 19, 20. That's
21 when they do National AMA Congress, but I don't have
22 those dates yet.

23 CHAIR WILLARD: So you say you may. They're not
24 certain?

25 DAVE PICKETT: Everything is fine just the way I

1 see listed, just the October date because I have not
2 been advised when AMA National Congress takes place.
3 19th may be yes, 20th, no, because that's travel time.

4 ED WALDHEIM: Ed Waldheim, CTUC. Mr. Chairman,
5 February seems to be okay. April seems to be okay. We
6 have a problem on the July 22nd because on the 21st we
7 have Beach Days, that's the Cal Pals Beach Day. That
8 normally runs on the third Wednesday on Beach Day.
9 State Parks is part of the sponsors of the Cal Pals in
10 Huntington Beach. So if it's on the 22nd, the
11 Commission could be down in Huntington Beach, meet at
12 Paul's place, and have a Commission meeting and
13 participate with Beach Days.

14 (After further discussion a motion was made.)

15 CHAIR WILLARD: I'll make a motion to have the
16 Commission hearings on the following dates in 2010.
17 February 24, 25; April 29, 30; July 28, 29; and
18 October 27, 28.

19 COMMISSIONER McMILLIN: Second.

20 CHAIR WILLARD: Discussion? Call for the vote.
21 All those in favor?

22 (Commissioners simultaneously voted.)

23 CHAIR WILLARD: The motion passes.

24 **AGENDA ITEM V(C)**

25 CHAIR WILLARD: Moving on, Commission will

1 consider a report by the Division regarding special
2 permit events and cost recovery on U.S. Forest Service
3 lands available for OHV recreation. Deputy Director.

4 DEPUTY DIR. GREENE: Commissioners, this item
5 will be presented by Dan Canfield. Just as a notice,
6 we posted this agenda item ten days prior to the
7 meeting; however, we also recognize this is short
8 notice, and in the future we will need to collect more
9 information.

10 OHV STAFF CANFIELD: Dan Canfield, California
11 State Parks, OHV Division. Commissioners, you were
12 provided a report earlier today entitled, "Cost
13 Recovery Overview." It's an overview of the issue, and
14 a lot of good information, and looking for a
15 springboard of discussion on the topic. Basically the
16 report starts: What is cost recovery? Cost recovery
17 is the process whereby a public agency when providing
18 special services recovers the costs of providing these
19 services, resources, or goods. It's not a new concept.
20 In fact, California State Parks and the United States
21 Forest Service and the Bureau of Land Management have
22 been authorized to perform cost recovery and have been
23 performing cost recovery in the past. It does appear
24 that the cost recovery item or issue has come to light
25 perhaps in these tough budgetary times where the land

1 managing agencies, whether it be State Parks, Forest
2 Service, or BLM, are facing dwindling budgets and
3 perhaps the cost recovering issue has become more
4 focused as these agencies attempt to cover the costs of
5 these special events. Of course, it's pertinent to
6 this organization because OHV clubs commonly will put
7 on special events on public lands within our parks or
8 within the Forest Service lands, what have you. So
9 that kind of is the reasoning behind this item.

10 The report also gives you a little background on
11 cost recovery. It's a very good history. Most notably
12 is back in December of 1996 when the United States
13 General Accounting Service, or GAO, submitted a report
14 to the United States Senate, the title of the report
15 was, *"The United States Forest Service Fees For
16 Recreation Special Use Permits Do Not Reflect Fair
17 Market Value,"* so it was back in 1976 where the GAO
18 basically submitted a report saying that in this case
19 the Forest Service was not getting sufficient cost
20 recovery for these events.

21 The report from the GAO had two major
22 recommendations. The first was that the public
23 agencies implement a more cost efficient manner of
24 putting on these special events and, secondly, that the
25 land managing agencies should come up with a set of

1 regulations so that organizations that want to have
2 special events have guidance, as well as land
3 management agencies, about how to address the cost
4 recovery issue. The report also identifies the two
5 agencies that we are most concerned with typically in
6 the OHV realm here in California, the U.S. Forest
7 Service and the Bureau of Land Management, have
8 produced regulations covering these cost recovery
9 issues.

10 The report references have been provided for
11 these regulations, and actually copies of the
12 regulations were provided to the public and to the
13 Commission along with the report. I think it's
14 important to note that several issues pertinent to this
15 organization do spring from this item, and it should be
16 considered kind of a starting point for a discussion on
17 the topic between the public agencies and the
18 organization putting on the events, as well as this
19 agency. That is basically an overview of the report,
20 and I'll do my best to handle any questions you have on
21 it at this time.

22 CHAIR WILLARD: Commissioners, any questions for
23 Dan?

24 COMMISSIONER FRANKLIN: You say in here would
25 provide special services and agencies to recover its

1 cost to providing services, resources, or goods. Are
2 those documented anywhere? Do they have to provide
3 some kind of basis for their fee structure?

4 OHV STAFF CANFIELD: I suspect that the
5 regulations that were developed as a result of that GAO
6 report, the agencies developed a set of regulations,
7 which I will admit I'm not terribly familiar with, not
8 having a direct involvement in the relationship. But I
9 suspect that would be the main resource that I would
10 consult.

11 CHIEF JENKINS: I might be able to be of a
12 little help here. Please understand that this was a
13 late addition onto the agenda, so we've been trying to
14 ramp up quickly this week.

15 Reading through the Forest Service regulations
16 relating to cost recovery, though I do not claim to be
17 an expert on this, so this is --

18 COMMISSIONER FRANKLIN: Between you and I, you
19 are.

20 CHIEF JENKINS: -- as I understand them from
21 reviewing them over the last week, the directions on
22 what they can use for cost recovery, what they can ask
23 for repayment of costs is generally expenses that are
24 generated as a result of the special event that's being
25 performed that are over and above their normal

1 operating costs. There is language in there that which
2 I'd like to understand better myself, but it makes
3 sense because it follows the theory of how we do it in
4 State Parks, as well. That basically says if there is
5 already a paid staff member there that would normally
6 be there to do their job and you're having the event,
7 you can't recover that cost because you were going to
8 pay that person to do that work already. But if you're
9 having an event and as a result of the event you have
10 to hire additional staff or you have to pay for
11 additional trash collection services, in other words,
12 there are new costs that are resulting directly from
13 the event that's in question, then you can recover
14 those costs.

15 And as Dan stated, the reason this is on the
16 agenda is the agencies are beginning to ask for cost
17 recovery now where events have happened historically
18 year after year after year with little or no cost
19 recovery involved. And now some of the cost recovery
20 can be in the thousands or even in the tens of
21 thousands of dollars, which can effectively preclude an
22 organization's ability to do a special event.

23 I think the problem that we all need to grapple
24 with, because on one hand it's perfectly understandable
25 that an agency with limited funding has to be

1 responsible with how they use it, but if we're
2 providing grant funding from the Trust Fund for an
3 area, would it be responsible, allowable, advisable, if
4 you will, to allow the grantees to request monies from
5 the grants to recover some of these costs for special
6 events. Is that an appropriate use of Trust Funds? Or
7 if they already have O&E money, let's say, they have an
8 operating grant from us to operate an area and to
9 provide law enforcement coverage or provide
10 maintenance, repair, trash services, et cetera, is it
11 an appropriate cost to charge some of these additional
12 unexpected costs against that grant that result from a
13 special event, rather than charge those to the club
14 that might be putting it on. So it's not a simple
15 question, but that's, as I understand the issue, what
16 we all need to grapple with.

17 CHAIR WILLARD: Is the cost recovery an
18 absolute, it's mandated it must occur, or is it at the
19 discretion of the local forest or some other person
20 within the U.S. Forest Service?

21 CHIEF JENKINS: As I understand it, they have
22 discretion in this matter.

23 DEPUTY DIR. GREENE: I think what you are seeing
24 is that various forests throughout the 18 national
25 forests are depending on historic use or interpreting

1 it whatever way, given the staff they may have. So it
2 does vary. For those where there are high costs, I
3 think that is where the issues start to come up.

4 I am disappointed that no one is here from the
5 Forest Service because it certainly would be helpful
6 not only to get the input that we've been able to get
7 from both Region Five, and I know we've been working
8 with somebody directly there who is responsible for
9 some of the cost recovery items, but also the
10 individual forests. We've been talking with them all
11 week, still gleaning out some of the information that
12 we can understand. And I think that dialogue is going
13 to have to continue.

14 CHAIR WILLARD: Absolutely. Commissioner
15 Slavik.

16 COMMISSIONER SLAVIK: I don't think anybody can
17 quibble with trash collection and things like that or
18 additional law enforcement personnel that would have to
19 be on the property. But I think what it comes down to,
20 and correct me if I'm wrong, aren't they charging for
21 like NEPA documentation and things like that where you
22 start to have specialists that spend months working on
23 a project for an Enduro senior, something like that?

24 DEPUTY DIR. GREENE: That is the difficulty, and
25 you hit the nail on the head, which is the confusion,

1 again the lack of clarity, and I think that's where we
2 need to be able to provide clarity. I think the
3 understanding was if you're going through route
4 designation, that NEPA has been down on each one of
5 those routes, so therefore to have an event, why would
6 you need to go back and do the archeology studies, the
7 paleontological, and all of the others. We're still
8 trying to sort that out.

9 But what I do know is that perhaps one could
10 respond, it would be based on numbers of participants.
11 That would be the expectation of doing that review for
12 smaller numbers versus an event that might be 250
13 participants. I'm not sure, and so that is what we're
14 trying to sort out. I think the difficulty that we're
15 seeing is this is affecting historic events, in
16 particular when it's children, so I think that's where
17 a lot of the angst has been developing. But one would
18 ask is that, in fact, what needs to occur is each time
19 you need to bring the specialists together. And if
20 it's not high on the priority list, then you're never
21 going to be able to get to it.

22 CHAIR WILLARD: Do we know if the federal
23 environmental law is similar to CEQA in that the local
24 agency has to make an environmental determination for a
25 project, whether or not it has an environmental impact,

1 and, in fact, they can make what's known in California
2 law in CEQA a negative declaration? Do we know if
3 there's a similar mechanism in the federal law? And
4 maybe the foresters don't understand that or don't
5 realize they can make a negative declaration, and
6 therefore not go through the months and months of all
7 of this environmental work.

8 DEPUTY DIR. GREENE: I would defer both to the
9 counselor here. And also, Commissioner Van Velsor, you
10 might have some experience you might be able to share.

11 ATTORNEY LA FRANCHI: NEPA and CEQA are largely
12 the same. They both operate about the same way. There
13 are some differences. California is a little more
14 substantive in requiring mitigation issues and that
15 sort of thing. And both do allow for a negative dec.
16 It's an exclusion. I'm not sure on the NEPA what the
17 exact determination is.

18 DEPUTY DIR. GREENE: Finding of no significance.

19 ATTORNEY LA FRANCHI: Yes, both of those. And
20 federal agencies know about that. They refer to them
21 frequently. So that is available and it is used. How
22 it's used in the special event scenario, I'm not sure.

23 I was just reading through the regs, and it
24 looks like under the BLM regs, it's discretionary, and
25 NEPA-type costs should not be recovered, is what I read

1 quickly, just a very quick read through. Under the
2 Forest Service rules, it sounds like cost recovery is
3 mandatory. There are some exceptions, and I was
4 quickly reading through it, and I don't understand them
5 all yet. So these two operate a little bit
6 differently. One of the exceptions is the recreational
7 event that would require fewer than 50 hours of staff
8 time for the Forest Service staff is exempted, so
9 small-type events would be exempted, just as a quick
10 read through.

11 COMMISSIONER VAN VELSOR: I'm not a NEPA expert,
12 but I have some experience with it. I think your
13 interpretation that it's a matter of degree of the
14 particular activity. So 250 riders compared to the
15 normal activity on a route would determine the level of
16 significance that would require an additional NEPA
17 analysis. So it is that level of impact.

18 CHAIR WILLARD: Does it allow for sort of like
19 mitigated negative dec., where you can actually sort of
20 do parts of the environmental analysis that the local
21 jurisdiction decides might be appropriate as opposed to
22 a full-blown report?

23 ATTORNEY LA FRANCHI: Again, it's case specific.
24 I think Commissioner Van Velsor is correct, you just
25 have to look at what the impacts are. And I'm not that

1 familiar with it. I don't work with NEPA on a regular
2 basis. But like I say, similar kinds of analysis.

3 COMMISSIONER VAN VELSOR: If it reaches the
4 level of a required analysis, then it would be an
5 environmental assessment, as opposed to an
6 environmental impact statement. Those are two
7 different levels of analysis. If there is no need for
8 analysis, then it would be a cap local exclusion. So
9 if it's determined that you need an environmental
10 assessment, then it requires a full environmental
11 assessment.

12 CHAIR WILLARD: And it's the local forester
13 that's making that decision?

14 COMMISSIONER VAN VELSOR: Yes, generally with
15 guidance from the region.

16 CHAIR WILLARD: Well, to me there seems to be an
17 inequity going on here in that we have OHV users, clubs
18 being charged for fees associated with their events,
19 but what's not being considered by the U.S. Forest
20 Service it seems to me is that they're already
21 receiving significant funds from those very same users
22 through the OHV Trust Fund grants. Those very same OHV
23 users that are going to the events have contributed to
24 the Trust Fund through their sticker fees and through
25 the gasoline tax. And then we in turn, the Division in

1 turn, passes those funds onto U.S. Forest Service to
2 the tune of tens of millions of dollars over the last
3 10, 20 years, whatever it is. And so in a way, that's
4 the problem I have with this is that the U.S. Forest
5 Service is receiving monies for those users already and
6 therefore they certainly should not be charging the
7 full amount or there should be some credit given for
8 that. They shouldn't be treated just like any other
9 user that would come along that wants to run an event.
10 So that's the problem I have with what's going on.

11 And I think we need to explore ways that we,
12 number one, get that point across to the U.S. Forest
13 Service. And then ultimately is there anything that we
14 can do about it. So I don't envision us doing anything
15 here today, but certainly we need to continue this
16 dialogue.

17 It's unfortunate that no one from the U.S.
18 Forest Service is here at that meeting, but I think
19 this is definitely going to be on the agenda next
20 meeting, hopefully have them there and continue the
21 dialogue. In the meantime I think Division will
22 continue to have their dialogue.

23 COMMISSIONER SLAVIK: I think an additional
24 component to this would be the volunteer hours. If you
25 have X, Y, Z club that's been in a particular forest

1 for 30 years doing an event, that's participated in
2 volunteer projects over that period of time, they ought
3 to be able to bank those volunteer hours. Why should
4 they get double dipped? I'd like to add that into the
5 record somehow.

6 CHAIR WILLARD: You just did. So if
7 Commissioners don't have any other discussion right
8 now, I'd like to hear what the public has to say on
9 this, and then we can have more discussion, finish up
10 with maybe some dialogue with Division.

11 I want to receive input from Dave Pickett,
12 AMA 36, because he has specific information that sort
13 of got us to this point on what's going on with his
14 club. So this is not to be timed, it's more of the
15 Commission asking AMA for input on this business item.

16 DAVE PICKETT: Dave Pickett, District 36.
17 First, thank you, Commission, for putting this on the
18 agenda. I know this made Ms. Greene have to jump
19 through some hoops on this, but I think we need to talk
20 about this.

21 I've heard some great comments in the last
22 couple of minutes, but I think it's important that the
23 keyword here is fairness to the public for a fair price
24 for holding these special events as historically is
25 documented. Commissioner Slavik made a comment about

1 clubs not having issues with sanitation, trash pick-up,
2 extra restrooms, those kinds of things, there is no
3 issue.

4 The clubs are talking about fair prices as
5 they've worked with the Forest Service through years.
6 As an example, this weekend is the Cal Bell Enduro
7 which started in 1945. For 64 years they've been
8 holding this event in the same area in the same forest,
9 and under the older rules of categorical exemptions,
10 which the Forest Supervisor had the authority to
11 implement, worked fine. They were fair prices using
12 existing roads and trails. Any resource damage that
13 occurred, there was post-event monitoring, even all the
14 way back then, and the crews would go out and fix
15 anything that was of concern. As we know, there has
16 been more environmental restrictions through the years.
17 It's just the way it is. So the clubs have adapted to
18 the best of their ability.

19 Now, I also heard comment about volunteerism
20 time by these same clubs over the years in these same
21 forests, and you can go to these forests and ask them.
22 I'll use the San Bernardino Commission tour five weeks
23 ago where I believe I heard one man put in 6,000
24 volunteer hours. That's over the top, and he's an OHV
25 recreationist, and he loves the forest. Well, that's

1 happening all over Northern California.

2 But what we're looking at is 10 to 15 events
3 that take place in a handful of Northern California
4 forests, and with the cost recovery rules -- and I
5 believe you all got the documents there on both BLM.
6 And if you remember two meetings ago, I asked Kathy
7 Mick if she would come up with a manual. Now, the BLM
8 has a manual. You might help me here. I think it's an
9 H2930-1 Guide to Cost Recovery. So this way we could
10 educate the clubs line item by line item to meet, as
11 Stan talked about, whether it was EA or full-blown EIS,
12 and then determine what type of Forest Service staff
13 needed to be involved in an event.

14 The rub is now coming because the travel
15 management plan that's been implemented at the EIS
16 status or the DEIS statuses, public contributed
17 comments about trails and roads that were suitable for
18 long-term OHV sustainability, and then your comment
19 about the OHV grants program to supplement are
20 partners. I believe in the Forest Service, it's got to
21 be over \$300 million. It's a significant amount of
22 dollars. And this is where it comes full circle back
23 to the actual cost recovery worksheet, where you have
24 law enforcement, for example. I believe being charged
25 for law enforcement at time and a half, plus vehicle,

1 plus per diem, and if they're short staffed, bringing
2 in somebody from 100, 200 miles away, then charging the
3 club on top of that, when, as an example, at the last
4 Commission meeting, they had up to a year, ahead of
5 time knowledge from the permit when it was submitted.
6 Why they could not schedule staff to do this one-day
7 event, in some cases two-day event, where they didn't
8 have to charge time and a half? And this is scaring
9 the hell out of clubs that puts on these events.

10 Now, at the Grindstone in the Mendocino, I have
11 a club, and they just are at the end of their five-year
12 permit, and they're going into the renewal process.
13 This time they're going to try for a ten-year permit to
14 go on the same timeline as the sunset for the Division.
15 And they're scared to death because they're hearing the
16 fees that clubs are paying like in the Eldorado. And I
17 believe you have a spreadsheet. Daphne, did you get
18 their spreadsheet? You have it, okay. And this is all
19 documentable, verifiable. They didn't put the check
20 numbers in here, and this is from 2004 to 2009, but
21 it's not complete yet because they haven't done
22 post-event monitoring, and they're at \$30,000. Now,
23 these are travel management, FEIS-approved trails. If
24 you divide \$30,000 by five years, that's \$6,000 an
25 event. You've got a 300-rider cap. You do the math.

1 Is this right when we gave this same forest
2 \$1.1 million in the last grant cycle to ride on the
3 same trail? This is a problem. That's pretty much it
4 in a nutshell.

5 Now, if you go back to Dan's great cost recovery
6 overview here, I'm going to come back to the volunteer
7 hours, it seems to me that the Forest Service or the
8 BLM or the government had a dollar value they placed on
9 a volunteer's time. I think it was \$15, \$18 per hour.
10 And this club I asked, CERA, called them, you guys have
11 been holding events up there 30, 35 years, do you have
12 any idea what kind of volunteer hours you have total?
13 They were talking 50,000 hours over 30 years. There's
14 got to be some value to that.

15 So I think maybe what we need to do is form a
16 committee, you guys put it together, a few key people
17 from BLM, a few key people from the Division, and a few
18 from the Forest Service to sit down, how can we make
19 this work. How can we have events for 55, 60 years and
20 have all of the environmental requirements met in under
21 50 hours so it doesn't turn into a Category Six event?
22 We can't do it anymore. So it automatically goes to
23 Category Six, and 40 hours to have it, 20 hours for
24 this employee to do native plants species check,
25 40 hours to do archeological review, on and on and on,

1 all the way down to an hour to have a guy review it to
2 make sure that it's not in a fire danger situation.

3 That gets tougher and tougher because of each
4 forest's winter closure time. So you have a calendar
5 year of 12 months. I'll use the Eldorado. You can't
6 use the Forest Service for OHV recreation for one
7 quarter of the year. You condense it down to nine
8 months, then you add the endangered birds like the
9 goshawk, in a situation I cited as an example where the
10 Forest Service person heard a goshawk, never saw it,
11 never found the nest, ten days before an event had to
12 do a massive reroute. That's tough. Is this abuse of
13 their authority as a Forest Service employee? I don't
14 know.

15 But different forests act different ways. I
16 have clubs that absolutely adore the Mendocino because
17 the Mendocino gets down and rolls up their
18 shirtsleeves, they work together, put on a good event,
19 goes through, the costs are reasonable, everybody is
20 happy, all of the environmental standards are met.

21 You go on to the next event, you go two forests
22 over, and it's like everybody hates OHV's guts.
23 They're doing everything they humanly can to stop the
24 event, and they're using the dollar sign. I can
25 provide you examples. Right now, due to the short

1 time, we put the Division under the gun here to get
2 this on this agenda, we were unable to get more
3 documentation in the time frame, but I'm working on
4 getting from every single club a history of the costs
5 it's taken to put on these enduros, and I'll give you
6 another example.

7 There were supposed to be two rides this week
8 into the Cal Bell. The traditional ride, 90-plus miles
9 on the trail, and then a family ride on Sunday. In
10 order to get the environmental work for the family ride
11 on Sunday on the same trails that are approved through
12 the travel management plan, a shorter route, \$10,000,
13 225 riders. That's over the top. That's not fair, not
14 when this community has supported this program, and
15 this program has supported the community in working
16 with their partners. That's why I'm asking for this
17 committee. We need to look at our mission statement
18 for the Division. We need to look and review the MOU,
19 MOI with the Forest Service and the BLM and figure out
20 some solutions; otherwise, we're driving the very
21 people we want to serve away from the sport, and that's
22 wrong.

23 I don't have much else to contribute to this. I
24 know the cost recovery thing is not just OHV-related.
25 I'm involved with the Cabin User Forest Fairness Act

1 right now where they're doing a review. Forest Service
2 is broke, and they're looking for pennies everywhere
3 they can, and they're talking about changing the fees
4 for those folks who own cabins that are going to
5 quadruple the fee. It's not isolated, but we need to
6 address it. And I'm open for questions if you have
7 anything.

8 CHAIR WILLARD: I think this is probably going
9 to be on our agenda at our next meeting, so we will
10 have time to get more information so that we can come
11 up with a plan to deal with it. In the meantime, be
12 assured that the Division will be communicating with
13 U.S. Forest Service. I'd like to see a list of all of
14 the events that you think AMA may be involved with say
15 in 2010 that might be affected by this. Be nice to
16 know what we're talking about specifically.

17 DAVE PICKETT: Our calendar will be out
18 December 12th. I can have it to you December 13th.

19 CHAIR WILLARD: That would be greet.

20 DAVE PICKETT: We can go from there. And I
21 invite any and all of you to come to one of these
22 events, observe what's going on. We have great
23 interface with our Forest Service partners in most
24 cases. So thank you very much.

25 CHAIR WILLARD: Commissioners, any other

1 questions for Dave?

2 COMMISSIONER FRANKLIN: Thank you, Dave.

3 DAVE PICKETT: Thanks for listening. Daphne,
4 thanks for jumping and trying to help guide this. I
5 know it's a tough one. Thank you.

6 CHAIR WILLARD: So continuing with public
7 comment.

8 ED WALDHEIM: Ed Waldheim, CTUC. 1978 when
9 Nixon signed the executive order to create the
10 California Desert Plan, Jerry Hill had been the forest
11 manager for 26 years. He made it clear to me, he said,
12 you know what Ed, we need to have dual sport machines
13 so that way you guys can go pretty much anywhere you
14 want to in the desert. Fast forward, now we have our
15 organized events being attacked through the fees to an
16 unprecedented area.

17 We have programatic plans on most of the BLM
18 lands on trails that are available. Most of the
19 offices have a book you open up, okay which trail do
20 you want to utilize, and you make the connectivity with
21 it. Well, all of the work should have been done. When
22 you say, well, it's more than usual, what's more than
23 usual, 30,000 people on a holiday weekend coming in and
24 using the land or an organized group coming in? It is
25 to our benefit to cater to the organized events because

1 if we don't do that, God only knows where they're going
2 to go. We have them together. We educate them.
3 District 37 and 36 are incredible for the noise
4 standards. They test all of the motorcycles. They
5 comply. You have them there. We have to make sure
6 that these folks continue to utilize these areas with a
7 minimum amount of cost to them.

8 We are a special interest group. You, the
9 Commission, we are a special interest group. We
10 provide money to the agency to provide a service to
11 utilize the public lands, access to the public lands in
12 an environmentally sensitive way protecting everything.
13 So we should not be penalizing these clubs who are
14 organized to participate. We have fees now. In an
15 area that has a fee in an area that gets grant money,
16 in an area we want to put on an event, they go ask for
17 cost recovery. It's a three-tier fee, fee, fee. So
18 something definitely has to be done. And I think
19 forward that hopefully next meeting we really get the
20 Forest Service and BLM folks here to discuss this
21 issue. Thank you.

22 JIM WOOD: Good evening, Jim Wood, CORVA,
23 California Off-Road Vehicle Association. Up to now
24 I've been involved with District 37 dual sports about
25 the last 15 years. We got caught in the cost recovery

1 problem. We were paying five years ago up to \$10,000.
2 We run a nonabrasive ride. We have never been cited
3 for any citations, period. We started to work with
4 Mike with Barstow BLM, with Ridgecrest BLM, we became
5 partners with them. And from ten, it went down to
6 eight, it went down to six. I believe this year our
7 district will be paying our normal four dollars per
8 rider. It has been a partnership. It has been showing
9 use reports, coming back and saying what have we done
10 wrong, why do you need to do this again. And what
11 really broke our bubble was we were told we had to pay
12 for monitoring of a wilderness corridor that was \$3800
13 for students to come out and stand in a trail. We
14 asked why we couldn't do that. We were told you can.
15 So we have. And we've done all of our own monitoring
16 now. It's been a long process. I don't know about
17 competition. I think they still pay some cost
18 recovery. And through working together with BLM, we've
19 also gone and asked them again, working together as a
20 team, we've asked for new routes. They say we can't do
21 that this year, Jim, we don't have the manpower. Can
22 we have it next year? We'll work on it during the
23 winter. It was a long fight, but hats off to Barstow,
24 to Ridgecrest and Needles BLM. We've worked very hard
25 to get to this point, but we have.

1 I can only suggest that can we get State Parks
2 to work together with Forest Service -- I'm very upset
3 they're not here today -- to work together so we can
4 work. It's our land. We should all be able to use it,
5 and we shouldn't be double taxed, and that's what this
6 is when we've already done the proper analysis of the
7 trail, and now they say, okay, let's go do it again and
8 check it again. That's double taxation. That's wrong.

9 When you look at one of the reports they come up
10 with, one year they actually charged us to put matting
11 down because they thought there might be arrowheads.
12 The arrowheads were on a trail that they put some type
13 of a coating down and put water on top of it so the
14 dust tail would be down. We had to be pay for the
15 matting to be put down and to be picked up again.

16 They're not doing that to us anymore because our
17 track record is so good. Competition track record is
18 awesome. Sound testing, mandatory; safety, mandatory.
19 I'd appreciate it if we could work together to help
20 especially District 36 and get the Forest Service to
21 participate in these meetings. It's a shame they are
22 not here. Lots of public lands in those forests, and
23 we need to be able to have the right to use them.

24 COMMISSIONER SLAVIK: Jim, real quick. What
25 about Barstow to Vegas, what's going on with that?

1 JIM WOOD: It will never happen.

2 COMMISSIONER SLAVIK: I mean the dual sport
3 event.

4 JIM WOOD: Running better than ever. That's the
5 event we've always done. This will be their 26th year
6 of doing the event. And what we've done, is like Ed
7 stated, we take an off-road bike, put a license plate
8 on it, it's now a street legal vehicle, and it does
9 allow us to use different roads. It allows us to use
10 different level two fire roads, level three roads. We
11 get away with a lot more. At the same time we were
12 being charged cost recovery on going out on existing
13 trails that anybody could use any day of the week, but
14 because we ran a couple 300 people through there with
15 no cumulative damage to the trail at all, they had to
16 go out and charge us for it. They still do an
17 after-ride review, but they have done an incredible job
18 of keeping it under 50 hours. And under 50 hours, we
19 don't pay cost recovery, all we pay is per rider. And,
20 again, it's our land. Real easy stuff, real benign
21 ride.

22 DAN MATRISCIANO: Dan Matrisciano from Temecula.
23 I would like to thank the Commission for all of their
24 volunteer time, and I'd like to thank the public
25 employees for all of their sacrifices, which I know

1 they're doing now, and I'd like to thank all of the
2 reasonable attitudes I'm hearing tonight. Thank you.

3 CHAIR WILLARD: Okay. I've always said this is
4 a very important issue we want to continue working on,
5 so we will have it as a business item for the next
6 meeting. In the meantime, I would like to ask Division
7 to continue its dialogue with the individual forest,
8 and then if appropriate Region Five. And certainly on
9 an individual forest basis, if we can be following up
10 and trying to find out what the attitude is and just
11 try to have an open line of communication with them and
12 explain our position to them, and see if there is any
13 way around this.

14 And in the meantime, what I'd like to also find
15 out is how does the grant program work into this, and
16 it gets back to this what's fair, what's equitable.
17 And if we're already giving them money, how can the
18 grant program be tweaked to deal with some of these
19 special events recovery costs. I'm not sure it can,
20 but maybe that's an area to ultimately explore.

21 Another idea that Commissioner McMillin had was
22 perhaps to send a copy of the minutes, this portion of
23 the minutes, to the U.S. Forest Service so that they've
24 got this input, they know what we're thinking about,
25 and hopefully they'll be at the next meeting where we

1 can have a more in-depth discussion with them on how we
2 can find resolution. But I would like to move forward
3 with trying to find some methods for dealing with this,
4 other than just having to get the U.S. Forest Service
5 to agree we're not going to charge you, we're going to
6 give you credit. That's fine. If not, what can we do,
7 if anything.

8 DEPUTY DIR. GREENE: I think that's the
9 implementation of 5(E).

10 CHAIR WILLARD: We're getting close to having to
11 stop here. Commissioners, any other comments, Deputy
12 Director, on this item? Thank you everybody.

13 We're going to reconvene for the workshop in
14 approximately a half an hour.

15 I need a motion to adjourn.

16 COMMISSIONER FRANKLIN: So moved.

17 COMMISSIONER SLAVIK: Second.

18 (Commissioners simultaneously voted.)

19 CHAIR WILLARD: We're adjourned.

20 (Meeting adjourned at 5:39 p.m.)

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