

STATE OF CALIFORNIA  
OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION  
MEETING MINUTES SYNOPSIS - APPROVED

October 28, 2010

Red Lion Hotel  
The Sierra Room  
1401 Arden Way  
Sacramento, CA 95816

IN ATTENDANCE:

**OHMVR COMMISSIONERS:**

Gary Willard, Chair  
Eric Lueder, Vice Chair  
Brad Franklin  
Kane Silverberg  
Paul Slavik  
Stan Van Velsor

**CALIFORNIA STATE PARKS OHMVR STAFF:**

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

**OTHER OHMVR STAFF AND REGISTERED VISITORS**

1 **AGENDA ITEM I - CALL TO ORDER**

2 Chair Willard called the meeting to order at 9:02 a.m.

3 **AGENDA ITEM I(A) PLEDGE OF ALLEGIANCE**

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

6 **AGENDA ITEM I(B) ROLL CALL**

7 Six Commission Members were present at time of roll  
8 call.

9 **AGENDA ITEM II - APPROVAL OF AGENDA**

10 CHAIR WILLARD: A motion to approve the agenda?

11 COMMISSIONER LUEDER: Motion to approve the  
12 agenda.

13 COMMISSIONER SLAVIK: Second.

14 CHAIR WILLARD: All in favor?

15 (Commissioners simultaneously voted.)

16 CHAIR WILLARD: Motion approved.

17 **AGENDA ITEM II. APPROVAL OF MINUTES**

18 CHAIR WILLARD: A motion to approve the minutes  
19 of the last meeting?

20 COMMISSIONER LUEDER: Motion to approve the  
21 minutes.

22 COMMISSIONER SILVERBERG: Second.

23 CHAIR WILLARD: All those in favor?

24 (Commissioners simultaneously voted.)

25 CHAIR WILLARD: Motion approved.

1 **AGENDA ITEM IV(A) - REPORTS - Commission**

2 CHAIR WILLARD: Commission reports?

3 COMMISSIONER VAN VELSOR: I would like to  
4 mention that the Education Subcommittee has been  
5 working with the Division to identify participants for  
6 the Education Stakeholder Committee, and that process  
7 is ongoing.

8 CHAIR WILLARD: Deputy Director's report.

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10 **AGENDA ITEM IV(B) (1) (a) - DEPUTY DIRECTOR'S REPORTS**

11 DEPUTY DIR. GREENE: Good morning,  
12 Commissioners, members of the public, delighted to have  
13 everybody here today. We have a full agenda that we're  
14 going to try to move through, share good information  
15 with you, but do it in a timely fashion. I also wanted  
16 to acknowledge that the Chief will join us somewhere  
17 between noon and one o'clock.

18 A number of items here today, so I wanted to  
19 first start off by giving an overview. We'll hear an  
20 update on the status of Oceano Dunes and the APCD, the  
21 air quality issues. We'll have a short interpretation  
22 overview of what's going on at the SVRAs, as well as  
23 we're currently in the process of a 45-day comment  
24 period for a snow EIR, and then our grants legislation,  
25 and public safety update.

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I'll turn it over to Tim.

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**AGENDA ITEM IV(B) (1) - Status of Oceano Dunes and the  
APCD Update**

ATTORNEY LA FRANCHI: Good morning. With regard to the air quality issues at Oceano Dunes, as you recall, the local Air Pollution Control District issued the report pointing to the SVRA as the source of significant particulate matter upon the Nipomo Mesa, and their board of directors asked them to work with State Parks to try to come up with a solution. The process is in the early stages of getting organized, but State Parks, the County of San Luis Obispo, and the Air Pollution Control District have entered into a voluntary collaborative three-way memorandum of agreement to come together and identify ways to address the air pollution issues identified in that phase two report. Primarily that group consists of a management oversight committee and a technical committee that will begin to look at these issues. We're just in the early stages of getting organized, and the latest activity has been to interview outside consultants with the aim of bringing them on to help the technical team address some of the issues, figure out ways to address the issues. That consultant will be selected next week and

1 get a contract in place.

2 By March, the target has been set by the group  
3 and the air pollution control board of directors to  
4 begin to implement some pilot projects that will test  
5 some ideas and ways of addressing pollution. The idea  
6 would be to test the ideas, characterize the source of  
7 the particulate matter, and look at the effectiveness  
8 of potential measures that would then meet the longer  
9 term plans of decisions about how to address the  
10 problems. That's basically where we are. I won't get  
11 into any more details today, unless you had questions.  
12 Thank you.

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14 **AGENDA ITEM IV(B) (1) - Interpretation and Education**

15 OHV STAFF CLARK: Commissioners, Deputy Director  
16 Greene, my name is Ellen Clark overseeing  
17 interpretation and education for the Division. And  
18 basically we have so much going on in all of the SVRAs  
19 that it would take probably a few hours just to talk  
20 about all of them. But here are some highlights in  
21 regards to interpretation, education and outreach.

22 We were at the Tracy Dry Bean Festival; Carnegie  
23 SVRA went to that. I'm not very clear on the details  
24 of the Dry Bean Festival. I think it sounds really  
25 cool and interesting. We had a booth there, talked

1 about OHV safety and education, and about a thousand  
2 people came to that. Doing a lot of outreach at  
3 Carnegie for school children, going to a lot of  
4 different schools in Livermore.

5 And Hollister Hills, we've been in a couple of  
6 parades, had some clean-up wheeling events. And that's  
7 been really successful, volunteer enrichment. They're  
8 really doing a large volunteer recruitment program now  
9 to help clean up the trails as well as trail patrol.

10 Hungry Valley participated in a parade in  
11 Frazier Park, and actually won a second-place award,  
12 which is really cool. They had a neat float. It was  
13 really great, get out there in the community.

14 Oceano Dunes, what I'm going to focus on today,  
15 is you all have a copy of the Oceano Dunes' brand new,  
16 hot off the presses -- and there are copies in the back  
17 for everyone -- Junior Ranger Activity Guide. It's  
18 geared towards seven to 12 year-olds, and it's a  
19 self-guided tour that they can get either at the kiosk  
20 or from the ranger, and it features off-road safety,  
21 rules of the road, the historic/prehistoric resources  
22 in the park, as well as the natural resources. So it's  
23 really a good way for the parents and children to get  
24 together and learn all about the park. There's also at  
25 your disposal an answer sheet, just in case you need

1 that. Everybody has an answer sheet, and it's just a  
2 really fun way to get out there and learn about the  
3 park. So we've got a couple of other junior ranger  
4 interpretive programs that we are developing for  
5 Carnegie, Hungry Valley, and also Hollister Hills.  
6 They will be on the website very soon.

7 So moving down to Ocotillo Wells, a lot going on  
8 there. The second annual Roughneck Rendezvous is  
9 coming up the end of January, very successful. And  
10 Prairie City just recently had their first ever  
11 customer appreciation day, which was well attended.

12 If you have any questions? Thank you.

13 DEPUTY DIR. GREENE: At this time I'd like to  
14 introduce Kate Warner, to my right, for a brief  
15 overview of the draft Snow EIR process that we're in.

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17 **AGENDA ITEM IV(B) (1) - Draft Snow EIR**

18 TRA STAFF WARNER: The OSV program comprises  
19 trail grooming, snow vehicles, and facility  
20 maintenance. The whole program comprises 26 trail  
21 systems, roughly 1700 miles of groomed trails, roughly  
22 100 miles of ploughed roads, 34 trailheads. So that's  
23 the overall scope of the activity throughout the state.  
24 The state issues contracts for these activities to 11  
25 national forests as well as three county roads

1 departments. The issuance of those contracts is  
2 considered a project under CEQA, so it's subject to  
3 environmental review.

4 In 2008, an initial study was prepared and a  
5 negative declaration that looked at just one year of  
6 the program. In 2009, the Division determined to take  
7 a long-term look at the program and prepare a CEQA  
8 document that would be more in line with their  
9 long-term funding commitment towards the program. So  
10 an EIR was prepared using a ten-year planning horizon.  
11 The EIS process started in May of 2009 with scoping  
12 meetings that were held throughout the state in three  
13 cities. In July of 2009, a formal data request was  
14 submitted to the national forest through the regional  
15 office, and we began to get data responses from the  
16 national forests. And 18 months later, we have the  
17 draft EIR. The screen shows all of the locations of  
18 the 26 systems throughout the state.

19 The U.S. Forest Service has been instrumental in  
20 helping us through this by providing the data for which  
21 the environmental review is based upon and also in  
22 getting their feedback. That shaped the analysis and  
23 helped shape the mitigation measures that are included  
24 in the report. So a big thank you goes out to the  
25 Forest Service for their help. It has been a



1 collaborative effort.

2           The draft EIR is rather comprehensive. It's a  
3 long read, but it examines a variety of issues, the  
4 primary issues of concern that have to do with the  
5 protection of biological resources and the impact on  
6 wilderness areas. So the draft EIR concludes that with  
7 continuation of the U.S. Forest Service efforts and the  
8 measures that are presented in the document, that OSV  
9 impacts related to state funding of the grooming can be  
10 kept at a low-level. We are two weeks into a 45-day  
11 review process. So the comment period closes right  
12 before Thanksgiving. We hope to wrap it up by  
13 mid-December. So by mid-December we should have a  
14 formal response to comment and have the final EIR  
15 prepared.

16           DEPUTY DIR. GREENE: Kate, if could you just  
17 give a brief review of how CEQA is different from NEPA  
18 in terms of this process. So many people are familiar  
19 with the NEPA process and not with CEQA.

20           TRA STAFF WARNER: CEQA is a different beast  
21 than NEPA; whereas, the NEPA documents, which the  
22 Forest Services is more used to, you have a decision of  
23 multiple alternatives that are looked at equally. You  
24 have an action to take and you look at various  
25 alternatives, and an environmental review is done for

1 each of those actions. So there is an equal  
2 environmental treatment, environmental analysis  
3 prepared for each alternative. And at the end of that  
4 process, you pick one of many alternatives.

5 For CEQA the process is different. You start  
6 with one project, and you do a thorough environmental  
7 review on one project. To the degree that you find  
8 that there are issues, significant environmental issues  
9 that need to be addressed, you propose alternatives as  
10 a way of avoiding or eliminating those impacts.

11 So there is a lesser treatment, environmental  
12 review of alternatives, because again the focus is  
13 really on the main project that you are proposing, so  
14 that's the biggest difference.

15 DEPUTY DIR. GREENE: Any comments or questions?

16 I'd like to now turn it over to Sixto Fernandez,  
17 the grants manager. It's been a busy season since we  
18 saw you last.

19 //

20 **AGENDA ITEM IV(B) (2) - Grants Program Update**

21 OHV MANAGER FERNANDEZ: Thank you, Deputy  
22 Director. Good morning, Commissioners. I'll be going  
23 over three different items, the first one in tab three  
24 under the '09/'10 grant cycle. At the last Commission  
25 meeting, we were up to the preliminary applications

1 that had been submitted in May. We reviewed them and  
2 provided feedback to the grantees. So I'll pick up  
3 after that.

4 In May, we received final applications. They  
5 were scored and reviewed during the month of May. And  
6 the intent to award was posted on our Division website,  
7 per the regulations, on June 7th, 2010. After the  
8 30-day appeal period, the awards became final. Vicki  
9 just passed out a sheet that gives an overview of what  
10 was submitted and the amounts awarded. So at the top  
11 across are the categories that were submitted, and then  
12 on the left side are the applicants.

13 So as you can see, the U.S. Forest Service under  
14 GO projects, they submitted 17. And if you go all the  
15 way across, the total amount awarded to the U.S. Forest  
16 Service was \$11,499,000. GO is ground operations; it's  
17 on-the-trail work.

18 CHAIR WILLARD: Anything different this year  
19 from the past years, the number of applicants, the mix  
20 of them?

21 OHV MANAGER FERNANDEZ: There are more projects  
22 that were submitted. The applicants are pretty much  
23 the same. They're more consistent. We did see more  
24 law enforcement projects being submitted.

25 CHAIR WILLARD: I see there are 19 nonprofits.

1 Is that something a little bit different from the  
2 recent past?

3 OHV MANAGER FERNANDEZ: There was an increase in  
4 nonprofits, and I think we'll see more nonprofits  
5 coming in next year.

6 DEPUTY DIR. GREENE: Correct me if I'm wrong,  
7 Sixto, but in the year prior, we had not enough  
8 requests for restoration projects. There was more  
9 money on the table than there were requests. So the  
10 team made a conscious effort during the year to reach  
11 out to agencies. Also, nonprofits were able to apply  
12 and do restoration projects. That was successful in  
13 that we did have a number of more applications that  
14 came in and were awarded. So that was good.

15 OHV STAFF FERNANDEZ: And we'll continue that  
16 outreach this next grant cycle.

17 COMMISSIONER VAN VELSOR: The nonprofits, are  
18 those projects separate from the restoration projects?

19 OHV STAFF FERNANDEZ: Yes.

20 COMMISSIONER VAN VELSOR: Were there nonprofits  
21 associated with federal agency projects, or are those  
22 projects identified with federal agencies that had no  
23 nonprofit involvement?

24 OHV MANAGER FERNANDEZ: The nonprofits have to  
25 work with the federal agencies. There is an agreement

1 that they had. So they are coordinated with each  
2 other, but they are different projects.

3 COMMISSIONER VAN VELSOR: So nonprofits were in  
4 association with federal?

5 OHV MANAGER FERNANDEZ: That's correct.

6 COMMISSIONER SLAVIK: Local grants, almost  
7 \$5 million in local grants. Can you give us a quick  
8 overview of some of the more extensive local grants?

9 OHV MANAGER FERNANDEZ: Probably the one that  
10 comes up the most is Cal City has the trail systems  
11 that they have there. So they came in for grounds  
12 operations. That's a big one. I don't have the exact  
13 numbers with me at the moment.

14 COMMISSIONER SLAVIK: Is it over a million  
15 dollars, Cal City?

16 OHV MANAGER FERNANDEZ: Cal City, it is probably  
17 under a million.

18 DEPUTY DIR. GREENE: We'll find out.

19 COMMISSIONER SLAVIK: Just trying to get a sense  
20 of what's going on out there with the local folks.

21 OHV MANAGER FERNANDEZ: We have seen some local  
22 folks, counties come in for either planning grants or  
23 acquisition grants trying to create new opportunity.  
24 So we would like to encourage that.

25 DEPUTY DIR. GREENE: Clearly, as we saw at

1 Metcalf Motorcycle Park, the Santa Clara County park  
2 system, El Dorado County, Tulare Motorcycle Park,  
3 Porterville. So those are some of the locals that  
4 consistently come in for funding.

5 OHV MANAGER FERNANDEZ: Cal City came in for  
6 \$103,000 of ground operations. They also came in for a  
7 development grant to develop their Borax Park.

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9 **AGENDA ITEM IV(B) (2) - Proposed Regulation Changes**

10 OHV MANAGER FERNANDEZ: Division staff, after  
11 this last grant cycle, identified some areas within the  
12 regulations that either needed clarity or revision. So  
13 since July, we've been working with the Office of  
14 Administrative Law to make some changes to the  
15 regulations. Please turn to the second or third staff  
16 report entitled, "Changes to the Grants and Cooperative  
17 Agreements Program."

18 So the Division staff has been working on some  
19 changes to the regulations. On the sheet that's  
20 entitled, "Proposed Regulation Changes," it will list  
21 the key dates that we have to work with. So on  
22 August 17, 2010 a notice of public rulemaking was  
23 submitted to the Office of Administrative Law. We then  
24 entered a 45-day public comment period. That ended on  
25 October 11th of 2010. On the 12th of October, we had a

1 public hearing here in Sacramento with a satellite  
2 location via telephone conference in Riverside, that  
3 way folks could come in and give feedback or provide  
4 public comments.

5 We went out for another 15-day public comment  
6 period. That was to eliminate Section F of the general  
7 provisions for the United States Forest Service that  
8 was the indemnification clause. So the Forest Service  
9 had contacted us and wanted us to revise the language  
10 on that. We consulted with our attorneys, some state  
11 attorneys, and it was decided just to eliminate that  
12 clause altogether. The 15-day public comment period  
13 ends on November 5th, and we hope to have the full  
14 rulemaking package to the Office of Administrative Law  
15 on November 24th. And then there's a 30-day approval  
16 period.

17 And if you notice at the bottom of this page,  
18 some of the key changes that we're proposing, the first  
19 bullet is to clarify definitions of indirect costs to  
20 assure costs for personnel not directly related to a  
21 project are not considered eligible costs. Basically  
22 what we saw in the last grant cycle is a lot of costs  
23 associated with higher-level personnel within the  
24 different agencies. Our thought is we want the money  
25 to be used on the ground. So hopefully instead of

1 agencies coming in and asking for salaries for the  
2 forest supervisor or district rangers, it will be used  
3 for personnel that are working directly on the ground.  
4 So that's what that change is.

5 We proposed to increase the indirect costs from  
6 10 percent to 15 percent.

7 The third bullet defines allowable travel  
8 expenses and per diem rates for nonfederal agencies to  
9 ensure consistency. So what we saw last grant cycle is  
10 a wide range of what nonprofits and local agencies were  
11 claiming as far as travel and per diem. So what we  
12 thought to keep consistency is that we would use what  
13 the state allows. So that's what we're proposing.

14 And then there were some changes to clarify some  
15 of the questions within the evaluation criteria; that's  
16 the last bullet.

17 Any questions on proposed changes?

18 COMMISSIONER SLAVIK: You mentioned Forest  
19 Service didn't like worrying about indemnification.  
20 Can you explain that a little bit better?

21 OHV MANAGER FERNANDEZ: It's really a liability  
22 clause, Section F, and it really is covered by existing  
23 tort law. And so they had wanted some changes to the  
24 section itself. In talking to Tim La Franchi, and a  
25 couple of other attorneys, they thought it was really



1 unnecessary to have that in the general provisions.  
2 And perhaps Tim can better explain the law itself.

3 ATTORNEY LA FRANCHI: Essentially, the  
4 indemnification clause is a contractual obligation to  
5 reimburse the agency if State Parks is injured or  
6 incurs damage as a result of something a federal  
7 agencies does. Under federal law, there is something  
8 called an antideficiency law, a federal law where they  
9 are unable to commit contractually unless Congress has  
10 actually appropriated funding, authorized an  
11 expenditure commitment. So the federal agencies have  
12 consistently been asking to remove or modify those  
13 clauses.

14 So what we're left with is under the Federal  
15 Tort Claims Act, if State Parks is injured or a third  
16 party or anybody else is injured, they can make a claim  
17 through the federal process. So that's the provision  
18 of law that still remains, even without the indemnity  
19 provision.

20 COMMISSIONER SLAVIK: Can you answer that in  
21 English? Does that mean that if somebody is hurt on  
22 Forest Service land that the Forest Service is not  
23 liable for it?

24 ATTORNEY LA FRANCHI: Under the federal  
25 provisions under the Federal Tort Claims Act, the

1 Forest Service is liable for an injury on their lands  
2 if it was caused by their negligence or an employee's  
3 negligence. So that doesn't mean they're not still  
4 liable to the extent Congress has said they can be  
5 liable through the Federal Torts Claim Act, but  
6 Congress decides. It's similar to state level, the  
7 state legislature decides to what extent the state or  
8 the federal agency can be held liable for injuries on  
9 their lands or caused by their employees.

10 COMMISSIONER SLAVIK: How does that relate to  
11 our grants language?

12 ATTORNEY LA FRANCHI: That federal agency  
13 liability still exists under the Federal Torts Claim  
14 Act. An indemnity provision is like an insurance  
15 policy. Essentially, the Forest Service says we will  
16 ensure you in case you're injured as a result of  
17 anything that we do. It's like your automobile  
18 insurance policy. And with that indemnity provision,  
19 State Parks, if it was injured or incurred damaged or  
20 had to pay out damage for an injury that was caused by  
21 the federal agency, State Parks could submit that claim  
22 to the federal agency. It's a contractual claim, but  
23 without the indemnity provision, the only recourse we  
24 would have is through the Tort Claims Act to the extent  
25 that it would apply to that pay out.

1           COMMISSIONER SLAVIK:   And that last situation is  
2 what applies now?

3           ATTORNEY LA FRANCHI:   Right, exactly.

4           DEPUTY DIR. GREENE:   I would also like to take a  
5 moment to thank the grants staff because on this  
6 particular issue, SB 742, we initiated the desire to  
7 get funding awarded in June so that the locals could  
8 know what their funding levels were and the federal  
9 agencies could start planning for their fiscal year  
10 beginning October 1.  But what that means is that  
11 essentially you're always in this cycle, and you see  
12 things that need to be adjusted.  We hit the ground  
13 running as soon as those grants are awarded because we  
14 need to make sure that we give the public adequate  
15 time, if we are making a change in the regulation, to  
16 have full disclosure, get the input from people  
17 throughout the year, make those changes in the  
18 regulations so that they're in effect for January when  
19 we start the process.  So I just would like to say  
20 thank you.

21           And thank you to all of the different people out  
22 on the ground, the Forest Service, BLM, cities,  
23 counties, members of the public, who just have an  
24 interest, who come to us throughout the year about  
25 their ideas about how they would change the program to

1 improve on it. As always, as the Commissioners, if any  
2 of you have any ideas that you'd like to see, please  
3 let us know any feedback that you hear from members of  
4 the public.

5 OHV MANAGER FERNANDEZ: It's definitely a  
6 partnership; can't do it without everyone.

7 //

8 **AGENDA ITEM IV(B) (2) - '10/'11 Grant Cycle**

9 OHV MANAGER FERNANDEZ: So the next grant cycle  
10 is coming up pretty quickly. As soon as we get done  
11 with one, it seems like we're up to the next one. So  
12 with the recent passage of the budget, the \$26 million  
13 allocation was in that budget. So it's a \$26 million  
14 allotment, and then there's \$1.1 million extra for  
15 restoration grants.

16 You'll see the third staff report, the '10/'11  
17 grant cycle, you'll notice some key dates on the sheet.  
18 The application process begins on January 10th of 2011.  
19 That's also the first day we're going to have  
20 workshops. So we're going to have workshops here in  
21 Sacramento on January 10th and 11th. And then  
22 January 12th and 13th, we are going to have workshops  
23 in Ontario. And I would encourage all applicants, even  
24 if they've been here before, to attend the workshops,  
25 very valuable, get a lot of information.

1           Once we continue, the preliminary applications  
2 are due on March 7th, 2011. That starts a 30-day  
3 public comment period so the public can review the  
4 applications and provide feedback. The final  
5 applications will be due on May 2nd. The intent to  
6 award will be posted on Division website on June 6th.  
7 And if there are no appeals, then the awards become  
8 final on July 7th. Then we will work to finalize the  
9 agreements. Any questions on the next grant cycle?

10           DEPUTY DIR. GREENE: Thank you, Sixto, and thank  
11 you again to the team.

12           Kathy Dolinar to provide an update on  
13 Senate Bill 855.

14 //

15 **AGENDA ITEM IV(B) (3) -Senate Bill 855- Freeman Property**

16           OHV SUPT. DOLINAR: Good morning, Kathy Dolinar  
17 from Ocotillo Wells and Kirk Shea from Ocotillo Wells.  
18 I think you have a copy of Senate Bill 855 in your  
19 folder there.

20           We are delighted to announce that Senator Denise  
21 Ducheny and Senator Dennis Hollingsworth have been  
22 successful at legislating a solution to the Freeman  
23 property at Ocotillo Wells SVRA. This success came in  
24 the form of Senate Bill 855, which was a rider on the  
25 budget recently signed by Governor Schwarzenegger.

1           What this legislation did was to split the  
2 Freeman, known as Truckhaven and Desert Cahuilla  
3 properties, into two parts. The north half  
4 automatically becomes part of Anza-Borrego Desert State  
5 Park, and the south half becomes part of Ocotillo Wells  
6 SVRA. This acquisition of the property is further  
7 exempt from the CEQA process. And while State Parks is  
8 able to acquire property without a CEQA, this gives  
9 additional protection for us to acquire this property  
10 and begin a planning process for the area.

11           We started the process of getting here four  
12 years ago when thankfully with approval from the  
13 Commission we acquired this property. We were jointly  
14 managing the property with Anza-Borrego Desert State  
15 Park. It was even more challenging than we thought it  
16 would be from the start and difficult for us to manage  
17 with both districts performing the tasks of interim  
18 management and long-term planning.

19           This decision makes it possible for us to better  
20 manage the property in day-to-day operations, and at  
21 this time we will be moving forward with the General  
22 Plan, which ultimately will come to the Commission for  
23 approval. So we're very thankful again to the senators  
24 for helping us get through this. We've spent the last  
25 year working with their offices along with staff from

1 Anza-Borrego and Ocotillo Wells, members of the OHV  
2 community, and members of the conservation community to  
3 work through the many controversies that existed. As  
4 you can imagine, those meetings were probably not  
5 unlike some of yours, heated and difficult to get  
6 through, but we were able to work through our  
7 differences and come to a compromise that everyone  
8 could live with.

9 From this point on, we will be attempting to  
10 acquire, which should be much easier now without the  
11 controversy, the state lands as well as the private  
12 parcels in the area. We're looking at different  
13 options for funding, which would include reimbursement  
14 of the OHV Trust Fund for the properties that go to  
15 Anza-Borrego Desert State Park. Any questions?

16 DEPUTY DIR. GREENE: Just for the benefit of the  
17 public who may not be able to see, could you share what  
18 the yellow, green, purple and white is?

19 OHV SUPT. DOLINAR: The yellow parcels are  
20 currently part of the Freeman property. It was an  
21 acquisition approved by the Commission and acquired by  
22 the OHV Trust Fund. It will be four years ago in  
23 December that the property was acquired. As you can  
24 see, it's in a checkerboard fashion, which creates  
25 challenges for managing. The green property belongs to

1 California State Lands, who has been willing to sell  
2 but hesitant to sell while there is any controversy on  
3 the ground. We will now be able to acquire the green  
4 property, which will make it much better for us to  
5 apply management practices on the ground.

6 The white properties are private parcels, which  
7 we will be attempting to purchase. We have a lot of  
8 willing sellers already in the area.

9 And the large purple dot in the center, where  
10 there is a straight line up and down, belongs to  
11 Anza-Borrego Foundation. That was not a property open  
12 to taking a look. We all went on the ground. It was  
13 about 114 degrees that day and spent the whole day  
14 traveling this line to make sure that what we put out  
15 there was something that we would be able to manage.  
16 And that square will still be an additional challenge  
17 because, as you can tell, it doesn't follow any type of  
18 natural contours.

19 COMMISSIONER SLAVIK: And those squiggly lines  
20 are contours?

21 OHV SUPT. DOLINAR: There is a trail there  
22 that's an easily identifiable trail or wash that will  
23 make it easy for the people on the ground to be able to  
24 tell by where they are and along with signage what  
25 property they are on.



1 I encourage you all to come down. We will take  
2 you on that same day journey along that path in less  
3 than 114 degrees.

4 CHAIR WILLARD: Thank you to staff and Division  
5 for their efforts in a creative solution to a  
6 complicated problem. That's good work. Well done.

7 DEPUTY DIR. GREENE: Loren Rex.

8 //

9 **AGENDA ITEM IV(B) (4) - Public Safety Update**

10 OHV STAFF REX: Good morning, Commissioners,  
11 members of the public. I'm going to give you a brief  
12 update of some of the public safety opportunities we've  
13 had since we met last.

14 First of all, I'd like to discuss the training  
15 that we offer other law enforcement agencies.  
16 Superintendent John Pelonio has been instrumental in  
17 getting our outreach training to other law enforcement  
18 agencies POST certified. So now it's California Peace  
19 Officers Standards and Training certified, and any law  
20 enforcement officer in California is required to have  
21 continuing professional training as part of their  
22 career. These classes are now certified to count for  
23 that continuing professional training. So we're  
24 getting a lot of increase of agencies wanting to sign  
25 up for this law enforcement training. You can see

1 we've had three different classes, one in Trinity  
2 County, the other posted at Prairie City, and the last  
3 one posted at Hungry Valley. So we're getting a mix  
4 up and down the state, and our goal is to continue this  
5 training for the law enforcement agencies because it  
6 really does help with the uniform application of the  
7 law statewide.

8 Our supervising rangers have been very busy  
9 getting out in the field visiting agencies that have  
10 OHV law enforcement programs, especially those that  
11 have law enforcement grants; many different agencies,  
12 some that are new to the program, such as Lompoc Police  
13 Department, and others that have longstanding programs  
14 such as Riverside with their road team. So a mix of  
15 different agencies, but really trying to get out and  
16 make sure that the grant dollars are being spent  
17 effectively and that we're able to assist those  
18 agencies as much as possible.

19 Probably the most exciting thing -- I'm a little  
20 biased -- but the Rubicon Trail was a huge, huge  
21 project that we worked on this summer. We had law  
22 enforcement officers up on the trail, camping out on  
23 the trail in the heart of the trail.

24 It was a collaborative effort with the U.S.  
25 Forest Service and El Dorado County. And we were able

1 to work together to really raise awareness on the  
2 trail. We had the Yellow Bandana Campaign, which  
3 El Dorado County Department of Transportation had  
4 created, and it has been a huge success as far as law  
5 enforcement officers being able to talk to members of  
6 the public who are out there on the trail driving  
7 around. A lot of times when a law enforcement officer  
8 approaches someone, it's not the first thing they want  
9 to do is talk to the ranger out there. But with the  
10 Yellow Bandana Campaign, it offered a great tool to  
11 give them something that raises awareness about  
12 responsible recreation on the trail and really gives us  
13 a chance to talk about the water board ruling and what  
14 they need to do to keep the trail open.

15 The Division purchased 1500 WAG bags, and those  
16 were handed out. For those that are not familiar with  
17 a WAG bag, it's a portable way to take your human waste  
18 off the trail with you in a sanitary fashion. So we  
19 were handing out these kits to folks to make sure that  
20 all of the human waste got taken off the trail with  
21 them, and it was very successful. People in the  
22 community were a little hesitant with seeing more law  
23 enforcement out there, but we had positive feedback  
24 from agencies and also the community.

25 We continue to work with U.S. Forest Service,

1 BLM, and Kern County Sheriff Department on the Pacific  
2 Crest Trail. We had a law enforcement detail where we  
3 had some riders on motorcycles trespassing on the trail  
4 that were actually arrested. It brought a lot of  
5 awareness to the issue. During the summer, the riding  
6 season hasn't been so popular. As the temperatures  
7 cool down we're starting to see more and more riding  
8 activity out there. We recently went out to Tehachapi  
9 for a joint agency meeting to talk about future actions  
10 to help prevent the trespass. Our supervising rangers  
11 have also patrolled areas that we get tips or reports  
12 that there could be vehicle trespass. The hot topic is  
13 the Cache Creek locally here in Yolo County, Fordyce  
14 and Prosser areas of the national forest and Nevada  
15 County, and we're just getting reports of possible  
16 vehicles off-road, people taking motorcycles and OHVs  
17 where they shouldn't be taking them.

18 We recently have been consulting with California  
19 State Parks up in Del Norte County, Tolowa Dunes State  
20 Park. They had some incident of OHVs trespassing onto  
21 the State Parks property, and we've been working very  
22 closely with them. I just talked to their  
23 superintendent yesterday to get an update, and he said  
24 the incidents of trespass have gone down, so we're  
25 making progress on that.

1           And then also I just want to recognize  
2 Superintendent John Pelonio who has been with the  
3 Division for a number of years and made quite a bit of  
4 progress towards the Division's mission. And he has  
5 recently transferred to the Law Enforcement Emergency  
6 Services Division. He's the Department's new  
7 Superintendent of Emergency Services. So just want to  
8 recognize the amount of work he's done for the Division  
9 and wish him very well in his new position.

10           COMMISSIONER SLAVIK: Do we have a replacement?

11           DEPUTY DIR. GREENE: Just for everybody here,  
12 John doesn't know it, but we've actually invited him  
13 here today after lunch. Chair Willard wanted to  
14 acknowledge all of the work that he's done. We have a  
15 plaque for him, so we'll be able to do that a bit  
16 later.

17           If I may, just on one item, which is the Rubicon  
18 Trail, and I would like to thank Loren and all of the  
19 staff that helped on this project. This goes back to  
20 the year 2000 where I know members of the off-highway  
21 vehicle community and the conservation community were  
22 frustrated about what was going on with the trail. We  
23 provided grant funding. The Forest Service and  
24 staffing has been challenged. The county has been  
25 challenged. In our Strategic Plan, we looked providing

1 the opportunities for cross training and interagency  
2 training. As Kathy mentioned, if it's 114 degrees in  
3 the desert, then we probably have opportunities for law  
4 enforcement to come up and help in other areas  
5 statewide, so bringing people, let's say, from Ocotillo  
6 Wells in the summer to be able to work on this detail  
7 on the Rubicon.

8 Part of what the challenge has been over the  
9 years is law enforcement typically will leave the trail  
10 about 4:00 p.m. Our commitment was to be there  
11 24-hours a day. And so as we went through the first  
12 couple of weekends with a lot of community policing, a  
13 lot of outreach, a lot of talking with everybody. But  
14 I think it was on the third weekend where at about 1:30  
15 in the morning it was determined that somebody was not  
16 able to drive, and the officers then ended up issuing a  
17 cite and release on a DUI. You can imagine sort of  
18 what that ripple effect had, number one, to see law  
19 enforcement officers at 1:30 in the morning, like what  
20 are you doing out here. But the opportunity then to be  
21 able to have the dialogue with the people who were  
22 there, and the support that the law enforcement  
23 officers received. And actually I believe it was not  
24 45 minutes after that that one more was issued. That  
25 was it for the remainder of the season. The word got

1 out that you didn't know when the law enforcement  
2 officers were going to appear behind what tree or what  
3 rock. The feedback we received has been outstanding.  
4 The opportunity to partner with the Forest Service and  
5 CHP and the county, to be able to share that  
6 information that we have, it really was very  
7 successful. So, Loren, thank you for that effort.

8 COMMISSIONER LUEDER: I'm wondering, Loren, when  
9 you visited the local county sheriff departments, as  
10 I'm sure we're all aware, many counties are laying off  
11 employees, including sheriffs, and I'm just wondering  
12 how that's affecting the departments that you visited?

13 OHV STAFF REX: A lot of times the OHV details  
14 or OHV teams are seen as kind of supplementary or the  
15 fluff on the primary patrol functions. So there are  
16 some departments that are actually bringing in retired  
17 annuitants, not a full-time salary, but to work on an  
18 hourly basis to help cover some of these shifts. But  
19 it is really stretching people thin. Especially in  
20 Kern County, we've talked to the officers there, and  
21 they just don't have a lot of full-time deputies to  
22 handle it on a regular basis, and they get all kinds of  
23 calls for other types of crimes. So with the reduction  
24 of deputies, departments are trying to get creative to  
25 still cover all of those shifts, but it is definitely

1 challenging.

2 COMMISSIONER VAN VELSOR: Do you folks plan on  
3 the same level of participation on the Rubicon next  
4 year?

5 OHV STAFF REX: We're still bringing all of the  
6 data for this year, and we're going to have the  
7 discussion about looking at the impacts that we've had  
8 and seeing whether or not that it's going to be the  
9 right fit to have the State Parks team up there, or not  
10 or what next year is going to look like.

11 But we have got a lot of positive feedback, and  
12 we're going to have to look at all of the stats that we  
13 have and the costs involved and make that decision.

14 COMMISSIONER VAN VELSOR: Secondly, on the  
15 Tolowa Dunes State Parks, you said that there has been  
16 a reduction in trespass. What do you attribute that  
17 to?

18 OHV STAFF REX: Recently the Del Norte County  
19 Board of Supervisors had designated a tract of land  
20 nearby as an OHV area, and they had some controversy  
21 with the Coastal Commission about the posting of the  
22 signs and the designation of that as an OHV area.  
23 Since then, the signs have been removed. The  
24 designation has not changed at all but because the  
25 signs have been removed, they did see less people



1 riding there because it's not an obviously designated  
2 OHV area at this point.

3 DEPUTY DIR. GREENE: One of the things,  
4 Commissioner Van Velsor, also that we've been focussing  
5 on up at Tolowa Dunes from the State Parks, as you look  
6 it as it goes along the shoreline, on the northern  
7 section is a state park, then there is a privately-  
8 owned section, and then there is State Parks below.

9 State Parks as a whole has been challenged with  
10 signing so that people who are on the private property  
11 recognize that if they are going to continue to travel  
12 north they are now entering onto the State Parks  
13 property, and so you're not able to do that with a  
14 Green Sticker vehicle. And so it's just trying to be  
15 clear about the signage that we have, about looking at  
16 putting up some fencing that's available as well a  
17 little further inland where there is State Parks  
18 ownership as opposed to Fish and Game ownership. So  
19 where we can help collaborate to make sure that the  
20 signage is accurate so the public can understand it, it  
21 makes sense, and be able to look at installing that  
22 fencing as well. Those are some of the efforts we've  
23 been trying to do to help State Parks up there.

24 That's it from the Division for now.

25 //

1 **AGENDA ITEM IV(C) - BLM Report**

2 WILLARD: Moving on to the BLM report.

3 BLM STAFF AHRENS: Good morning, I want to take  
4 just a moment to recognize a couple of people that are  
5 here. Carla Norris, our Associate Deputy State  
6 Director and Resources, is here. She's in her first  
7 year actually with our state but very much has become  
8 engaged in the Off-Highway Vehicle program and has been  
9 very helpful. Also, it's with great pleasure that I  
10 recognize Jim Keeler, our State OHV Coordinator,  
11 (applause), very much back with us, beginning to kind  
12 of reenter the program and workforce there and very  
13 happy to have him back.

14 We provided a report for your package. I'll go  
15 through that just very briefly. As you can see, we  
16 made some progress on some of our solar energy  
17 developments. As of the date of this report, three  
18 different projects have been approved, and at least one  
19 of them, the Right Source Energy, has actually had a  
20 groundbreaking and is underway. Those three projects  
21 are going to provide almost 1200 megawatts of power,  
22 which is enough power for 500,000 homes and is creating  
23 about 2,000 jobs in that area. Also, in the report we  
24 provided a web link to our web page where you can track  
25 the development of our solar program, and it has quite

1 a bit of information really on the documents and what  
2 have you for all of the different projects that are  
3 available at that web page.

4 I wanted to point out, others probably will  
5 today as well, the class schedule for the California  
6 Archeology Site Stewards Program. They're, of course,  
7 good partners of ours, as well as State Parks, and the  
8 Forest Service; happy to help kind of promote them. So  
9 the dates and times for those stewardship programs are  
10 in the report and encourage folks to participate in  
11 that.

12 We had the opportunity to have Director Abbey  
13 out to attend the Sand Show back in September. He  
14 recognized the American Sand Association for their  
15 efforts and responsibility and outreach to the public  
16 and gave them the Director's Award there. It was good  
17 to have him take an interest in our program at that  
18 level, and he continues to do so.

19 The Imperial Sand Dunes is recognizing an  
20 approximately five percent reduction in visitation last  
21 year. This is probably an economic situation. Of  
22 course, Halloween next weekend is the star of our next  
23 season. They'll be working putting together their  
24 enforcement and visitor services teams for this coming  
25 weekend, Thanksgiving, and Presidents Day.

1           The ISDRA Management Plan that we had a full  
2 report on at our last meeting in April, they have gone  
3 through the public review, accepted comments, that was  
4 extended 45 days into early August. They've received a  
5 number of comments and are currently combining and  
6 filing those comments and addressing those comments  
7 into their final plan and hoping to have a release of  
8 the final plan right after the first of the year.

9           We had hoped to be able to give you a little  
10 more of a briefing on the accident that occurred at  
11 Johnson Valley last August. I think everybody is aware  
12 of the accident. The investigations on that are  
13 ongoing. California Highway Patrol is the lead for the  
14 law enforcement investigation. That's currently  
15 ongoing, and we, of course, are cooperating fully with  
16 them in that investigation.

17           We're also conducting our own internal  
18 investigation on policies and procedures, and that's  
19 still an internal process. We're moving that up into  
20 our Washington directorate for their review and  
21 clarification. As soon as they complete that process  
22 and are comfortable with that, we'll be releasing that  
23 publicly on our web page and certainly want to brief  
24 the Commission at that time on this and have a very  
25 open discussion about how we move forward from there.

1           And then finally, not on the report, I just  
2 wanted to make a mention that we had in the desert  
3 district held a recreation planners workshop and  
4 actually had it in Laughlin back in August, I believe  
5 it was. So we, of course, waited until it was really  
6 hot in the hottest part of the desert. As part of that  
7 workshop, we invited Kenney Glaspie of the OHV Division  
8 to come and talk about the soils conservation standards  
9 and that work. That was a remarkably good thing to do.  
10 Kenney was very, very helpful; helped me to put my  
11 program very much on track, and I think helped put  
12 several other desert offices on track, as well. I  
13 wanted to thank him and the Division. I know it's a  
14 little difficult to get him down there during that  
15 period of time, so I wanted to recognize that  
16 commitment to get him down there to help us. I think  
17 it paid off very well and is continuing to. He's  
18 already scheduling some additional trips to help some  
19 other offices, as well. That is, in summary, our  
20 report. And I'm open for questions.

21           COMMISSIONER LUEDER: Getting back to the  
22 Johnson Valley accident, while you're doing your  
23 investigation, what measures are you taking for events  
24 that are going on now to provide a little bit higher  
25 level of public safety?

1           BLM STAFF AHRENS: Well, we've just really gone  
2 back in following our regulations, we're working closer  
3 with our promoters to ensure they've really thought  
4 through how their event is going to be operated, how  
5 they're going to handle spectators, the whole event,  
6 make sure that's really thought out. We're providing a  
7 higher level of staffing for that as well now to ensure  
8 that the operations plan is implemented and that the  
9 stipulations are met as designed, and just kind of up  
10 the game, frankly, in this interim period until we can  
11 come to final conclusions.

12           COMMISSIONER LUEDER: And the clubs and the  
13 promoters are cooperating with you?

14           BLM STAFF AHRENS: They've been remarkable,  
15 absolutely. Many of them really stepped up in a big  
16 way developing practical plans, health and safety  
17 things, what have you. It's really been very  
18 heartening to see that level of enthusiasm.

19           COMMISSIONER SLAVIK: Any update on the Johnson  
20 Valley Marine takeover?

21           BLM STAFF AHRENS: No, I do not; honestly just  
22 don't; sorry.

23           COMMISSIONER SLAVIK: That's at a stalemate?  
24 What's the status?

25           BLM STAFF AHRENS: I've honestly not heard

1 anything new on that. I can learn more and tell you.

2 //

3 **AGENDA ITEM IV(D) - USFS Report**

4 CHAIR WILLARD: If we could please have a report  
5 from the U.S. Forest Service. We're also going to have  
6 the U.S. Forest Service speaking with us as a separate  
7 business item later.

8 USFS STAFF NORQUIST: Good morning,  
9 Commissioners, my name is Keaton Norquist with the U.S.  
10 Forest Service. I'll start off by updating you on  
11 something you're familiar with, the travel management  
12 process in Region 5. Currently, all the forests have  
13 completed their NEPA analysis, so that's a major step  
14 forward. We're right now looking for the Plumas  
15 National Forest to issue their decision. We expect  
16 that to be released in two to three weeks. That makes  
17 all decisions and analyses to have been completed on  
18 Subpart B.

19 There are a couple of appeals right now. The  
20 Tahoe National Forest recently issued their ROD, so  
21 they're in a 45-day public appeal period. And the  
22 Klamath National Forest has completed their public  
23 appeal period, so they're now inside of the 45-day  
24 interim appeal process.

25 And there's a new litigation action report in

1 the Six Rivers. Specifically the Smith River National  
2 Recreation Area is being litigated, and that's in  
3 addition to the Eldorado and the Stanislaus lawsuits  
4 that were already ongoing. And I don't have any  
5 particulars on those.

6 As far as Subpart A, the other third of the  
7 Travel Management Rule, right now the Washington office  
8 is working on making sure that all the regions have a  
9 consistent understanding of how to move forward with  
10 Subpart A, and they're developing guidance that's going  
11 to be forthcoming. So right now the Region 5 forests,  
12 we're waiting for that guidance before we proceed to  
13 Subpart A. You'll note that's different from Subpart B  
14 because it's a left-sided analysis without a NEPA  
15 decision, so that's it for travel management.

16 Happy to report some new travel-oriented guide  
17 maps. These are hot off the press, very popular. One  
18 is for the Rock Creek Area on the Georgetown Ranger  
19 District of the Eldorado National Forest. The other is  
20 the Hume Lake Ranger District on the Sequoia National  
21 Forest. We're very pleased that these maps are  
22 ongoing.

23 The science studies, we currently have three  
24 science studies that were funded by the grants program.  
25 The first two are the Vertebrate Assemblage and the



1 Northern Spotted Owl studies. These have been  
2 finalized by the researchers. And the final reports  
3 have been completed. They're currently being reviewed  
4 by our office right now, and we expect to get those  
5 final reports back to the Division probably next month  
6 or maybe in December. And the third study, the North  
7 American Goshawk study, that's still active. You  
8 remember we were funded additional funding to conduct  
9 the analysis on that study, and we're anticipating  
10 getting back the final report from the researchers  
11 probably by the end of the year. So that's kind of the  
12 update on the science studies.

13 As was previously reported, we've been working  
14 with OHV Division on the snow grooming EIR and Kate  
15 Warner, and we've been more than happy to do that.  
16 Once the EIR is finalized, we will be working with the  
17 forest and BLM for that program. Also, we had our  
18 annual Snow Parks meeting with OHV Division a couple of  
19 weeks ago, and that was also successful. And we  
20 went over the special use permits for the snow parks,  
21 and I believe we reissued those permits for the next  
22 year.

23 As Loren brought up the Rubicon Trail, I also  
24 wanted to highlight another development we are really  
25 excited about. The El Dorado County Board of

1 Supervisors last week unanimously voted to seek an  
2 easement from the Forest Service for the Rubicon Trail.  
3 We're really excited about that, and we hope that it  
4 will be a good step forward for better management of  
5 the trail, and we expect the Eldorado National Forest  
6 to be processing that easement application immediately.

7           General updates, we have some personnel changes  
8 that you might be aware of. We have three new deputy  
9 regional foresters. So every once in a while Randy  
10 Moore, who is the Regional Forester, appoints his  
11 deputies. The first one is Dan Jiron, who is a former  
12 forest supervisor from Region 3, the southwest region.  
13 The second deputy regional forester is Jean Wade Evans,  
14 a former forest supervisor on the San Bernardino  
15 National Forest. And the deputy regional forester who  
16 oversees our area and recreation is Ron Ketter, and he  
17 was formally the assistant director of Strategic  
18 Planning, Budget and Accountability in our Washington  
19 office. So we are excited to have him, and I know that  
20 he would like to come to some meetings in the future.

21           Other just general updates, we recently  
22 completed a field trip to the Mendocino with Roger  
23 Poff, and the purpose of that field trip was a training  
24 program for the Mendocino staff. We were highlighting  
25 the green, yellow and red trail condition surveys and

1 how to do those. So it was good for new people, and  
2 also a good refresher for some of the veterans.

3 Upcoming work that we anticipate, right now  
4 we're working to develop a set of best management  
5 practices to address water quality, and we also will be  
6 working with Roger Poff to develop new ways of managing  
7 the trail system during wet weather.

8 And as Commissioner Willard mentioned, we have  
9 Nancy Fleenor here today. She's on the second agenda  
10 item. So we are here to talk about cost recovery, and  
11 she's here to answer any questions that people might  
12 have. Hopefully this will be a productive dialogue and  
13 we're looking forward to it.

14 With that, I'm open to questions.

15 COMMISSIONER FRANKLIN: Could you explain the  
16 easement application on the Rubicon?

17 USFS STAFF NORQUIST: I can explain what I know  
18 of it. So currently it was kind of a gray area as to  
19 who was managing the trail, the legal status of the  
20 trail with the county and with the Forest Service. And  
21 I don't know if you're familiar with, it's called  
22 RS 2477, but there are people saying the county should  
23 apply for it under RS 2477. It's a pretty complicated  
24 issue. Region was really involved with the process,  
25 and I know the Forest Supervisor Ramiro Villalvazo, he

1 went to the El Dorado County Board of Supervisors and  
2 spoke on the issue. If you want to get really  
3 detailed, you probably want to talk to the forest about  
4 that. But I remember seeing an e-mail from Ramiro to  
5 the rest of us saying it was really exciting about the  
6 unanimous vote of the El Dorado supervisors. Under  
7 that easement, I believe that the county will be the  
8 permittee and will be responsible for the management,  
9 but it's a forest service trail, so we're ultimately  
10 the manager, the one responsible for that.

11 COMMISSIONER LUEDER: Maybe you mentioned who  
12 Roger Poff is. Could you give us a little information?

13 USFS STAFF NORQUIST: He's a Forest retired  
14 annuitant. He was very instrumental in designing the  
15 green, yellow, red form we used for the trail condition  
16 surveys. I'm sorry, I thought you might have been  
17 familiar with him. Actually, I should probably give a  
18 shout out to him. He's been a huge help in developing  
19 our grant applications and making sure that we meet  
20 trail condition surveys. Thank you.

21 //////////////////////////////////////

22 **AGENDA ITEM IV - Public Comment on Reports**

23 CHAIR WILLARD: Open to public comment.

24 JERRY FOUTS: Good morning, Commissioners. My  
25 name is Jerry Fouts. I represent the, AMA, American

1 Motorcyclists Association. Really my comments aren't  
2 specific to any one thing on this part of the agenda,  
3 but it was really my experience with the BLM in the  
4 Folsom office about five months ago, and I'm really  
5 disappointed. I'm a guy that I'm still learning the  
6 process, and I'm still learning the nuts and bolts.  
7 I'm trying to deal with different people in  
8 understanding that Sierra study that they just put out  
9 in areas that were going to potentially be closed, and  
10 I had some questions.

11 And the good news is I couldn't find anybody at  
12 home in the Folsom office, but they did call me back.

13 And as I worked my way through the process, I  
14 finally found a guy on the ground that really was the  
15 guy that was helping me with the Mariposa area. I'll  
16 tell you what, my discussion with him was terrible. I  
17 had questions because I didn't understand. And maybe I  
18 didn't ask the right questions in the way that he  
19 wanted me to ask them. I'm curious, I don't know why  
20 my area is being shut down. I want to know about  
21 county roads, and I wanted to know how my dad, who is  
22 now passed away, was going to get to a place that he  
23 liked to go to pan for gold in a jeep because he can't  
24 see anymore because he had diabetes. And pretty much  
25 the guy on the other end of the phone laughed, and he

1 told me, "I guess he'll have to walk." That really  
2 pissed me off. I'm sorry to use that word. You need  
3 to hear that, and so does the BLM people in the room.  
4 That's crummy.

5 So you know what my pushback was, because I'm a  
6 motorcycle rider, my pushback is: I'm going riding.  
7 That's wrong. That's wrong on my part. It's wrong on  
8 his part. We shouldn't be doing business that way.

9 The answer I should have got from that guy was:  
10 You know what, Jerry, meet me out there, and let's go  
11 look at it. Let's go riding. Let's talk about it.  
12 And, yeah, maybe the decision happened without you  
13 knowing about it, maybe you have questions about how  
14 the process works, and you don't know. Let me help  
15 explain that to you so in the next battle you will be  
16 better equipped.

17 That's what I would hope would come out of these  
18 paid professionals that I pay. I'm angry. You know  
19 what, I'm really angry because my dad died, and he  
20 ain't going to get to see it and that's crappy. So,  
21 anyway, that's water under the bridge.

22 We're going to be positive from now on. I've  
23 got from positive comments about some wonderful stuff  
24 on the road that happened that are good things. I'm  
25 sorry to bring that to you, that crummy stuff, but

1 there is a culture of motorcycling out there that has  
2 to change. That's what I talked about at the last  
3 Commission meeting, and that culture includes you, it  
4 includes law enforcement, it includes administration,  
5 along with the riders. And it's not going to happen  
6 until we all work together. Thank you.

7 ED WALDHEIM: Good morning, Commissioners. Ed  
8 Waldheim, California Trail Users Coalition. I'm glad  
9 to be here. It's been a long hiatus, but everything is  
10 still rolling out there, trust me, it is still rolling.

11 I'd like to thank again the grants team. I call  
12 it the OLGA team. Without those folks, they are the  
13 most incredible folks that we've ever had under Sixto's  
14 leadership, and I can't talk enough about those guys.  
15 They come. I run meetings with six national forests on  
16 a quarterly basis with all of Southern California BLM  
17 areas, and these guys, if they're not on the telephone,  
18 and they are out there in person. I mean it's never  
19 happened to us in the 30 or 40 years I've been involved  
20 with these programs that -- these guys really come out  
21 there. So we should really should give them a hand for  
22 all of the work that they've done. (Applause)

23 This gal over here sets the stage. At two  
24 o'clock in the morning, she answers the telephone. I  
25 would like to take advantage also to introduce Karen

1 Sanders. Karen Sanders is my right-hand person. She's  
2 going to take over here for me when I go out to the  
3 sunset. Daphne answers the phone at two o'clock in the  
4 morning, and Karen is right behind it at 1:35 in the  
5 morning answering the phone. And Sixto at  
6 eleven o'clock at night he answers the phone. So thank  
7 you very much.

8 Loren, one of the things that I think it's time  
9 for the agency to start helping us, Kern County has an  
10 incredible amount of resources that was put into the  
11 PCT. In the meantime, our limited-use areas are  
12 getting totally hammered. We are being hammered like  
13 never before. Right now the Jawbone / Dove Springs  
14 area, I'm requesting help from Loren and the Division  
15 because Kern County doesn't have the people to do it.  
16 The Bureau of Land Management has one ranger, one  
17 ranger walking around over 500,000 acres that we have  
18 that we patrol and we have visitors there. And those  
19 are the Jawbone / Dove Springs, 275,000 acres, 65,000  
20 acres in the Rands, and then we have El Pasos.

21 Friends of Jawbone is managing and we're doing  
22 just about all of the work in those areas with our  
23 grant. This weekend it was unbelievable. It's going  
24 to take all eight full-time employees that we have.  
25 It's going to take us at least the whole week to fix



1 the damage that the criminals are doing to our public  
2 lands. I'm going to call them criminals now because  
3 before I was calling them willfully ignorant. They are  
4 no longer willfully ignorant. Everything is closed  
5 that needs to be closed. Trust me, it took me  
6 13 months to get it done with the grants that we got.  
7 Everything is closed. There is nothing open that is  
8 supposed to be closed. Everything has been buried by  
9 wind fences, by pillar posts, by signs. People are  
10 just deliberately going around them. And I  
11 sent somebody the pictures. So these have me really,  
12 really concerned, and we need to do something.

13 The next thing on the BLM report, I wish  
14 sometimes -- Mike Ahrens forgot about it, but Friends  
15 of El Mirage and Friends of Jawbone are an integral  
16 part of the management on public lands. We are on the  
17 ground doing the work. Eight full-time people in  
18 Jawbone, every day, five days a week we're working on  
19 trails. That's unparalleled. That's more people than  
20 Ridgecrest even has to work on the trails. We're  
21 making the difference. In El Mirage, we're doing the  
22 same thing. So one day I would like to make a  
23 presentation, ask you guys if we could make a  
24 presentation on the video to show you the work that  
25 we're doing so that we can keep that going, okay?

1           And I'll drop it at that, and cover it later.

2           JOHN STEWART: Good morning, Commissioners,  
3 Deputy Director, John Stewart representing California  
4 Association of 4-Wheel Drive Clubs.

5           It is regrettable that the accident occurred in  
6 Johnson Valley and the loss of life with it that  
7 occurred. And that has brought some real questions now  
8 to the entire BLM permitting process. Now, I think  
9 everybody should keep in mind that not only is the BLM  
10 working under special recreation or special use permits  
11 from a point in federal law, but the Forest Service is  
12 also.

13           And one of these points for recreation for these  
14 permits is to allow events to be done so that they do  
15 not compete or do not run afoul or impede upon the  
16 public's use of that same area. One thing, as this  
17 moves forward, and I'm hoping that the agency, as they  
18 work on their investigation and begin to change and  
19 look at their processes, is they consider the fact that  
20 recreation groups and competitive private enterprise-  
21 type, supported competition events, there is a distinct  
22 difference between the two. And right now everybody  
23 has lumped them in the same special recreation rules,  
24 same permits rules.

25           And I would like to make sure as we move forward

1 that a careful consideration be given to rules that are  
2 implemented so that they do not adversely affect the  
3 members of the general public, these small clubs, the  
4 family groups that apply for these permits and actually  
5 price them out of having the ability to have their own  
6 little event or their own something where there are no  
7 spectators involved, where there is no charge or award  
8 for finishing first in a race. The California  
9 Association of 4-Wheel Drive Clubs does host several  
10 events on BLM lands in the south and also on forest  
11 lands throughout the state. And it is within these, as  
12 we're hoping and willing to work with the agencies as  
13 we move forward in order to craft rules and regulations  
14 that do not adversely impact the recreation usage.  
15 Thank you.

16 KAREN SCHAMBACH: Good morning, Commissioners.  
17 I also wanted to address the cost recovery, and I know  
18 we're going to have that on the agenda. But because of  
19 the unfortunate tragic Johnson Valley incident was  
20 mentioned earlier, I wanted to point out that the  
21 inconsistency -- at least the inconsistency that I and  
22 many others see in the off-road community's position on  
23 both criticizing BLM for not properly managing that  
24 event and the parallel call for eliminating the ability  
25 of the Forest Service and BLM to charge these

1 moneymaking sponsors of these events for the  
2 environmental analysis, the monitoring, and the  
3 management of the events.

4 We all know how thinly stretched these agencies  
5 are, as Ed Waldheim pointed out, one ranger for 500,000  
6 acres, and that's pretty much the case throughout the  
7 state. So I don't think it's fair to ask the public to  
8 subsidize these events for these groups that are  
9 putting them on that make money on them. Times are  
10 hard. I think it's kind of ludicrous in this day and  
11 age of tight budgets to ask the public to subsidize  
12 these events, and then on the other hand, you know, to  
13 criticize BLM for not properly managing these same  
14 events. Anyway, I wanted to point out the irony of  
15 that.

16 On the Rubicon, I was up there yesterday, and I  
17 was up there a few weeks ago, too, and interested in  
18 seeing the work that's being done pursuant to the CGS  
19 report. I've said many times that we really need a  
20 management plan for the Rubicon, and I still firmly  
21 believe that. And I hope that the process of issuing  
22 an easement will finally result in that.

23 This Commission, this program provided \$400,000  
24 to El Dorado County for a management plan that was then  
25 essentially just scrapped when the Division, well

1 intended as it was, provided the CGS group to go up and  
2 look at the needs for trail maintenance. That's fine,  
3 it did need to be done, but there are other issues up  
4 there besides trail maintenance, many social issues,  
5 issues of where to camp. The lack of a plan resulted  
6 in some pretty silly funding decisions. One nonprofit  
7 group got, I think, \$90,000 -- I could be wrong, but it  
8 was a substantial amount of money for what -- I know  
9 I'm out, but because we have to address everything that  
10 was brought up earlier, it's sort of hard to do that.  
11 I'll try to wrap up quickly, though. Anyway, they got  
12 a Unimog to do toilet cleaning on a trail that didn't  
13 have any toilets. So the first toilet was just put in.  
14 They've been running this Unimog around the county  
15 showing it off in parking lots for the last year. That  
16 seemed sort of silly.

17 And now the county has just requested -- is  
18 putting in a grant request, RFP grant for cleaning out  
19 toilets. So far there are only two toilets out there,  
20 and we've got a lot of money being requested and  
21 granted for cleaning out these toilets which until just  
22 recently were pretty much nonexistent.

23 I just wanted to point out, planning is  
24 important to both saving money and protecting  
25 resources. And one last thing, as a result of the lack

1 of planning up there, there was an archeological site  
2 damaged by the work being done, the trail maintenance  
3 work. It's tragic, and it didn't need to happen.

4 Thanks.

5 AMY GRANAT: Good morning, it's a pleasure to  
6 address you. I'm Amy Granat, California Off-Road  
7 Vehicle Association, CORVA, and I just wanted to  
8 correct a couple of things about the Rubicon that  
9 Keaton from the Forest Service was saying.

10 Let me read you the motion as it originally was  
11 at the meeting. I'm not sure if anybody else in the  
12 room was at the meeting. I was and listened to the  
13 testimony because there was an awful lot of cautious  
14 work being put into this. It was not an easy decision  
15 either for the county, Rubicon Trail Foundation, or any  
16 of us to conditionally support this easement.

17 But what they approved is applying for the  
18 easement for the Rubicon Trail alignment and to take  
19 the steps necessary to require an easement from the  
20 private property owners, Wentworth Springs to the  
21 El Dorado / Placer County line. And it is important to  
22 note in this that the easement is not intended to  
23 supplant, replace, diminish or alter whatever right of  
24 way made for this under RS 2477 both descriptive  
25 easements or any other manner.

1           And basically what they're saying is they are  
2 not conceding or agreeing that this is a Forest Service  
3 trail. This is an unmaintained or unimproved county  
4 road for El Dorado County, and the difference is  
5 significant to the users and significant in the manner  
6 of courts, as well. So I just wanted to set the record  
7 straight.

8           BRUCE BRAZIL: Good morning, Bruce Brazil,  
9 California Enduro Riders Association. I've got two  
10 items that I would like some clarification on.

11           In the one under legislation, next week one of  
12 the propositions that we will be voting on has to do  
13 with tacking an additional fee onto the registration  
14 for vehicles. And in that legislation if it happens to  
15 pass, we'd have free access to the State Parks. I'm  
16 just wondering if that also carries over to the SVRAs?

17           CHAIR WILLARD: That's a question I had, as  
18 well. Deputy Director, if you could answer that, I was  
19 reading it the other day, and that thought popped into  
20 my mind.

21           DEPUTY DIR. GREENE: Yes, it would apply, as  
22 well, to the SVRAs. Just for clarification purposes,  
23 it is for day use. So I know that there are some  
24 people who have thought of it as camping; it is for day  
25 use only, though.

1           BRUCE BRAZIL: Second item, possibly Kathy from  
2 Ocotillo Wells could expand on something she had  
3 mentioned. That's whether or not the State Parks will  
4 be reimbursing OHV Division for whatever properties we  
5 had used our money on that will be going into  
6 Anza-Borrego Parks. Because in 2006, when this all  
7 went in front of the Commission, there was some  
8 contention as to, well, what happens if our money gets  
9 used for a plan that goes into the parks. So I'm just  
10 hoping that maybe Kathy could expand a little bit on  
11 that if there is something for us. Thank you.

12           ATTORNEY LA FRANCHI: I think I can respond to  
13 that a little bit. When the property was acquired,  
14 there were two sources of money. One was to be from  
15 the federal government under a congressional grant to  
16 acquire property to deal with wildlife corridors,  
17 mitigate wildlife mortalities connected with the  
18 highway system, and it's under the federal  
19 transportation programs. And that represented about  
20 somewhere close to 50 percent of the funding. At the  
21 time, that money was established as a reimbursable. So  
22 there wasn't funding available directly. It was to  
23 come back to the state in single-year increments over  
24 five years.

25           Two payments have already been received from



1 those funds and have been credited against or  
2 reimbursed -- there is an accounting transaction, but  
3 it's credited to the Trust Fund. There are three more  
4 payments to come, and so we'll be following up on that  
5 with trying to identify how that is going to work with  
6 regard to the legislative split.

7 But the bottom line is when all that money comes  
8 back, the Trust Fund will have been reimbursed for  
9 about 50 percent of the funds that would reimburse for  
10 about 50 percent of the property that's going to go to  
11 the Anza-Borrego north of the mine.

12 I don't know if that helps or if I'm being  
13 clear, so that should solve that problem when all  
14 that's completed.

15 COMMISSIONER SLAVIK: And the other 50 percent?

16 ATTORNEY LA FRANCHI: The other 50 percent will  
17 have come from the Trust Fund, the OHMVR Trust Fund,  
18 but that will be attributable to the property south of  
19 the line that would be going into the SVRA.

20 COMMISSIONER SLAVIK: So we're paid back for the  
21 northern portion that's going to go to State Parks?

22 ATTORNEY LA FRANCHI: That's correct.

23 OHV SUPT. DOLINAR: Just to clarify, I'm working  
24 closely with State Parks at looking at various funding  
25 sources because that's one of the ones that's out

1 there. There are a couple of others that we're looking  
2 at, and I'm confident that we will be able to be  
3 reimbursed for the portions that OHV purchased that are  
4 utilized by Anza-Borrego.

5 CHAIR WILLARD: That concludes the public  
6 comment period.

7 (Returned at 10:49 from break commencing at 10:31)

8 //

9 **AGENDA ITEM IV(D) - Public Comment**

10 CHAIR WILLARD: Public comment.

11 ED WALDHEIM: Ed Waldheim, California Trail  
12 Users Coalition, Friends of Jawbone, Friends of  
13 El Mirage. I've asked Daphne for the last 25 years --  
14 I don't know how long it is; I don't mean to be so hard  
15 on her -- about education.

16 COMMISSIONER SLAVIK: She's not that old.

17 ED WALDHEIM: Education, we need to educate our  
18 public on how to recreate in our public lands. And it  
19 doesn't mean only just motorcyclists and off-roaders.  
20 It means the total gamut of hikers, bikers,  
21 equestrians. The stuff that they're doing out at the  
22 public lands is atrocious. San Bernardino National  
23 Forest, 400 miles of new bicycle trails, signed to look  
24 like official bicycle trails have been established in  
25 the San Bernardino Forest. The forest was totally

1 aghast. They didn't even know it was happening right  
2 underneath their nose, and they're selling maps at  
3 different places. It's pathetic. Mountain bikes are  
4 going to be making jumps all over the place. People  
5 are doing cutting things. Trash is being left out on  
6 trails by PCT hikers. I know because I'm there with  
7 the PCT folks when I put in all of the gates for the  
8 Jawbone / Dove Springs area. So we need to do  
9 something on this. Take two million dollars, put a  
10 tight messaging and come up with Maria Shriver giving  
11 us how to enjoy the public lands. We need to do that.

12 The fees on off-route travel, I would like you  
13 guys to please put the committee together and let's  
14 increase the fees through legislation. Go up to a  
15 \$1,000, \$2500, \$5,000, I don't really care anymore. If  
16 you are caught on off-route travel on a well signed  
17 designated trail system, get a fine of \$5,000 to make  
18 the statement because otherwise the people are doing  
19 whatever they want because chances of being caught  
20 costs nothing. They get a \$50 fine for going off-route  
21 trail, and I lose the opportunity because they went  
22 off-route trail. I'm not going to lose any more trails  
23 because some idiot wants to go off and enjoy  
24 themselves. I just don't want to do that.

25 Within the grants I would like to see possibly

1 that when we give the \$5 million for law enforcement  
2 folks, I wish we could do the legislative equivalent,  
3 give restoration \$5 million and give \$10 million to law  
4 enforcement. We need more law enforcement. If you  
5 have more law enforcement, you don't need to do  
6 restoration because we catch them and they don't do the  
7 damage on the public lands.

8 But within our system we have right now, I would  
9 like to see us emphasize within our grants that  
10 resources be patrolled. Right now we do social patrol.  
11 That's all we're doing. We're doing DUIs, we are doing  
12 ban drinking if you have to do that, we're doing drugs,  
13 people not having registration, they're not doing  
14 anything on the resources out there.

15 I don't see anybody out there, Kern County  
16 Sheriff, BLM, I don't know care who they are. If you  
17 ask how many tickets have you issued for off-route  
18 travel or resources damage, I bet it doesn't add to ten  
19 in the whole State of California. It doesn't add. And  
20 we're here sitting letting all of this happen right  
21 under our noses. We have to reemphasize what we're  
22 going to patrol so we can save our sport so we can  
23 continue to enjoy it. We have to manage our sport.  
24 The only way we are going to do it is we have to start  
25 getting tough and hard. We are doing that at Jawbone.

1 We are getting in the air. We're getting helicopters  
2 up in the air. We are going after these guys. So we  
3 need your help on that, please.

4 AMY GRANAT: Good morning, again. First, I have  
5 an announcement to make, I would like to congratulate  
6 Daphne Greene on being voted CORVA's 2009 Off-Roader of  
7 the Year; express our appreciation for all of the hard  
8 work, and really that's indicative of all of the hard  
9 work of everybody in both the Commission and Division  
10 because we appreciate everyone.

11 The second is kind of a different thing. I have  
12 a pet peeve. And for those who know me, they won't be  
13 surprised at that statement. If I had my way, I would  
14 do away with the term OHV. And to everyone on the  
15 Commission and in the Division, with all due deference  
16 to your name, the term OHV has become antiquated. It's  
17 wrong. It's ill defined, and it is used as a form of  
18 what I like to call "retrogration" profiling. It's a  
19 term that is used to degrade every activity that uses  
20 OHV. And if you look at people who use native surface  
21 roads or go out in the desert, they are hunters, they  
22 are hikers that use native surface roads for access to  
23 trailheads. They're boater who use it to access our  
24 rivers and streams and lakes. They are everyone. If a  
25 hunter is on a trail and you tell him, you know, you're

1 on an OHV trail, you're an OHVer, they say, no, I'm not  
2 an OHVer. If he's on a Green Sticker vehicle on an OHV  
3 trail, does that mean he's OHV? In my mind it does.  
4 But he does not self-identify as an OHV. So any work  
5 that we are doing to promote or even to educate OHV is  
6 fallen by the waste side because they don't identify.

7 What we're really looking for is motorized  
8 access. It doesn't matter what it's motorized access  
9 for. The only thing that counts is that we have  
10 motorized access in an environmentally responsible  
11 manner and a safe manner to everyone who needs it.  
12 That means everyone, birdwatchers, everybody, anybody  
13 who uses the native surface roads.

14 That way when all of these campaigns that are  
15 announced that want to stem degradation from OHV  
16 travel, it will really be defined as what it really is,  
17 is stopping motorized access to everybody, not just  
18 OHV. Because when you say the word OHV, what do you  
19 think of? You're going to think of a motorcycle or  
20 dirt bike or you're going to think of a four-wheel  
21 drive vehicle with big tires when in reality that's a  
22 small portion of the people who are using these roads  
23 and trails. So just consider the next time you see  
24 something that says OHV and it is considered in a  
25 negative recreationally profiling manner, think of

1 motorized access and change the terms, and I think  
2 we'll become a lot better for it. Thank you.

3 DAVE PICKETT: Good morning, Commissioners.  
4 Dave Picket, District 36 Motorcycle Sports Committee.

5 My comment this morning concerns the  
6 unprecedented number of lawsuits from non-OHV  
7 organizations against our state recreation areas, our  
8 Forest Service, our BLM partners where they are  
9 spending so much time defending lawsuits, some not  
10 credible in any way, shape or form. And you heard me  
11 say this before, but the Division staff -- at least  
12 those that I talked to, they're frustrated with this  
13 also. This is a fabulous, fabulous program that's been  
14 around for four decades, and I'd hate to see these  
15 precious resources go to lawsuit defense. A crazy  
16 amount of Public Records Act requests, for what? If we  
17 don't offer opportunity for OHV legal recreation, then  
18 it goes back to what Mr. Waldheim is saying. It's  
19 frustrating the heck out of my organization, myself  
20 especially. Because we've got this great program to  
21 help provide legal family recreation being organized.  
22 And people in this room that I've sat with in various  
23 meetings through the years have been doing everything  
24 they can to shut it down. Well, you know something,  
25 it's like Mr. Fouts said, we are not going away. Work

1 with us, continue to fight for us and do the best you  
2 guys can. It's a wonderful program. We need your  
3 help. Thank you.

4 DEAN STANFORD: Hi, my name is Dean Stanford.  
5 I'm with Zero Emission Recreational Organization. I  
6 would like to make the Commission aware of a proposal  
7 that I submitted to the City of San Jose for a zero  
8 emissions electric off-road vehicle park. I found out  
9 that they're redeveloping plans around our plant at the  
10 southern tip of the bay. The theme of their  
11 redevelopment is renewable energy and clean tech.  
12 They're going to have retail, R&D, manufacturing, and  
13 recreation. And when I was a kid I lived in the area  
14 and rode my dirt bike around there. And I realized we  
15 now have these electric bikes, and they would fit in  
16 very well with their theme, and it also fits in very  
17 well with the OHV strategic plan of wanting urban parks  
18 and supporting zero emission vehicles.

19 And I'd like to ask if we can get on the agenda  
20 for an official finding, a letter of support, and I'd  
21 like to see if the OHV Division would consider  
22 operating the park if the city department is not  
23 interested. I don't know if you take questions. So  
24 I've met with several county and city officials. I  
25 have some support. I would really like to have a



1 letter showing that the state is interested.

2 JERRY FOUTS: Hi guys, I've got something  
3 positive this time. So anyway I would like to mirror  
4 Ed Waldheim's comment about education, but I would add  
5 one thing. I think the education component desperately  
6 needs not only educating the riders, but it needs to  
7 educate the law enforcement personnel of how they're  
8 doing that. The education has to be a partnership  
9 between law enforcement people and the riders. Until  
10 you have that kind of relationship, you really aren't  
11 going to get the desired result. Peer pressure is  
12 huge. When you've got a law enforcement person that  
13 can actually ride a motorcycle that can explain what's  
14 going on, that's used to going over ranger issues, it  
15 doesn't make people crazy mad and say go away and do  
16 what they're going to do anyway. I think it has to be  
17 done in a positive way.

18 Number two, my other comment, I had some really  
19 positive experiences with some grant places I've been  
20 to. I guess I'm late for the grants; I hope he's here.  
21 Metcalf Motorcycle Park in San Jose is a place that  
22 gets grants from the OHMVR Division. I've ridden a  
23 bunch of events there over the years. The club that  
24 puts on the Hair Scrambles there just raves about the  
25 personnel that was there and their help. I was there

1 this summer for a Firemen's Olympics there, and they  
2 had a motocross there. You know what, the park ranger  
3 laid out the course for the firemen. They switched  
4 their days around so they could help put it on an event  
5 there. Those guys are busting their rear ends.  
6 Instead of buying cabinets someplace, they scrounged up  
7 old stop light cabinets from the city, and they used  
8 them to park their tools in. They're building  
9 something out of nothing. When you're talking about  
10 getting the biggest bang for your buck, those guys are  
11 awesome. I wrote a letter to the Monterey County Board  
12 of Supervisors and told them so. I really wanted to  
13 comment for them, so I would support that facility.  
14 It's a postage-size stamp thing that's right above the  
15 drinking water for the City of San Jose. They're doing  
16 it there. It's successful.

17 Another one is Frank Raines. They just had an  
18 event there this weekend, another county place where we  
19 give them grant money, and they've got a staff that are  
20 honest and straightforward that want to help. And they  
21 put on some great events there, and I would absolutely  
22 support and hope you support their continued grant  
23 funding in the near future. Thank you.

24 JOHN STEWART: Good morning, Commissioners,  
25 Deputy Director, John Stewart representing the

1 California Association of 4-Wheel Drive Clubs. The OHV  
2 program is designed to provide for recreation  
3 opportunities in a sustainable manner, and there is one  
4 issue that's coming before the agencies in a big  
5 fashion, and that's water and water quality. We've  
6 seen it with the Rubicon Trail. We've seen it with  
7 Carnegie, and there are other places coming up right  
8 now. The Forest Service is in the midst of developing  
9 a water quality management program.

10 I would encourage the Division and the Forest  
11 Service to enter into cooperative agreement where they  
12 look at the best management practices within the water  
13 management plan and craft those in such a manner that  
14 it helps us and works with the design of the OHV  
15 program to provide for recreation opportunity in an  
16 environmentally sustainable manner.

17 And one of the ways here is possibly looking  
18 at -- thinking out of the box -- using the grants  
19 program to emphasize how to reroute existing trails so  
20 they are out of stream beds, and how to do other things  
21 that actually protect the long-term health of the  
22 trails. So emphasizing that protection of water  
23 quality is something that the grants program may have  
24 an opportunity to help with. So overall, like I said,  
25 I encourage the Division, Commission, and Forest

1 Service to work together along with the water boards in  
2 order to preserve recreation opportunities. Thank you.

3 CHAIR WILLARD: That's it for public comment.

4 //

5 **AGENDA ITEM V(A) - SVRA Concession Contracts**

6 CHAIR WILLARD: Moving on to the first business  
7 item, Commission will review proposed concession  
8 contracts at Hollister Hills and Oceano Dunes SVRAs.

9 DEPUTY DIR. GREENE: I'd like to introduce  
10 Jim Luscutoff, who is Chief of Concession Services for  
11 the Department.

12 OHV CHIEF LUSCUTOFF: Mr. Chairman, members of  
13 the Commission, we have two concession items before you  
14 today. First off is Hollister Hills, the parts supply  
15 store at Hollister Hills SVRA. The other project is  
16 Oceano Dunes, actually five ATV service projects that  
17 rent ATVs.

18 We have two concession projects before you  
19 today. One is a parts supply for Hollister Hills SVRA.  
20 The other project involves five ATV concession  
21 opportunities at Oceano Dunes. The request before the  
22 Commission is to find that these projects are  
23 compatible with the classification of the units and of  
24 the general plans. If you have any questions regarding  
25 that process, I'm certainly here to answer those.

1           The question of why it has to be approved. In  
2 accordance with Public Resources Code 5080.20(a), any  
3 concession opportunity that exceeds \$500,000 in gross  
4 sales or involves \$500,000 worth of capital investment,  
5 the Commission has to review and approve the project as  
6 it's compatible with classification and General Plan,  
7 and it also requires approval of the Legislature. Both  
8 of these projects have been approved by the  
9 Legislature. The Hollister Hills project was approved  
10 in the '09/'10 Governor's budget, and the Oceano Dunes  
11 project was approved in the most recent '10/'11  
12 Governor's budget.

13           CHAIR WILLARD: So this is really just a  
14 formality. We're just going through the motions that  
15 we're required to do per the code?

16           OHV CHIEF LUSCUTOFF: Correct. I need to make  
17 one correction to that. There are five ATV projects  
18 that are before you today.

19           CHAIR WILLARD: Can we get just an overview of  
20 the various concessions, a little bit of information  
21 about them, some background on them?

22           OHV CHIEF LUSCUTOFF: The concession  
23 opportunities at Oceano Dunes include five rental  
24 facilities that exceed the \$500,000 of gross sales, and  
25 that's the reason that the items are here before you

1 and have to go before the Legislature because whenever  
2 it exceeds \$500,000 in gross sales, 5080.20(a) requires  
3 the Division to review the projects to determine if  
4 that they are compatible with classification and the  
5 General Plan.

6 ATTORNEY LA FRANCHI: I could just add a little  
7 bit of background on the provision notice Public  
8 Resources Code. Over the years there's always been  
9 controversy in the State Parks system with regard to  
10 the development of using parks for commercial  
11 development. Concessions are, in essence, private  
12 entities coming in and commercially providing services  
13 to the public. One of the concerns has been how those  
14 concessions relate or interact with the primary mission  
15 of the park on the park side and the operations side,  
16 the purpose to provide natural conserved areas for  
17 public recreation, and how does an Asilomar or a hotel  
18 or a kayak rental or some sort of concession fit in  
19 with that mission.

20 At the SVRAs, of course, we all know what the  
21 mission is, to provide public motorized recreation or  
22 motorized access in a way that's balanced or compatible  
23 with preservation of natural resources. So you overlay  
24 a concession on that, and the question comes up, is the  
25 concession consistent with that mission, is it

1 providing the kind of service for the public that was  
2 envisioned or would be compatible with provisions of  
3 motorized recreation in the case of the SVRAs or in the  
4 case of Hollister Hills the same way.

5           So the rental concessions at Oceano Dunes over  
6 the years have evolved, the rentals for ATVs, sand  
7 rails, basically vehicles that the public can come in  
8 and rent and use on the dunes and so on. And so that's  
9 what these four or five concession rentals are.  
10 Originally, the concessions started off-site. The  
11 rental entities would be offsite. They would rent the  
12 vehicles, trailer them in or bring them in for people.  
13 And gradually it has proved operationally to be better  
14 to actually allow them onto the beach, locate right  
15 down on the staging area, where people can come down  
16 and so that there is not a lot of extra traffic going  
17 back and forth. So there is a lot of operational  
18 reasons for doing it. That's a little bit of  
19 background. There are more details about those  
20 concessions, but that's the basic concession at Oceano  
21 Dunes.

22           Hollister Hills, I think they have a trailer or  
23 a facility that's set up. I think they have parts, and  
24 so if you have a motorcycle or an ATV or something and  
25 you need something, you can go there and get help. So

1 it provides a service that fits in with the recreation  
2 activity. So that's a little bit of background of why  
3 this provision is in the statute, to be sure that these  
4 profit-making enterprises are consistent with the  
5 mission of the park.

6 CHAIR WILLARD: So the Commission's objective  
7 here, our responsibility is to make a finding that the  
8 concessions that we're talking about are approved or  
9 are legal under the specific SVRA's General Plan?

10 ATTORNEY LA FRANCHI: Consistent with that and  
11 authorized under the General Plan.

12 CHAIR WILLARD: And so we're looking for one  
13 individual motion per SVRA or are we looking for  
14 individual concessions?

15 OHV CHIEF LUSCUTOFF: One individual motion per  
16 SVRA.

17 CHAIR WILLARD: Thank you. Commissioners, any  
18 other questions of clarification on where we are at?

19 COMMISSIONER VAN VELSOR: Are the contracts  
20 established under competitive bidding situations?

21 OHV CHIEF LUSCUTOFF: Correct. Once we receive  
22 approval here, we will put a request for proposal out  
23 to bid, and they will be on a competitive basis. We're  
24 using a request for proposal process.

25 COMMISSIONER VAN VELSOR: Second question, as I



1 read this, there were a couple of places that said we  
2 do this in part because the State Parks cannot do this  
3 as efficiently as private entities.

4 OHV CHIEF LUSCUTOFF: Correct.

5 COMMISSIONER VAN VELSOR: How is that? Why is  
6 that?

7 OHV CHIEF LUSCUTOFF: That's what a concession  
8 opportunity is, is enhancing the visitor experience,  
9 providing services that aren't typically provided by  
10 state employees. So as Tim indicated, the concession  
11 provides that opportunity to our visitors, assisting  
12 the Department in meeting the mission of the OHV  
13 Division.

14 COMMISSIONER VAN VELSOR: Do you have to  
15 demonstrate the state can't do it as efficiently? I  
16 mean you've stated it in here. And I'm curious where  
17 that statement comes from. Are you just making the  
18 statement or, in fact, you have some way to determine  
19 the state cannot do it more efficiently?

20 OHV CHIEF LUSCUTOFF: We don't have a specific  
21 way or means to determine the state can't do it more  
22 efficiently, but there are a number of requirements of  
23 union contracts, for instance, certain classifications  
24 within the Department that don't meet the goal of  
25 providing ATV service opportunity.

1           COMMISSIONER SLAVIK: I have a question related  
2 to safety. I was in the OHV business for a long time,  
3 and safety was always a huge concern of ours. I've  
4 seen this operation, and I've seen other ATV rental  
5 operations across the country in different facilities.  
6 When you put a person on an ATV, they're renting it for  
7 an hour or two hours, whatever it is, and they have  
8 very little safety background information to go on. It  
9 seems to be a concern. And where I live in Huntington  
10 Beach, concessionaires rent surfboards. It's a similar  
11 situation, conk your head, who's going to get sued.

12           The question I really have is has safety been an  
13 issue with these ATVs that are being rented by the  
14 public over a period of time?

15           OHV CHIEF LUSCUTOFF: There will be a  
16 requirement in the request for proposal for the  
17 proposers to include their safety and training program  
18 that will be offered to our visitors at the site. I  
19 don't know if that answered your question. I don't  
20 know if I have the background about safety issues.

21           DEPUTY DIR. GREENE: If I may, just for  
22 clarification purposes, we are not just talking about  
23 ATVs. So in this particular instance, currently at  
24 Oceano Dunes, we have four concessionaires who rent  
25 ATVs. Then we actually have one who is with us today

1 who rents dune buggies. In this instance, the buggy  
2 concessionaire determine that they won't rent to  
3 anybody under the age of 18. For the ATV rentals, the  
4 ATV certificate is required. You either have to have  
5 the California ATV safety certificate or you have to  
6 have a certificate from the other state. 14 and under,  
7 you have to be accompanied by an adult guardian, and  
8 then one of the two of you have to have the ATV safety  
9 certificate. The park tracks those. We're always  
10 cognizant if there are accidents. We've been looking  
11 at other states, and I would venture to say we have a  
12 very low number of accidents because that's something  
13 that's important to us. ATV safety is something that  
14 we take very seriously. And I think that's one of the  
15 things that we actually have been discussing of late  
16 because some of the discussions in the new contracts  
17 have been with the advent of the new RUVs, would you  
18 include those. There is a demand. The public has said  
19 we like those side-by-sides. How do you ensure on the  
20 side-by-sides that people are getting safety training,  
21 different requirements, different manufacturers,  
22 modifications, and all of it. It's a gamut, and you  
23 have to be careful when you start to modify what  
24 happens with the manufacturers, what happens with the  
25 concessionaires. So there are all of those different

1 things you have to consider.

2 CHAIR WILLARD: These are all existing  
3 concessions that have been in place for a while?

4 OHV CHIEF LUSCUTOFF: That's correct.

5 CHAIR WILLARD: Then why are we doing this now,  
6 or is this something done on some periodic basis?

7 OHV CHIEF LUSCUTOFF: The reason that you're  
8 reviewing the Oceano Dunes is this item has been before  
9 the Commission before and was approved, but it was only  
10 approved for one location or one opportunity because at  
11 the time these contracts at Oceano had never been out  
12 to competitive bids. They were negotiated. So this  
13 was the first time they're going out to competitive  
14 bid. We're bringing it back to the Commission because  
15 we only asked for one opportunity to be approved, and  
16 in fact we need five.

17 COMMISSIONER SLAVIK: When you say one  
18 opportunity, you're saying one business?

19 OHV CHIEF LUSCUTOFF: That's what we expect. We  
20 didn't realize the magnitude of visitor interest and  
21 experience. When we negotiated the contracts, we  
22 expected that we were going to offer one opportunity  
23 for the rental business at Oceano Dunes. It was after  
24 we got down the road a few years that we realized the  
25 magnitude and interest of our visitors, and that we

1 didn't believe that one provider would meet the demand.

2 DEPUTY DIR. GREENE: If I may, as Tim has  
3 indicated, we had the situation where we had a number  
4 of vendors outside of the park who were renting, so you  
5 would have this constant flow of traffic bringing  
6 vehicles in, and the state wasn't actually receiving  
7 any of the revenue as result of that off-site rental.  
8 And so the thought was let's bring them all together.

9 At that point in time, to bring them all  
10 together was a bit of a challenge. And so you can  
11 imagine, these are business people who have had  
12 successful businesses, and we're saying can you come  
13 into the park, and we actually want to try and work  
14 together with all of you. As Jim indicated, it was a  
15 month to month. We recognize that they want something  
16 more solid than month to month. We also want to make  
17 sure that we are covered in terms of issues of  
18 liability, that everybody is consistent, that the  
19 revenue that comes back to the state is consistent, it  
20 doesn't vary vendor to vendor. So there are really  
21 some consistency items that we want to make sure is in  
22 place. There is a huge demand, and we have found that  
23 the number of vendors who want to supply, we'd like to  
24 try and work with those individuals on a competitive  
25 basis. So that's why we're putting it out to five. We

1 may end up only getting four or two. We may get eight  
2 or ten, thus the competitive bidding process.

3 CHAIR WILLARD: So the way I understand it,  
4 while we might debate the merits of these various  
5 concessions, the topic before us is really quite  
6 specific, and that is, are concessions allowed in the  
7 SVRA per the General Plan. That's really what we're  
8 talking about. That's what we're going to decide on;  
9 is that correct?

10 ATTORNEY LA FRANCHI: The concessions are  
11 already allowed and authorized in the General Plan.  
12 The question is, is the Commission agreed with these  
13 specific concessions. The Commission doesn't have the  
14 role to decide whether the concession goes into the  
15 park or not. That's up to the Department. But the  
16 Commission's duty is to look at the ones that have been  
17 proposed and decided by the Department are important  
18 for the operation and make a determination that the  
19 Commission believes they're consistent with what's  
20 going on in the park, compatible with the operation.

21 CHAIR WILLARD: So if that's the case, then we  
22 do need to look at each specific. You said there are  
23 five at Oceano Dunes. Do we get into each five and get  
24 a general description of each of the five concessions  
25 so we know what they're doing? What am I missing here?

1           ATTORNEY LA FRANCHI: You need to have enough  
2 information before you to make a reasoned determination  
3 that what's being proposed is compatible with the  
4 operations or the activities in the park. So, yes,  
5 you'd have to look at each one, ATV rental, you know,  
6 whatever is being proposed, and say whether that seems  
7 to be appropriate in light of the park activities.

8           CHAIR WILLARD: So in an effort to do that, can  
9 we have a very brief summary of each of the five  
10 concessions, first for Oceano Dunes and then we'll get  
11 into Hollister Hills, because I think there's going to  
12 be two motions. So let's deal with Oceano Dunes now,  
13 go through the five very quickly, and then I'd like to  
14 have public comment, and then we will take it before  
15 the Commission. Does that make sense?

16           OHV CHIEF LUSCUTOFF: Sure, I can summarize it  
17 for you. It's very easy. The concession opportunity  
18 is simply that we will provide up to five rental  
19 contracts at Oceano Dunes, that it won't exceed five,  
20 it may be less than five. It depends on what we  
21 receive and the results of the requests for proposal  
22 process.

23           CHAIR WILLARD: So these are just for vehicle  
24 rentals? There is no food concessions? All five of  
25 them would be vehicle rentals?

1 OHV CHIEF LUSCUTOFF: Correct.

2 CHAIR WILLARD: Any service, is there anything  
3 ancillary like fuel or service there?

4 OHV CHIEF LUSCUTOFF: There may be some  
5 incidental service, some incidental food supply. It  
6 would be incidental to the primary rental service.

7 COMMISSIONER SLAVIK: It seems to me then we  
8 should know the parameters of the request for proposal  
9 that you're going to put out, that we need to look at  
10 that list, if you will, of things, qualifications that  
11 each one of these have to meet in order to even be a  
12 successful applicant. Is that something we should be  
13 looking at?

14 CHAIR WILLARD: Staff? I don't know.

15 OHV CHIEF LUSCUTOFF: In my opinion, no. We're  
16 asking you, with all due respect, just to find that the  
17 rental service and incidental service park supplies is  
18 compatible at the Oceano Dunes SVRA, compatible with  
19 the classification of the General Plan, and we're not  
20 doing it just for revenue potential only.

21 ATTORNEY LA FRANCHI: Is there a communication  
22 breakdown? The Commission isn't clear on what the  
23 rental --

24 COMMISSIONER FRANKLIN: I don't think I'm  
25 unclear, but I'm getting conflicting messages here.



1 All we're asking is: Are these opportunities  
2 consistent with plan, yes or no. If we say yes, you'll  
3 send them out to bid, and there is a whole process  
4 after that to confirm insurance, appropriateness, this,  
5 that, and the other thing. The question is should we  
6 send these out to bid, Hollister Hills and Oceano  
7 Dunes?

8 OHV CHIEF LUSCUTOFF: Correct.

9 COMMISSIONER FRANKLIN: I'm good. That's what I  
10 thought.

11 COMMISSIONER VAN VELSOR: It would seem to me in  
12 order to make that decision we would need to look at  
13 the plan. How would I know it's compatible without  
14 knowing what the plan stated? We are not given access  
15 to the plan, and so I couldn't reasonably say that I  
16 would know.

17 CHAIR WILLARD: There are excerpts of the plan  
18 in our information packet given to us.

19 OHV CHIEF LUSCUTOFF: In the staff report.

20 CHAIR WILLARD: And the staff report has  
21 specific excerpts from the General Plan that dealt with  
22 it. That way, in lieu of having the whole document,  
23 they just parsed out the specific information that we  
24 needed.

25 COMMISSIONER VAN VELSOR: There is the critical

1 component.

2 CHAIR WILLARD: It's like a quote of the  
3 specific sections of the General Plan for both SVRAs.

4 COMMISSIONER FRANKLIN: Call for a motion.

5 CHAIR WILLARD: Let's make a motion, and then I  
6 want to hear public comment.

7 COMMISSIONER FRANKLIN: Make a motion to go  
8 ahead and authorize the bid process, if you will, on  
9 this for these two concession parks for  
10 concessionaires.

11 COMMISSIONER SILVERBERG: Second.

12 CHAIR WILLARD: So we will hold the vote. I  
13 want to get public comment on this, and then we will  
14 take the motion up again. I just wanted the public to  
15 know what the motion is going to be so they can give us  
16 their comment on the motion. The first motion is on  
17 Oceano Dunes, and I'm sure that there will be the  
18 identical motion on Hollister Hills. Let's take them  
19 one at a time.

20 OHV CHIEF LUSCUTOFF: Can I ask Mr. LaFranchi  
21 maybe to help us a little bit with the language? While  
22 I heard what you said, I think we're in agreement, I  
23 think the keywords are that the Commission is finding  
24 that the concession opportunity is compatible with the  
25 classification and the General Plan for the units.

1           COMMISSIONER FRANKLIN: Let me clarify my  
2 motion. My motion is that we accept the fact that the  
3 concessionaires are compatible with the use at those  
4 SVRAs.

5           ATTORNEY LA FRANCHI: Maybe we can just recite  
6 the language that's in the code. That would probably  
7 be simpler, instead of paraphrasing it for the record  
8 so there is no confusion.

9           And basically as Mr. Luscutoff pointed out, that  
10 the Commission has reviewed the proposed services,  
11 facilities, and/or locations and determined the  
12 concessions meet the requirements of Section 5001.9 and  
13 5080.03, which are basically compatible with the  
14 General Plan, and are compatible with the  
15 classification unit which is State Vehicular Recreation  
16 Area. So to the extent you understand what a State  
17 Vehicle Recreation Area is and don't have concerns  
18 about your understanding of that, and you understand  
19 from the staff report, because if you looked at the  
20 staff report, which is the record that's being made  
21 today, that the concession information is on the second  
22 page of the concession information, and then the Oceano  
23 Dunes General Plan is summarized on the third page  
24 following item four, and then the Hollister Hills  
25 concession information is also in the staff report, so

1 that would be what you're relying on for your  
2 determination that it's compatible with the  
3 classification of an SVRA.

4 CHAIR WILLARD: So what you just read to us was  
5 the Commission action at the end of the staff report?

6 COMMISSIONER SLAVIK: Beginning under  
7 background.

8 ATTORNEY LaFRANCHI: Let's see if we can get the  
9 record straight. The Commissioners have reviewed the  
10 proposed services, facilities and/or locations of  
11 concession, determined that the concessions meet the  
12 requirements of the General Plan for the units, and is  
13 also compatible with the classification of the unit as  
14 a State Vehicular Recreation Area. That would be the  
15 motion.

16 CHAIR WILLARD: I'm sorry, where are you reading  
17 that from?

18 ATTORNEY LA FRANCHI: I'm reading that from the  
19 background of the first page of the staff report, the  
20 last five or six lines, and I'm substituting General  
21 Plan for Sections 5001.9 and 5080.03. That's the  
22 section referred to as compatible with the General  
23 Plan.

24 COMMISSIONER SLAVIK: We had anticipated being  
25 at Oceano Dunes for some Commission meeting for a field

1 trip. Is this something that can be put off until that  
2 time? Are we under some deadlines here?

3 OHV CHIEF LUSCUTOFF: It's the goal of the  
4 Division to move our concession contracts off of  
5 month-to-month status. It doesn't provide the  
6 stability that our concessionaires need to run a  
7 business effectively, and it certainly doesn't provide  
8 our visitors the stability that that service is going  
9 to be there. So, yes, you could postpone it, but we  
10 would prefer not to. We would like to move forward  
11 with this item and get them out to bid. They've been  
12 on month-to-month status. Like I said, they were  
13 negotiated contracts to begin with. They haven't been  
14 offered competitively. It is state property, and part  
15 of the concession goals and the goal of the Department  
16 are to have contracts that are current.

17 CHAIR WILLARD: I've been wanting to do a  
18 meeting at Oceano Dunes. We need to, but I wouldn't  
19 want to hang up the folks that are on the other side of  
20 these concessions. They may want to be moving forward  
21 with getting something more permanent, and so I don't  
22 know what impacts it would be for a delay, and it's  
23 uncertain whether or not the next meeting would be at  
24 Oceano. We just don't know. So given that  
25 uncertainty, I think I'm comfortable with moving

1 forward with what we've got before us.

2 So I think we need to amend the motion.  
3 Commissioner Franklin, would you please amend the  
4 motion?

5 COMMISSIONER FRANKLIN: I make the motion that  
6 the Commission has reviewed the proposed services,  
7 facilities, and/or locations of the concessions,  
8 determined the concessions meet with the requirements  
9 of Sections 5001.9 and 5080.03 and are compatible with  
10 the classification of the unit in which the concessions  
11 will be operated.

12 COMMISSIONER SILVERBERG: Second.

13 CHAIR WILLARD: So moved. And I think now we'll  
14 take public comment.

15 NICK HARRIS: Nick Harris, American Motorcyclists  
16 Association. I wanted to make a quick comment. I  
17 think these are really useful. If you consider the  
18 experience of a new member to the OHV community,  
19 somebody goes to the beach, they see these vehicles,  
20 they want to try them. What this does is allow the  
21 state to truly craft what this experience is going to  
22 be like for this person when they show up. The guy  
23 down the street may or may not look for the ATV safety  
24 card. He may not talk to you about what elements to be  
25 aware of. I was at a rental with somebody who actually

1 went out of their way to make sure they had all of the  
2 right gear, and unfortunately they needed all that gear  
3 not all that long later. They were fine because  
4 somebody sat them down and said these are how the boots  
5 should fit, the gloves should fit.

6 So I think this is a very good idea, and I think  
7 it allows you to keep control and not just have some  
8 guy down the street, like I said, running ATVs out of a  
9 truck. I think it's a great idea, very supportive.

10 RANDY JORDAN: Randy Jordan. My name is Randy  
11 Jordan. She's giving you a little booklet that  
12 describes our services and has some of the things we  
13 do. We are one of the vendors at Oceano Dunes  
14 currently. We are not an ATV vendor. What I've done  
15 is if you have any questions you want to ask, I can  
16 kind of give you the other side, ground level answers  
17 of the questions you just had. There's an agenda in  
18 there. First of all, I'll just do a brief  
19 introduction.

20 I realize how difficult it is to provide a safe  
21 platform in which to explore a resource such as Oceano  
22 Dunes, specifically when the general public relies so  
23 heavily on a sanctioning body to qualify services they  
24 have access to, as is clearly defined by the mission  
25 statement in the Parks Department. It puts a lot of

1 onus and responsibility on the Parks Department that  
2 when people drive through that gate, you're not going  
3 to let them do something to get hurt. I put in a lot  
4 of oversight to make sure that doesn't happen. I  
5 recognize that. I think the Parks Department does an  
6 excellent job in the capacity with the vehicles they  
7 have to use in what they do. You guys are very well  
8 represented there. Your rangers are great. I have  
9 similar businesses in three states. We're coming off  
10 of a zero injury year for 25,000 customers, no  
11 adolescents, no adults in Oregon, Los Vegas or Pismo.  
12 Pismo, 25 percent of our customers are adolescents. We  
13 don't allow them to drive. In that package you have is  
14 an eight-minute orientation video, which I know I don't  
15 have eight minutes to show it to you, but we make every  
16 driver watch that, and that's instrumental in our  
17 safety program and why I can stand here and say 25,000  
18 people last year, no injuries, no ambulances, no  
19 helicopters.

20 I have very strong feelings about using RUVs as  
21 a rental vehicle there. I think that it's new to the  
22 market. They're faster, they're heavier, and the  
23 people that are operating them are novices. I really  
24 think that should do it on a very limited basis or  
25 confine it to RUVs that are designed with a top speed



1 of 25 miles per hour. I think BLM has taken a lot of  
2 criticism over the recent unfortunate accident, but the  
3 reality of it is 20 percent of our customers are  
4 bachelor parties. Twenty-five miles an hour, it must  
5 be a guided tour and must have general liability  
6 insurance, if you apply those three factors into the  
7 bid process, you'll probably have a much better safety  
8 turnaround. That's what we do nationally everywhere we  
9 go. We apply the BLM's approach as well as the Parks  
10 Department's approach.

11 You have a different situation in Oceano because  
12 the customer gets on the vehicle and is unguided and  
13 leaves. Seventy percent of those customers have never  
14 been on the dunes before. It's incumbent upon the  
15 provider of the services, which is me in this case, to  
16 provide them with a vehicle that their stupidity won't  
17 wind up in their injury. And although it's not  
18 possible to say, you know, I could guarantee you we're  
19 never going to have an injury, you make us the only  
20 ones out there, it's not accurate. We're going to have  
21 injuries. It's going to happen, but we try very hard  
22 to continuously improve our products. We make our own  
23 cars. There's a method we made. They're site  
24 specific. We generally upgrade the design every six  
25 months. We make changes. I always apprise the State

1 Parks Department of it. You'll see a letter in there  
2 to Mr. Zilke about that. I feel very strongly about  
3 adolescents on ATVs. I made a lot of enemies over it.  
4 I have ATVs. I have buggies, and I have RUVs, UTVs.  
5 We don't rent RUVs or UTVs in Oceano Dunes. There is a  
6 reason for that. We don't push to rent them either.  
7 Though, I would entertain trying it sometime.

8 As far as the number of vendors at Oceano, there  
9 are currently five, and everybody does exceed \$500,000.  
10 It would probably be healthier if there were only  
11 three. Obviously, I would rather not be one of the two  
12 that doesn't exist anymore, but the reality of it is  
13 that there is so much competition amongst the other  
14 vendors, but I don't alter my pricing at all. I  
15 haven't had a price change in five years. But they  
16 have degraded their pricing constantly and have made it  
17 so competitive amongst themselves that -- I know  
18 everybody doesn't want to say less numbers because they  
19 don't want to be the guy, but the reality of it is  
20 there probably should only be three. If the criteria  
21 for the state is \$500,000 another vendor, then there  
22 should be five; probably seven, because two are at  
23 about a million.

24 Oceano is where my family lives. Obviously, I  
25 have no plans to move. I can't work anymore. Your

1 mission statement is pretty clear. You really should  
2 put this out to bid. There are underlying requirements  
3 that the Parks Department is going to put in the  
4 contract, I'm sure, that deal with the issues of  
5 children on ATVs, and supervising children on ATVs.  
6 And currently the State of California previously had  
7 licensing in place that a child had to have physical  
8 training to get on an ATV, as well as the supervising  
9 adult, and unfortunately that is no more. And now you  
10 have a 20-minute correspondence course by the adult  
11 which entitles the child to get on the ATV. And this  
12 is the only park where you have adolescent ATVs  
13 available in the State of California. There might be a  
14 reason for that. You probably should revert back to  
15 physical training if you're going to allow  
16 adolescents on ATVs. You really shouldn't do that. I  
17 put my money where my mouth is. I don't try to rent  
18 them there. We don't let people drive buggies that  
19 don't have a driver's license and qualify every year.  
20 It hurts our bottom line. We really strive hard to  
21 provide people with safe vehicles. If you have any  
22 questions about operations or interacting with the  
23 rangers, your people are great.

24 CHAIR WILLARD: How long have you been in  
25 operation at Oceano?

1           RANDY JORDAN: Since 2003, I was the last vendor  
2 approved.

3           CHAIR WILLARD: And roughly how many customers a  
4 year do you think you serve?

5           RANDY JORDAN: 25,000 to 40,000.

6           CHAIR WILLARD: Per year?

7           RANDY JORDAN: Not at Oceano, at all of my  
8 operations. At Oceano I would say -- because we have  
9 handicapped vehicles for people that can't use their  
10 legs, buggies that seat one, two, three, four, five,  
11 eight people, I would guess at Oceano, it's probably  
12 somewhere in the range of 8,000 people a year,  
13 somewhere in that range.

14           Did any of you see the Bachelor episode at  
15 Oceano? One of my largest embarrassments. The  
16 bachelor tried to use one of our vehicles as an  
17 airplane. It plays on your video, 30 feet and a  
18 successful landing where they all drive away.

19           CHAIR WILLARD: What does it cost to rent one of  
20 those?

21           RANDY JORDAN: Depends on what you want. A  
22 one-seater is about \$100. It gets up to \$250 for an  
23 hour for an eight-seat car. It really does cost a lot  
24 of money. We pay a larger percentage than any of the  
25 ATV vendors. It's not a larger charge per person

1 because we charge more, it's a larger percentage, and  
2 we provide other benefits to the park that costs us an  
3 awful lot of money. And to provide a safe vehicle like  
4 we do, I mean, it's very, very expensive. I don't want  
5 to go into great detail and have people exploit what I  
6 say and try to blow it out of proportion. It costs an  
7 awful lot of money to be able to run an operation and  
8 keep it safe. It's not a safe industry. It's not a  
9 safe thing. These people have no experience on the  
10 orientation of the vehicle as far as pedals and all  
11 that. When you put them on an ATV, you've got to put  
12 them on a vehicle they understand and have an  
13 orientation to. They've never been in a dune situation  
14 before where the terrain changes. Frankly, you've got  
15 to be sensitive when you put them in a vehicle that's  
16 got a top speed that can't be any more than twice what  
17 the trail capacity is. If you think it's 30-miles-an-  
18 hour terrain, it's 60 miles per hour. Well, it happens  
19 to be 10-mile-an-hour terrain. Our vehicles are  
20 designed around 30 miles an hour. When BLM constrained  
21 us to 25 miles an hour in Sin City, Las Vegas, I was  
22 pulling my hair out. I thought how are we going to do  
23 that. The challenge for us was to design and provide a  
24 vehicle that's fun at 25 miles an hour. It's been on  
25 Travel Channel, on 50 TV shows.

1 CHAIR WILLARD: Any other questions? Thank you.

2 So we have a motion before us that's been  
3 seconded. And unless Commissioners have any other  
4 discussion, call for a vote.

5 All those in favor?

6 (Commissioners simultaneously voted.)

7 CHAIR WILLARD: Motion passes.

8 May I have a similar motion for Hollister Hills.

9 COMMISSIONER FRANKLIN: I'll be happy to make  
10 the same motion.

11 The Commission has reviewed the proposed  
12 services, facilities, and/or locations of the  
13 concessions, determined the concessions meet the  
14 requirements of Section 5001.9 and 5080.03 and are  
15 compatible with the classification of the unit in which  
16 the concessions will be operated.

17 COMMISSIONER VAN VELSOR: Second.

18 CHAIR WILLARD: Discussion.

19 COMMISSIONER SLAVIK: I'm wondering if all of  
20 the Commissioners know what we are voting on as far as  
21 Hollister Hills.

22 CHAIR WILLARD: Well, that's a good point.  
23 Let's discuss that. Let's have a little bit of a brief  
24 overview of the concession at Hollister Hills.

25 OHV CHIEF LUSCUTOFF: Hollister Hills concession

1 is a parts supply store that also provides rental  
2 vehicles and services for our visitors that may come to  
3 Hollister Hills and have some unexpected breakdown or  
4 service need; again to enhance the visitor experience.  
5 The store exceeds \$500,000, and that's why the item is  
6 before the Commission again to determine whether the  
7 classification is compatible with the concession  
8 opportunity being offered.

9 COMMISSIONER SLAVIK: Jim, did you say the  
10 rental of vehicles are also included?

11 OHV CHIEF LUSCUTOFF: The rental is not being  
12 provided now, but it is a concession opportunity that  
13 may be offered in the request for proposal. That final  
14 decision hasn't been made yet.

15 COMMISSIONER SLAVIC: I've seen that store.  
16 It's just a nice little parts store, and it seems to  
17 really fit into the whole scheme of things.

18 But renting vehicles in Hollister Hills seems  
19 like a whole different ball of wax, if you will. I  
20 mean you guys are well aware of the challenges with  
21 that.

22 DEPUTY DIR. GREENE: Part of that is the  
23 opportunity to have the discussion. There has been  
24 quite a demand. Currently there's an electric vehicle  
25 that Hollister Hills has demo'ed. So the

1 concessionaire has expressed some interest in whether  
2 or not that might be an area where certainly people  
3 aren't willing to purchase electric vehicles, but if  
4 you have an opportunity to rent them, that might be a  
5 unique opportunity, other sorts of dirt bikes, similar  
6 to a ski area. So it's that concept of a demo.

7 But in this particular instance, as you've seen,  
8 that facility also is in need of some repair, and this  
9 would give us the opportunity to have an expectation  
10 that the concessionaire would also put back into the  
11 facility. So I think Commissioner Van Velsor's comment  
12 about why the state can't do it, there's many areas  
13 where we don't have the skill set, obviously looking at  
14 budget and all those sorts of issues and prioritizing.  
15 In this particular case, it would be the continuation  
16 of the existing facilities with the possibilities of  
17 exploring other options.

18 CHAIR WILLARD: Any other discussion? Call for  
19 the vote. All those in favor?

20 (Commissioners simultaneously voted.)

21 CHAIR WILLARD: The motion passes.

22 (Returned at 1:09 from lunch break commencing at 11:48)

23 //

24 **AGENDA ITEM V(B) - USFS Cost Recovery**

25 CHAIR WILLARD: Business Item 5(B), briefing



1 from the U.S. Forest Service regarding cost recovery  
2 and special event permits. We're doing this a little  
3 bit differently because we want to be able to provide  
4 some interactions between members of the public and  
5 U.S. Forest Service and Division staff, as well. So  
6 we're going to get an overview of the topic from the  
7 U.S. Forest Service and maybe some comments and  
8 questions from the Commission, and then open it up to  
9 public comment. You will have an opportunity to have  
10 some back and forth with the U.S. Forest Service. If  
11 you haven't already submitted a request to speak,  
12 please do so.

13 USFS STAFF FLEENOR: Hi, I'm Nancy Fleenor from  
14 the Regional Forester's office in Vallejo, and I'm here  
15 today to help. As I picked up last week at a  
16 transmission line discussion, they said, okay, let's  
17 demystify the grid. Well, that was very helpful. I'm  
18 here to demystify cost recovery for you, if I can work  
19 through that process. I do have a handout in the back  
20 for you that has each of the slides. There are eight  
21 slides, and we will be going through those rather  
22 quickly. Keaton Norquist, who works on the Public  
23 Service staff with me, will be keeping me on track  
24 because I guarantee you, I could spend an hour minimum  
25 on each slide, and you don't want that. So he's going

1 to keep me honest and keep me rolling, and that way it  
2 will provide an opportunity for all of you to ask me  
3 questions afterwards. Because it is a complex subject,  
4 and I do want to help you understand the rule that the  
5 Forest Service has had since 2006 regarding cost  
6 recovery, a similar rule the same as BLM.

7 I'd also like to introduce other people on the  
8 Public Service staff from the Regional Service office:  
9 Assistant Land Use Specialist Sarah Hines who works  
10 with me in Land Uses; Kathy Mick I think you know very  
11 well; and also Keaton Norquist. We work for Public  
12 Service Staff Director Marlene Finley, and she works  
13 for our new Deputy Regional Forester Ron Ketter, who  
14 reports to Randy Moore, who is the decisionmaker in the  
15 Regional Forest Service Office. The rest of us are  
16 advisors and policy interpreters, I guess would be the  
17 best way. We serve the Forest Service supervisors and  
18 the district rangers who are the authorized officers  
19 and responsible for the federal lands of the  
20 18 national forests in California. So with that, I'll  
21 move on. Thank you, Keaton.

22 So a little bit of history regarding cost  
23 recovery. If you can remember, about 25 years ago  
24 there was this situation regarding national forest  
25 lands, state lands nationally for fire events and what

1 was happening in the United States regarding fire  
2 events and the appropriations going to the Forest  
3 Service. And the Forest Service was basically way  
4 behind in having a percentage assigned to fire  
5 suppression, preparedness, and restoration at that  
6 point in time. That started us on a track of looking  
7 at how to identify appropriations from Congress to the  
8 Forest Service, and I'll get into that in a little bit  
9 more.

10 Then we're going to talk about the process of  
11 cost recovery. I'll do it very briefly. I just want  
12 to hit the highpoints on that and move on so that you  
13 can ask me questions. I think most of you are familiar  
14 with the process by now; have talked to Forest Service  
15 people about the cost estimate sheets, which that is  
16 the handout for that, also.

17 And the last part and the really important part  
18 of today's discussion is to be able to hear from you  
19 and realizing that we have some problem solving to do  
20 and figuring out how we can leverage funds with the  
21 situation that we are all facing today in the state,  
22 county, and even in the public sector regarding our  
23 budgets, if you will.

24 Again, the Forest Service has a land use rule  
25 that I work in, varies from road easements to

1 infrastructure that is for intercellular listening  
2 devices. And the one picture is off the Inyo National  
3 Forest a roadway, and the other arrays are from Owens  
4 Valley. Maybe some of you have seen those. So  
5 multiple uses is something that the Forest Service is  
6 committed to. There aren't biases regarding the  
7 multiple uses. Our goal is to focus and balance and be  
8 protective of the resources on the federal lands and  
9 follow the law.

10 So the budget, as I was saying, more than  
11 25 years ago, it was figured out that the Forest  
12 Service appropriations needed to be distributed  
13 differently in order to respond to the fire activities  
14 suppression and trying to get ahead of the curve  
15 regarding vegetation management on our national  
16 forests. California in particular in the mid and  
17 late '80s, we had fire sieges that were unbelievable,  
18 unbelievable costs. And the Forest Service was not  
19 appropriated appropriately in order to respond to  
20 those. So they had to borrow from the other programs  
21 to feed into these fire emergency situations. At that  
22 point in time, approximately 13 percent of the Forest  
23 Service budget was identified for wildfire suppression  
24 and for the preparedness and also fuels reduction  
25 activities. Today fire is 42 percent of the Forest

1 Service budget appropriations, now that's from  
2 Congress.

3 Cost recovery is a permanent fund mechanism  
4 because that is a fund that is collected directly for a  
5 service that's provided to someone regarding use of the  
6 federal lands, and I think we will move on from that.

7 Our rules came about in 2006. The Government  
8 Accounting Office during this time that it was a  
9 dilemma, in trying to figure out how is the Forest  
10 Service going to be able to still respond to  
11 environmental analysis, resource protections that we  
12 have this management responsibilities as forest  
13 supervisors and district rangers. And the Government  
14 Accounting Office in 1996 identified that the Forest  
15 Service needed to become more business-like in how we  
16 responded to special uses on federal lands, and that we  
17 should look to BLM as being our model and be as  
18 consistent as possible because we are part of the  
19 federal agencies, and resources do not see this  
20 invisible line on the ground as to whether it's state  
21 land, BLM land, or Forest Service land.

22 So the approach regarding cost recovery is to be  
23 responsive as possible and as consistent as possible in  
24 following our federal regulations, even though we do  
25 have diversity in how we respond to each of those

1 regulations from the BLM side and their Code of Federal  
2 Regulations and the Forest Service and our Code of  
3 Federal Regulations. We were told as agencies that we  
4 needed to have our own policies and our own  
5 interpretations regarding the Council of Environmental  
6 Quality's discussions of environmental issues.

7           So our cost estimation process, which you have a  
8 blank worksheet example in your handout and at the back  
9 on this room. And in that list is your first  
10 discussion with the Forest Service as a proposal of how  
11 you want to be upon the Forest Service lands. The  
12 person receiving this information from you as a  
13 proposal will work through this sheet as to how many  
14 hours it's going to take among the multiple specialists  
15 identified on that worksheet. That's reviewed by the  
16 district ranger or the forest supervisor at whichever  
17 level they have the authority to be the decisionmaker  
18 for that permit or easement. And this is the place  
19 where we are consistent in implementation of the  
20 process. That does not mean that we're consistent in,  
21 for example, the road easements that we have on some  
22 forests, the costs of doing the analysis for those may  
23 vary because of the heritage resource surveys that were  
24 done during our timber years. In some other areas, it  
25 may be a situation that there is no information on the

1 proposed area that someone wants to utilize on the  
2 Forest Service lands. So there is inconsistency on how  
3 much needs to be done on a particular piece of ground  
4 specific to those resources that occupy that piece of  
5 ground where you want to have your activity.

6 And just a reminder, the forest supervisor and  
7 the district rangers are the authorized officers. They  
8 are the federal land managers. It's no one else. It's  
9 those people that are out on the forest, except for  
10 Randy Moore, who is our Regional Forester in Vallejo.

11 This is one of my most favorite slides regarding  
12 cost recovery, and, yes, I know cost recovery, having a  
13 favorite. Well, I think this sort of sums it up really  
14 well. In your discussion with the Forest Service  
15 person who's been reviewing the proposal with you, it's  
16 really important to try to have as much information in  
17 your proposal that you bring to the forest, and for the  
18 forest to be able to identify areas that have already had  
19 a lot of information gathered regarding the resources  
20 and the impacts. Things go much easier in the areas  
21 where there is known information.

22 For the public side of things, when it's at the  
23 larger scale, then that's a cost that the Forest  
24 Service definitely needs to pay for. The forest plans,  
25 a management plan, that is not something we would ask a

1 proponent to bring to the table. Those things need to  
2 be sorted out. So when the proposal is brought in and  
3 it's identified where you want to be, it also is  
4 important for the Forest Service to gather that  
5 information on that specific piece of ground that  
6 you're going to be utilizing in your proposal.

7           Then cost recovery comes into play for  
8 recreation if it's anything more than 50 hours. For  
9 land uses, where I typically am involved, it begins at  
10 hour one regarding cost recovery. Those are typically  
11 the industry-related authorizations that the Forest  
12 Service has of infrastructure on the land.

13           Now, the gray area, for example, if it is an  
14 area that has not gathered information before and  
15 there's going to be information gathered regarding  
16 resource surveys, then there is potential for a sharing  
17 of that cost with the Forest Service, and that's where  
18 the forest supervisor and the district ranger have some  
19 discretion with you in trying to figure out how much is  
20 that going to really add to say our historic management  
21 plan, or is it going to add to our habitat management  
22 considerations regarding certain species. So that's  
23 where you want to really be clear about what you're  
24 trying to do and maybe need to compromise on some areas  
25 that you want to go to and reduce your costs.



1           We can come back to this slide during questions,  
2           too. I think it might be very helpful. So in this  
3           discussion, I heard a lot this morning about the  
4           different kinds of funding sources. Well, for us to be  
5           really efficient in our discussions and how can we  
6           leverage our funds, that's where we need to spend some  
7           more time communicating on how we can potentially  
8           leverage our money to be able to have those events on  
9           forest lands.

10           And with that, I would like to conclude and open  
11           it up to questions. Like I said, I could speak at  
12           least an hour or more on each slide, but I really want  
13           to hear from you on what your questions are.

14           CHAIR WILLARD: I think we'll start with the  
15           Commission first.

16           Commissioners, if you've got questions?

17           COMMISSIONER SLAVIK: I have a question on this  
18           50 hours. If I understand it properly, that's a  
19           threshold, 50 hours?

20           USFS STAFF FLEENOR: For recreation.

21           COMMISSIONER SLAVIK: For anything. In other  
22           words, is it the district ranger who makes that  
23           decision?

24           USFS STAFF FLEENOR: Yes.

25           COMMISSIONER SLAVIK: So there is an application

1 put in for an event, let's say, and somebody looks at  
2 this application, and this is going to be more than  
3 50 hours' worth of your time, then cost recovery kicks  
4 in?

5 USFS STAFF FLEENOR: Yes. And it's a very  
6 simple little worksheet.

7 COMMISSIONER SLAVIK: The one you gave us, one  
8 page?

9 USFS STAFF FLEENOR: Right, right. And you'll  
10 see at the bottom that you have a person who estimates,  
11 and those are usually the project leaders. Then  
12 there's a person who reviews it before it goes to the  
13 authorized officer, and basically the authorized  
14 officer will ask questions about who's doing what and  
15 why.

16 COMMISSIONER SLAVIK: Are the applicants engaged  
17 in that process? When there is a list, let's say,  
18 there are five or six specialists checked off here, and  
19 they estimate their time for this particular project,  
20 is the applicant involved somehow in the discussion  
21 about that?

22 USFS STAFF FLEENOR: Definitely. In the  
23 proposal that's presented, when the proposal comes in  
24 the door, hopefully with a really good map and a good  
25 explanation of what you're intending to do, the time

1 frame as far as date, time, how many, where, and for  
2 what purposes. You bring that to the table, and the  
3 project leader, which is usually your special use  
4 permit administrator, is your first line in discussing  
5 this proposal with you and asking questions of you to  
6 find out your purpose for being out there and figuring  
7 out with your map if there's potential alternatives  
8 that you might be willing to consider.

9 For example, in some places we have threatened  
10 and endangered species that require a number of  
11 mitigation measures that may not be suitable for the  
12 activity that you're proposing, and so you may want to  
13 avoid that area. Or say it's a heritage resource site  
14 that has particular considerations that won't allow any  
15 kind of disturbances, so the Forest Service with that  
16 known information will try to guide you to another  
17 place where you could meet the purpose of your event.

18 And Daphne is going to help me make sure that I  
19 answer your questions for you.

20 COMMISSIONER FRANKLIN: So this cost recovery  
21 estimate worksheet, this would be used for any -- I'm  
22 going to call it -- project, whatever is being done,  
23 whether it's a road easement per the satellite dish or  
24 a windmill, or a logging road, or anything else?

25 USFS STAFF FLEENOR: A transmission line.

1           COMMISSIONER FRANKLIN: You fill all this out,  
2 whether it's a new hiking path, this would be done?

3           USFS STAFF FLEENOR: Right.

4           COMMISSIONER FRANKLIN: So what about on trails  
5 and roads that are already established, we just want to  
6 use for a running event or a cross-country event or  
7 something like that? The trail is already there. The  
8 road is already there. You've already done all this  
9 work for mitigation and cultural sites and species  
10 protection?

11          USFS STAFF FLEENOR: Right. And that sheet  
12 would be used, say, for the hiking event, or the  
13 bicycle event, or a walking event, or bird watching  
14 where there's large groups of people, and they're  
15 wanting to have, say, a use of an area that would  
16 exclude the public, for example, then that would  
17 definitely put them into a worksheet.

18          Now, 75 people is our cutoff on what we say is a  
19 group use. It could be 75 people or 70 people who are  
20 taking this walk. Well, if they're notifying the  
21 forest that they're going to be doing this, it's for  
22 their public safety and our public safety, and  
23 notification -- just like when you see in the press  
24 release that the Mendocino National Forest put out for  
25 the Enduro event that happened in October, that's the

1 last page of your agenda worksheet.

2 So the Forest Service would want notice to the  
3 public that this event is happening and it's on the  
4 designated areas, that kind of thing. So if they were  
5 just saying on the road systems like that, then it's  
6 pretty basic. But the authorized officer would still  
7 need to assure that the resources that they have  
8 responsibility for have been accounted for. And that's  
9 where the specialist would say, it's no problem. You  
10 know, they would do a brief statement to the authorized  
11 officer.

12 COMMISSIONER FRANKLIN: So you still would use  
13 this form?

14 USFS STAFF FLEENOR: Yes.

15 COMMISSIONER FRANKLIN: And you would have to  
16 look at it a little bit, but you're not going to have  
17 to go out and do 100 percent, 400 hours worth of  
18 cultural site inspection?

19 USFS STAFF FLEENOR: It always makes a  
20 difference regarding disturbance.

21 COMMISSIONER FRANKLIN: But if you've got an  
22 existing road, it's not a disturbance because it's  
23 already there.

24 USFS STAFF FLEENOR: Well, potentially. Say  
25 even 70 people, if you're on a roadway, and adjacent to

1 the roadway -- and this is a real example -- that you  
2 have a bald eagle nesting site. When they would fill  
3 in the T&E categories, then during their nesting season  
4 and their fledgeling season, it might be advised that  
5 that roadblock should be held somewhere else, until  
6 after the fledgeling season is over.

7 Fortunately, the bald eagle has a status now  
8 that we have a little more latitude with that because  
9 the conservation measures associated with the bald  
10 eagle in the lower 48 have changed the situation for  
11 us, particularly here in California. And even the  
12 state has thought about delisting and also with Fish  
13 and Wildlife Service reducing the level of protections  
14 that's needed.

15 COMMISSIONER FRANKLIN: And I take it that this  
16 blank worksheet is in lieu of the actual examples that  
17 we had asked for during the last Commission meeting?

18 USFS STAFF FLEENOR: Yes, it is. And the reason  
19 for that, I typically don't have recreation activities  
20 as a review. Those reviews are at the forest level.  
21 We don't really try to do those reviews at the Regional  
22 Forester's office. We would become a barrier as far as  
23 trying to be a reviewer, and we want that role to be at  
24 the forest level.

25 COMMISSIONER FRANKLIN: It still would have been

1 very helpful.

2 USFS STAFF FLEENOR: I could have brought you a  
3 transmission line display of an estimation sheet. And  
4 Keaton and I talked about that and said, wow, that's  
5 probably not what they really intended to see.

6 COMMISSIONER FRANKLIN: It kind of is because I  
7 asked specifically for two different types, one for a  
8 motorized type and one completely independent from  
9 that. So it kind of was exactly what I had asked for.

10 USFS STAFF FLEENOR: And those still can be  
11 handed to you.

12 COMMISSIONER FRANKLIN: Okay.

13 USFS STAFF FLEENOR: And any forest office  
14 should be happy to show you their original worksheets.  
15 And that should be with the discussion of the  
16 proponents to be able to see those, and for them to  
17 know that the authorized officer has signed off on this  
18 as being their first guess, first estimate of how many  
19 hours it's going to take.

20 And we just don't process those kinds of things  
21 in our office. As I said, we are not in the  
22 decisionmaker role.

23 COMMISSIONER FRANKLIN: And you said kind of a  
24 guide is 50 hours, 75 people, rough guide. Thank you.

25 USFS STAFF FLEENOR: Well now, the 50 hours

1 doesn't relate to 75 people.

2 COMMISSIONER FRANKLIN: No, no. You said  
3 50 hours for recreation for the review, and a group of  
4 say 75 people is I believe what you said. Thank you.

5 USFS STAFF FLEENOR: Yes.

6 COMMISSIONER SILVERBERG: Is the Forest Service  
7 aware of the cost prohibitiveness of the recovery as it  
8 relates to events that are now not being able to be  
9 held?

10 USFS STAFF FLEENOR: Yes, and it's quite a  
11 dilemma. And the authorized officers take it very  
12 seriously about how expensive the cost looks to the  
13 public, and what do we do.

14 As I was describing about our budget situation  
15 and the appropriations that are now going to the  
16 forest, say, for example, the recreation funds that go  
17 to a forest today is much different than what it was  
18 25 years ago. And so the leveraging of how that money  
19 is used with the multiple uses of all recreation  
20 activities, it's very difficult, and it's very  
21 disconcerting to most of the authorized officers to say  
22 we don't have the funds to be able to do this. And if  
23 you don't, then it's something that probably won't  
24 happen. And that's an unfortunate circumstance, but  
25 it's a reality we're in today.



1           COMMISSIONER SILVERBERG: Is it a reality  
2 happening nationally?

3           USFS STAFF FLEENOR: Yes, yes. And nationally,  
4 I pulled up last month just a review of cost recoveries  
5 of all of the national forests and looked at some of  
6 the costs because it's been on our minds ever since  
7 we've got engaged into cost recovery, and the costs  
8 don't really match what people used to be able to enjoy  
9 as far as the Forest Service appropriations supporting  
10 their activities. It is a different circumstance  
11 today. There is no doubt.

12           COMMISSIONER SILVERBERG: Would I be going out  
13 on a limb to think that Region 5 is able to -- you  
14 know, the hundreds of millions of dollars it gets  
15 pushed in from OHV funds, is that something out of  
16 Region 5 that the national forest receives?

17           USFS STAFF FLEENOR: Daphne or Keaton will have  
18 to stop me if I get too much into the weeds here in  
19 responding to this. The grants money the forests  
20 receives is for a specific purpose. And as the grants  
21 from the OHV, you would expect that what we ask for in  
22 a certain purpose, that we use the money for that  
23 purpose that you've given it to us. So for the Forest  
24 Service, we also have that same purpose with each of  
25 the funds that are given to us from Congress. And our

1 money can only be used for that specific purpose.  
2 That's called discretionary funds on the Forest Service  
3 budget side. And this is a contradiction, you think  
4 how can this be. Today the Forest Service has the  
5 largest budget appropriations in its history, but  
6 remember 42 percent of that is a different split in how  
7 the pie looks. And it seems to be a huge contradiction  
8 that even for Congress it's difficult for them to see  
9 what's happening with cost recovery and to the people  
10 who typically enjoy the forest when it used to be at no  
11 cost.

12 COMMISSIONER SILVERBERG: I guess what I'm  
13 trying to scale us down to from the 10,000-foot view  
14 and 2500-foot view is that maybe there is a special  
15 circumstance with Region 5, because of the funds that  
16 are brought into the OHV versus other areas, it seems  
17 there might be some thought process about that.

18 USFS STAFF FLEENOR: That's where I'm thinking  
19 about. You know, are we asking correctly in trying to  
20 leverage our funding. We try to do that within our  
21 staff at the forest level, district level. I was there  
22 for 25 years before I ever moved to the Regional  
23 Forester's office trying to figure out with reduced  
24 budgets what we do, and we really needed to interact  
25 with staff. I think the same thing is true with our

1 state and our counties and our public and some of the  
2 partnerships that are in place. And it's not an easy  
3 answer. It means that we need to have more dialogue in  
4 figuring out how we can do this.

5 For example, before I came to the regional  
6 office, we had a resource advisory committee, which I  
7 think probably most of you are familiar with the  
8 25 percent fund that the Forest Service provides to  
9 every county in California and nationwide that has had  
10 any kind of receipts from federal lands, Forest Service  
11 lands, there is a 25 percent fund that goes to  
12 accounting regarding roads, trails, and schools.  
13 Lately, that's been called the Secure Rule Act. And  
14 that's maybe what you're more familiar with because  
15 that was enacted in order to compensate the California  
16 counties and the western state counties because of the  
17 huge reduction that happened in timber being removed  
18 from forest lands. And so that was a huge decrease in  
19 funds going to the counties, so it was appropriated by  
20 Congress that it would level it off, average a seven  
21 year of what that timber production was producing to a  
22 county in those 25 percent funds.

23 Now, I think there's more of an opportunity to  
24 look to those 25 percent funds receipts that go to a  
25 county and ask the resource advisory committee within

1 the counties if they decided to ask for the funds where  
2 they have a resource advisory committee. Not every  
3 county in California has that resource advisory  
4 committee that supports the 25 percent funds.

5 COMMISSIONER SILVERBERG: Nancy, I'm a very  
6 simple man.

7 USFS STAFF FLEENOR: Yeah, I know. Ask me  
8 again, I'm sorry.

9 USFS STAFF KATHY MICK: Let me try to answer  
10 this question a little bit more directly. I'm Kathleen  
11 Mick, and I'm the Regional Program Lead for Trails, OHV  
12 Travel Management for the region.

13 I believe the question that you're asking is why  
14 aren't we using the grant funds to take care of this.  
15 And the reason is we get the grants fund to help us  
16 with our operations and maintenance for leisure,  
17 everyday type of use on our trails. Nowhere in our  
18 grants that we apply for -- when Nancy said that we're  
19 applying for funds for a specific purpose and then we  
20 use those funds for that purpose, the purpose that we  
21 apply for grant funds for is for operations and  
22 maintenance of the trails, not for special uses.

23 Now, that's not to say that if we had the  
24 ability to apply for a grant that would allow us to  
25 either, A, help a club put on an event or, B, do the

1 NEPA for that event, that we might not apply for that  
2 money. Or better yet, if the club is a nonprofit, let  
3 them apply for the funding for the NEPA for their  
4 event.

5 But directly we apply for a grant. We apply the  
6 money that we receive from the grant onto the ground as  
7 we've asked them, and that's why right now we don't use  
8 grant funds to supplant any special uses on the forest.

9 The other part of the question that you asked  
10 was, was this unique to California. And I don't  
11 believe that it is. We can check on that. Other  
12 states do have a grants program, although maybe a  
13 little bit different than the way this one is  
14 structured. The intent is the same, is that there's  
15 money that comes through a purchase of a registration  
16 or some other thing, and then it is returned back out  
17 onto the ground in some form, either through the state  
18 agency or through a granting from the state agency to  
19 the federal agencies. But I do not recall any of my  
20 colleagues ever mentioning that that's a way that they  
21 are able to supplant their appropriated funds to allow  
22 for special use events for those types of granting of  
23 money. I think that's what you are looking for. If  
24 not, let me know.

25 COMMISSIONER SILVERBERG: That's along the lines

1 I'm trying to understand.

2 USFS STAFF FLEENOR: Try again.

3 COMMISSIONER SILVERBERG: So back to the  
4 10,000-foot view, the concern would be is there any  
5 redundancy going on where cost recovery is paying for  
6 studies that have basically already been done on  
7 managed trails. That would be the 10,000-foot view  
8 question.

9 USFS STAFF FLEENOR: And the answer should be no  
10 regarding that.

11 COMMISSIONER SILVERBERG: And then my other  
12 question would be, given that it's had such a dramatic  
13 impact on these events that have been, in some cases  
14 I've heard rumbling, 60 years the event has been  
15 happening that aren't happening anymore because of  
16 this. So what is the position of the Forest Service on  
17 that? How are they handling that? What is the  
18 position? Is the position to be an advocate, trying to  
19 figure out a way to help these clubs maintain these  
20 events that are practically historic by nature now?

21 USFS STAFF FLEENOR: Yes.

22 USFS STAFF KATHY MICK: To a degree, yes. But I  
23 mean our role at the Forest Service is not to advocate  
24 private uses of the national forest. Our role is to  
25 allow for that type of use, and we have a process that

1 an individual or a club, a utility company needs to go  
2 through in order to have a use that's considered  
3 special on national forest lands that's other than  
4 everyday regular use.

5 Now, are we concerned about it, absolutely.  
6 This conversation is happening all the way to the level  
7 of the Chief of the Forest Service and beyond about  
8 cost recovery and more importantly about whether its  
9 perception or the reality of the prohibitive nature of  
10 cost recovery. So it's being talked about. We're  
11 trying to look at other ideas and ways to deal with it  
12 and also look at taking a larger role from the  
13 region -- at least for this region, I can't speak for  
14 others -- reviewing some of the cost estimates to try  
15 and level them in some way and make sure that  
16 they're accurate. So we're talking about it. We're  
17 starting to take action, but we have a certain set of  
18 sideboards that we can't move outside of right now.  
19 But it's definitely something that the Regional  
20 Forester is concerned about.

21 USFS STAFF FLEENOR: And I'll be very blunt in  
22 the fact that it can only be adjusted by the authorized  
23 officer with money that they have in hand, to be  
24 helpful. And I am confident that the authorized  
25 officers want to be helpful. It's the fact of how much

1 money they have in their hand that they can assist.  
2 And so if the proponent can't foot the cost and the  
3 Forest Service doesn't have the appropriated funds,  
4 there really isn't any discretion to deficit spend.

5 DEPUTY DIR. GREENE: Commissioners, we talked  
6 about this earlier today, and I know we're right in the  
7 middle of a discussion, but because we have the  
8 appropriate people here, if I could just for a quick  
9 moment interrupt this conversation.

10 John Pelonio, can you come up please if you  
11 would?

12 CHAIR WILLARD: It's with great pleasure that on  
13 behalf of the Commission that I'd like to present you  
14 with this award and thank you for your outstanding  
15 service to the Division and the Commission. I  
16 understand you've been with the Division since 1997 and  
17 on the grants team since 2002. And I've been working  
18 with you since I've been here starting in '06 and have  
19 found you to be very knowledgeable, straightforward,  
20 hardworking, and just a great member of the grants  
21 team. So, again, on behalf of the Commission, I wanted  
22 to thank you and give you this award. (Applause.)

23 USFS STAFF FLEENOR: Let's go back to the slide  
24 on the public versus private benefit, and the gray area  
25 in the middle is where the authorized officer can try



1 to be as helpful as possible regarding money in his or  
2 her hand as to how to contribute, and this needs to be  
3 in an unbiased circumstance. You know, the Forest  
4 Service should be equal in how it responds to any  
5 recreation proposal, not just specific groups. So it's  
6 one of those things that this needs to be an unbiased  
7 process, it needs to be logical, it needs to be  
8 something that really has a broad public consideration  
9 and benefit.

10 COMMISSIONER SLAVIK: I keep hearing what you're  
11 saying, and I'm trying to understand this. First of  
12 all, I want to make it clear that we all own the  
13 forest, and I know you guys understand we're all  
14 taxpayers. And the money appropriated from Congress,  
15 it's not your money, it's our money and it's our  
16 forests.

17 USFS STAFF FLEENOR: Exactly.

18 COMMISSIONER SLAVIK: I want to make sure  
19 everybody understands that. The individual forests  
20 have a staff of specialists that have already been  
21 budgeted for. They're getting paid every day to do a  
22 job. Comes along an event once a year, twice a year,  
23 whatever it is, I'm guessing you're looking at extra  
24 work. What are those people doing if they're not doing  
25 the work that they need to do for that event? I'm

1 trying to understand. These individuals, 501(c)(3)  
2 clubs, people that really don't have a lot of money,  
3 you're hoping they will hand you some money. And it  
4 seems to me like you're almost double dipping in that  
5 case.

6 USFS STAFF FLEENOR: Well, not really. Because  
7 the appropriations because of cost recovery, then it's  
8 been recognized that the Forest Service needs to factor  
9 less money into these other areas so that they can go  
10 to that 42, 43 percent that's going to fire. That's  
11 why the Government Accounting Office directed us back  
12 in 1995 that we needed to move into a different way of  
13 providing services to the public based on the recovery  
14 of costs.

15 And, unfortunately, even people with money in  
16 hand, for example, the big industry, they can go to a  
17 forest, and they don't have the people to be able to  
18 respond. It's an unfortunate circumstance. They go to  
19 private contractors who do the resource surveys and pay  
20 the resource surveys to be done by the contractors  
21 under the guidance of the Forest Service to meet the  
22 protocols that need to go to their programatic  
23 agreements with the State Historic Preservation Office  
24 or with Fish and Wildlife Service. As far as the  
25 bottom line, it's the Endangered Species Act and it's

1 the Archeology Protection Act that a line officer has  
2 to assure that that disturbance does not violate those  
3 two activities.

4 So thinking back to 25 years ago, there were  
5 maybe more people available to do that. But part of  
6 the circumstance from these last three decades, the  
7 Forest Service was supposed to reduce the number of  
8 people that we have working in government, and that we  
9 continued to do. The workforce and the overhead costs  
10 are to continue to reduce because the appropriation at  
11 the level that they're increasing -- like I said, I  
12 started out saying, this is a huge contradiction to  
13 think that the Forest Service today has the largest  
14 budget in history, but it's not going to more federal  
15 employees being hired to do these things. We have a  
16 different way of how we're supposed to do this, and  
17 it's factored that we're to use cost recovery.

18 COMMISSIONER SLAVIK: Just a quick follow up  
19 then. In the example you gave, is it possible for a  
20 club that's applying for an application for a permit to  
21 ask for a competitive bid process between what the  
22 Forest Service is going to charge and what some outside  
23 contractor could charge?

24 USFS STAFF FLEENOR: Sure, that's exactly the  
25 communication. The proposal needs to come into the

1 door. And then the authorized officer needs to make  
2 the commitment that they have the person who can make  
3 sure that the proper protocols for those laws that  
4 can't be violated, and that's a guidance certainly that  
5 can happen. That's what happens with the utilities in  
6 most cases now.

7 COMMISSIONER LUEDER: I have a couple of  
8 questions, trying to make this simple here. I'm a  
9 simple guy, as well.

10 I'm trying to wrap my head around the instance  
11 of a motorcycle club who wants to put on an Enduro  
12 within a national forest that has a designated OHV  
13 system, and it's estimated that it's going to cost X  
14 amount of dollars by the Forest Service to issue that  
15 permit. And I understand that there is some labor  
16 involved, they have to review things.

17 But what I don't understand is if you're running  
18 an event on trails that are used every day, why there  
19 would be additional environmental, cultural, and  
20 archeological reviews for something that already exists  
21 and is being used every day for the same exact use,  
22 which when you take all of those line items, starts to  
23 add up into the thousands of dollars and in some cases  
24 \$5,000, \$10,000 dollars for a permit. It just seems  
25 excessive to me.

1           USFS STAFF FLEENOR: I understand that. And  
2 with the disturbances, as I'll call it, for a  
3 particular event, there's a difference in the time of  
4 year, like I was saying, for some species during their  
5 breeding and fledgeling part of their reproductive  
6 cycle, then there may be more mitigation measures that  
7 need to come into play for a present survey for that  
8 time period. But if you're asking for it outside that  
9 time period, then it may not even be relevant and that  
10 present survey would maybe not even be needed. So it's  
11 got to be site specific.

12           That's a broad question to ask, and that's where  
13 you really need to have the forest explain that to you  
14 why is it happening. Let's look at what is really only  
15 beneficial to the project that's being proposed. Are  
16 you talking about something that contributes to the  
17 bigger forest management plan, and that's the gray area  
18 where any information we gather as Forest Service  
19 surveys is beneficial to the Forest Service in the big  
20 scheme of thing. So that's where the gray area comes  
21 into play. And if there is money in the hand, then  
22 that's where the authorized officer does have  
23 discretion.

24           USFS STAFF MICK: Part of the thing, too, is  
25 that there's a difference between a one-year temporary

1 permit and a longer term permit. And so some of the  
2 consternation that's happening with some of the events  
3 that we're experiencing and as you mentioned that  
4 they're historic events, is that our policy, our  
5 regulatory scheme has changed. So if somebody came  
6 from the public, never had an event on forest cube  
7 before, and they came in and wanted to have a one-term  
8 event, then the appropriate mechanism to do that would  
9 be a one-year permit. And then depending on the type  
10 of event they were going to have, what they were going  
11 to do, it would be looked at. It might fit in the  
12 50 hours, it might not. But a lot of times for that  
13 one-time thing, again, depending on the circumstances,  
14 it can be categorically excluded.

15 So a lot of our events in the past had been  
16 categorically excluded from further environmental  
17 assessment. But when it's a recurring event year after  
18 year after year, it kicks it into another category  
19 where we're required to process a five-year permit, so  
20 it's five years at a chunk, and that comes with a  
21 difference in analyses because you're looking at  
22 different temporal and spatial bounds. So you're not  
23 just looking at here today for a one-time event.  
24 You're looking at not only the cumulative effects of  
25 what will happen but foreseeable indirect and direct

1 effects over that five-year time period, and so it  
2 kicks us into another category, and we're responsible  
3 under our regulations to take a look at that.

4 Now, again, sometimes that can be done in a very  
5 streamline fashion, particularly depending on the  
6 circumstance of the type of event, and other times it  
7 can't, particularly if monitoring has discovered  
8 something that is new this year that wasn't there two  
9 years ago. A new species is listed. The habitat for a  
10 species, the description of how we're supposed to  
11 maintain the habitat has changed. So there are all  
12 sorts of unknown forces that can occur that from one  
13 year it seemed very simple to now, the next year or two  
14 years from now, all of a sudden it's become very  
15 complex. So that's some of what I think we're talking  
16 about here, the difference between a one-year, one-time  
17 event as opposed to a longer term permit, which kicks  
18 us into a different set of requirements.

19 USFS STAFF FLEENOR: And even in the multiple-  
20 year permit, it could still be potentially  
21 categorically excluded because of the resources  
22 information that has been collected in the past that  
23 says it may be less than 50 hours because the resource  
24 information has already been collected. So it's really  
25 site specific for what the resources are, where you're

1 asking to be. And there can be a changed circumstance  
2 as far as your operating plan on an annual basis with a  
3 multiple-year permit. For example, there could be a  
4 fire event that changes the whole landscape as far as  
5 how someone could use an area, if you will, because of  
6 hazards as a result of the fire event.

7 COMMISSIONER LUEDER: Referring to your  
8 communication plan for cost recovery from 2006, there  
9 are frequently asked questions. And one of the things  
10 that is highlighted is that BLM has been using cost  
11 recovery for 20 years. I've yet to hear of a lot of  
12 complaints about processing special use permits through  
13 the BLM. And I'm not picking on the Forest Service,  
14 but I'm just saying I don't understand if the two  
15 agencies are supposed to be using the same principles,  
16 how are we getting into Forest Services now having  
17 complaints and consternation about these special  
18 permits and the BLM seems to be working? Maybe it's an  
19 opportunity for Forest to look at BLM policy and say,  
20 okay, we need to follow what they're doing and get  
21 through this and get rid of this headache.

22 USFS STAFF FLEENOR: And basically the Forest  
23 Service was directed to do that with our regulation and  
24 work with BLM to make sure that our fee schedule was  
25 the same in the categories one through four, which are



1 not relevant to recreation events that are 50 hours or  
2 less. Anything in a category five or six puts you into  
3 an actual cost situation, so BLM has that same rule  
4 regarding 50 hours also. They have for the years that  
5 they've been doing this been able to have their  
6 resource plans, if you will, for those known areas that  
7 have been paid for through the years by the early  
8 events when they started paying cost recovery.

9           So this is a new and changed circumstance since  
10 2006 for the recreation users on Forest Service lands.  
11 And it's one of those appalling things, what do you  
12 mean I have to pay now, I didn't before. Except I  
13 think that if you talked to most of the recreation  
14 people who will think back to before cost recovery,  
15 that they found out from the Forest Service that they  
16 maybe weren't able to have their event because the  
17 Forest Service didn't have the funds in order to  
18 prepare the correct analysis for the line officer to  
19 say it could go forward with a permit.

20           So we in Region 5 had a lot of what were called  
21 voluntary collection agreements with recreation people  
22 through the years because they were trying to help  
23 subsidize the government in doing the analysis, and  
24 it's packaged now in what's called cost recovery. And  
25 it has changed from what it was originally identified

1 in 1999 when the cost recovery rule from the Forest  
2 Service went out for public comment, and the recreation  
3 people made a great presentation to the final rule that  
4 was made to have this 50-hour grace, if will you, that  
5 if it's 50 hours or less, then they don't have to pay a  
6 cost recovery fee. And in that respect, the BLM  
7 followed suit on what those comments were that were  
8 received regarding cost recovery, and so they mirrored  
9 based on those public comments when they did their  
10 updated regulations.

11 CHAIR WILLARD: Commissioners, any other  
12 comments before we open up to the public?

13 COMMISSIONER SLAVIK: It seems we're going to  
14 end up beating this horse to death here, and you've  
15 done a pretty good job probably the last couple of  
16 years internally. We need to come up with a list of  
17 recommendations from the Commission how we can help the  
18 public through this situation.

19 USFS STAFF FLEENOR: I agree.

20 COMMISSIONER SLAVIK: Is that something we can  
21 do, a list of proposals, for instance, grants that can  
22 be directed toward cost recovery?

23 CHAIR WILLARD: Sure, there are things. It's a  
24 business item today, so we can take an action on it.  
25 And if you've got some specific proposals you want to

1 put forth today, we can do that. We can create a  
2 subcommittee and bring it back to our next meeting and  
3 put forth a specific proposal. We can do something  
4 like. There are a number of ways, whatever the  
5 Commission's pleasure. We can hear from the public and  
6 then have more discussion at the Commission to see what  
7 we would like to do.

8 USFS STAFF FLEENOR: One of the things that I  
9 was very encouraged about hearing this morning was the  
10 number of groups and interests that you have already  
11 engaged, like the Archeological Stewardship Council, I  
12 think you called it. We have universities in  
13 California that are always asking for research studies  
14 on forest lands, and they have a need of being able to  
15 provide ground fieldwork for people in the university  
16 system in real case scenarios, and those things have  
17 been used by some of the forests that have a  
18 relationship with a university to come in and do  
19 archeological surveys under the guidance of the Forest  
20 Service Heritage Resources person. So there is some of  
21 that reaching out that maybe can happen that we just  
22 haven't done before in trying to problem solve.

23 CHAIR WILLARD: Is there any opportunity for a  
24 credit for volunteer work on a certain part of the  
25 forest? If there is a club that's using a certain area

1 and they want to maintain the trail system or do some  
2 maintenance work, could they get credit towards a cost  
3 recovery?

4 USFS STAFF FLEENOR: Well, for example, if  
5 they're doing monitoring after the event that's  
6 following the protocol that the Forest Service has  
7 given, the Forest Service would accept that monitoring  
8 provided by that club for the post-event activities.  
9 And that's the kind of discussion you need to have with  
10 the authorized officer: Give me what I need to do post  
11 event as far as monitoring, or prior to the event what  
12 kinds of things do we need to look for that isn't paid  
13 out of our pocket, but we have people who are willing  
14 to do this and will follow the information sheet.

15 CHAIR WILLARD: For instance, for a club wanting  
16 to have an annual event, but they would agree to have  
17 volunteers do certain maintenance on the trail system  
18 over the entire year and build up credits.

19 USFS STAFF FLEENOR: Yes. That hasn't come into  
20 play as far as something that would balance out the  
21 cost.

22 CHAIR WILLARD: Maybe it's a credit offset,  
23 maybe not the whole cost, but if there is some credit  
24 given for this volunteerism.

25 USFS STAFF FLEENOR: Yes, I think if they could

1 be looked at in dollars, which we do with the Forest  
2 Service. Any time that we give an exemption or a  
3 waiver, it's identified in our special use database  
4 system on where we have waivers that we've given to a  
5 state to a county. Not particularly for clubs, per se,  
6 but organizations can and do enjoy that kind of  
7 tradeoff. And particularly in our government-owned  
8 facilities, there are maintenance things that are done  
9 by whoever is the occupant, you know, with a permit to  
10 be in that government facility, then that does offset  
11 the fees.

12 CHAIR WILLARD: Would a credit system be at the  
13 local discretion or would that be something that would  
14 have to be implemented higher up?

15 USFS STAFF FLEENOR: It would have to be  
16 introduced through regulations so that we can see that,  
17 but it's certainly worthwhile. I mean the recreation  
18 community has had a very strong voice with the  
19 congressional people, and that's what needs to continue  
20 also.

21 CHAIR WILLARD: Unless there are other comments  
22 from the Commission, we will open it up to the public  
23 comment. I mentioned earlier we're going to try to do  
24 this a little bit differently, and you're going to have  
25 to cooperate with the process because normally we've

1 got that clock up there with those lights that are  
2 telling you when you're done with your time. But I do  
3 want to allow the public to have some interaction with  
4 the U.S. Forest Service, so we're going to allow some  
5 questions and some answers. I'm just going to have to  
6 have some leeway in granting some speakers maybe a  
7 little bit extra time, but clearly we can't afford to  
8 give everyone 10, 15 minutes at the podium because  
9 there are too many people who want to talk to this  
10 topic. And if the question has already been asked,  
11 please don't go over the same one, try to pay attention  
12 to the dialogue. I think with that we can try to get  
13 through it and allow to have the back and forth with  
14 the Forest Service it would be very helpful.

15 BRUCE BRAZIL: Bruce Brazil, California Enduro  
16 Riders Association. I am one of the members of the  
17 club that's having problems getting our permit due to  
18 the cost recovery fees.

19 And I find it very nice to hear that the  
20 forestry wants to really mirror what the BLM is doing  
21 on their cost recovery. Because if you go into the BLM  
22 Recreation Permit Administration Handbook, there's one  
23 part that says, as an example, if existing areas, roads  
24 and trails are designated as open for OHV use, the  
25 applicant would not be charged for the same roads and

1 trails to be inventoried for cultural, heritage, or  
2 endangered species as the inventory benefits the  
3 general public. This is a written guideline by the  
4 BLM. You want to mirror them, I think this is a real  
5 good thing to go with.

6 USFS STAFF FLEENOR: I agree. And the final  
7 call is with the authorized officer in being able to  
8 describe to you why it doesn't fit.

9 BRUCE BRAZIL: We haven't been able to get it  
10 without going through a complete archeological  
11 assessment, archeological, cultural through the whole  
12 system, not just the special use only trails. Just  
13 95 percent of our Enduro is on system trails that  
14 should have been studied to death and already  
15 documented, and it's for motorized use. It's not like  
16 a hiking path that you want to change the use of.

17 You mentioned something like with the bald  
18 eagles. Well, are there any studies not just  
19 specifically to the eagles but for the animals as to  
20 when 70 recreationists go by a species, that's not  
21 going to disturb them as opposed to maybe 170. So far  
22 we've been waiting for several years for the goshawk  
23 and all studies to be made public. That would help  
24 clarify how much impact is there. And those are just  
25 two of the indicator birds. So to say that over 75 is

1 going to an impact with no studies, that's what I would  
2 call junk science.

3 USFS STAFF FLEENOR: And I didn't mean to imply  
4 that 75 or less would not be put into this can't happen  
5 in this place because of the breeding and fledgeling  
6 season with the avian species, but it also may relate  
7 to the aquatic species and their reproductive cycle of  
8 their egg masses and whatever. And the protocols with  
9 each of those species vary, for example. And the  
10 goshawk surveys have a multiple-year protocol regarding  
11 their nesting and their characteristics of use of an  
12 area.

13 So timing of an event is always important. Like  
14 with our timber industry, we had what was called  
15 limited operating periods. We don't typically use that  
16 phrase in special use authorizations because we try to  
17 help people understand that maybe this area is okay  
18 because of known information there. So it may be  
19 because of the uncertainty and the requirement of  
20 protocols to the multiple use.

21 BRUCE BRAZIL: I think number 75 is what I was  
22 kind of pointing out. Under 75, I don't know what sort  
23 of permit is even required.

24 USFS STAFF FLEENOR: If the authorized officer  
25 says nominal effect, you don't need one.



1 BRUCE BRAZIL: 75, 50, or me and five of my  
2 friends go out there riding.

3 USFS STAFF FLEENOR: It just depends if you're  
4 asking for it as an exclusive use, that's different.  
5 But if you're just going out on public system roads,  
6 there is no problem. You wouldn't even ask for a  
7 permit.

8 BRUCE BRAZIL: Even with the Enduros, I don't  
9 think there is anything in the wording that says it's  
10 inclusive. We don't shut the trails down other than  
11 one of the roads for safety reasons. So it's not an  
12 exclusive. Thank you.

13 KAREN SCHAMBACH: Karen Schambach, PEER and  
14 Center for Sierra Nevada Conservation. Nancy, thank  
15 you for your clarifying explanations. And just a  
16 couple of questions.

17 So say on a forest that had applications for ten  
18 special use permits in a year, and just ballpark, say,  
19 it was \$10,000 a permit. So where would that \$100,000  
20 come from if it didn't come from the permittee?

21 USFS STAFF FLEENOR: It wouldn't come from  
22 anywhere. It wouldn't happen. I mean if the forest  
23 does not have appropriated funds as we're directed now,  
24 if it's more than 50 hours, then cost recovery is to be  
25 paid.

1 KAREN SCHAMBACH: I mean in the past then before  
2 cost recovery, did it come out of the recreation  
3 budget?

4 USFS STAFF FLEENOR: In say 30 plus years ago,  
5 yes, analysis was performed by the Forest Service and  
6 that was based on appropriations.

7 KAREN SCHAMBACH: So it would come out of the  
8 recreation budget?

9 USFS STAFF FLEENOR: Right.

10 KAREN SCHAMBACH: So for that \$100,000, instead  
11 of hiring an LEO, you could have processed ten special  
12 use permits?

13 USFS STAFF FLEENOR: Thirty years ago, yes.

14 But even Green Sticker money started kicking in  
15 28, 30 years ago to provide patrol for Forest Service  
16 for the trails that were identified as off-highway  
17 vehicle use. That started the relationship with the  
18 Forest Service and the Commission.

19 KAREN SCHAMBACH: I understand that, but I also  
20 know that even with the Green Sticker money, there's a  
21 shortage on trail maintenance. I think on the Eldorado  
22 something like 20 percent per year gets monitored or  
23 maintained, and that these events are very hard on the  
24 trails. One event totally destroyed a crossing that  
25 forest funds later ended up putting in a bridge of

1 several hundred thousand dollars, and the club didn't  
2 have to pay for that. I guess the point is that these  
3 events can be damaging. A lot of times in the past,  
4 they've been done under categorical exclusions that  
5 resulted in inadequate mitigations and damage.

6 For all of the purposes, in reality people  
7 aren't going to take their children out into the forest  
8 when you've got 300 dirt bikes racing around. In fact,  
9 these are dates when these events are on that the  
10 forest is closed to the general public. And, again,  
11 we're looking at a club that makes money on these  
12 events, that doesn't seem to be willing to want to  
13 share the cost of putting the events on. And as a  
14 taxpayer, I find it just astonishingly insensitive to  
15 the current budget situation to expect the public to  
16 subsidize these events. Thank you.

17 JOHN STEWART: Good afternoon, Commissioners,  
18 John Stewart with California Association of 4-Wheel  
19 Drive Clubs. I want to thank you for the presentation,  
20 but I think the presentation actually caused more  
21 confusion than it tried to clear up.

22 To really cut to the chase, I've got a 35-year  
23 career in federal civil service, much of it dealing  
24 with finance budget. And the basic thing is: Are you  
25 familiar with Circular 825?

1 USFS STAFF FLEENOR: Actually, yes.

2 JOHN STEWART: Well, from what you have put  
3 forth up here, you are not following Circular 825.

4 Now, one provision, and just for clarity here,  
5 special activities that convey special benefits to  
6 recipients beyond those accruing to the general public  
7 are susceptible to a cost recovery action. That's  
8 fine. We're not arguing that. Somebody is going to  
9 accrue a certain benefit from the use of a public  
10 resource, then they should pay for it; no question.  
11 And I don't think that's the point of argument.

12 What the point of argument here is how are you  
13 defining what you have. You come in here and present  
14 some sheet that has no relevance to the subject matter  
15 at hand, being recreation, and then trying to talk how  
16 recreation fits into this process. Mr. Brazil has very  
17 aptly pointed out that Bureau of Land Management has a  
18 special use fee handbook. Yes, they do. And I was  
19 part of the team from the recreation community that  
20 worked with BLM to develop that in its desert district,  
21 of which they adopted that statewide. It is a very  
22 comprehensive look at how you do cost recovery in a  
23 reasonable fashion.

24 And from hearing your presentation, when you cut  
25 out all of the bureaucratic verbiage in there, it

1 points out one thing: You do not have a defined  
2 process for dealing with recreation permits. You do  
3 not know what you're doing. You're making up the game  
4 as you're going along. And this is what is causing  
5 confusion. From ranger district to ranger district  
6 within a specific forest, there are different  
7 terminologies, different definitions, and different  
8 interpretations. From forest to forests, there are  
9 differences. This is what the whole crux of the  
10 problem is. And to toss in the fact, well, this is the  
11 recreation category of how you do it here, this is how  
12 you do a power line, that is absolutely outside the  
13 issue at point.

14 We need to step back and look at how you're  
15 going to work with the recreation community and define  
16 a process for which you can process a permit in a  
17 timely fashion and in a cost effective manner. Thank  
18 you.

19 USFS STAFF FLEENOR: And just to respond to  
20 that, the Forest Service did use the BLM hourly rate in  
21 order to identify the fee schedule for the 50 hours or  
22 less that the non-recreation people have to pay.

23 JOHN STEWART: I would submit that there is  
24 nothing secret or great about that because there is  
25 federal statute that says, I believe it is GS-9 step

1 five, is the base rate of which any cost reimbursement  
2 expenses will be based on, so that's so what. And this  
3 is where I go back to.

4 Forest Service does not have a defined process  
5 for dealing with recreation permits and establishing  
6 cost recovery. BLM, to their credit, has taken a step.  
7 You may have looked at the BLM handbook but you did not  
8 adopt it. You did not come out with a companion  
9 product, and that is what is causing the crux of the  
10 confusion and problem at this point.

11 USFS STAFF FLEENOR: And not to be  
12 argumentative, but the 50-hour threshold is exactly the  
13 same as BLM.

14 JOHN STEWART: That's fine. That's in the rule.  
15 That's in the 1999 rule from which the Forest Service  
16 and BLM have their own rule, and it is the same, yes,  
17 but, again, that is outside the point in question.

18 The point in question, what is causing the  
19 confusion is there is not an established process which  
20 everybody is reading from the same page and  
21 understanding the same verbiage. And this is where the  
22 BLM has taken that step, has worked through the  
23 process. They have a process to do that, but Forest  
24 Service does not, and this is what is causing the  
25 confusion.

1 USFS STAFF FLEENOR: And it's our CFR  
2 regulation. What I think you're calling the process is  
3 based in a policy statement that interprets the  
4 regulation for BLM, which is that handbook that you  
5 referred to.

6 JOHN STEWART: Not directly, no, I would not say  
7 that.

8 USFS STAFF FLEENOR: Or the manual.

9 So the Forest Service has our 36 CFR regulation  
10 regarding cost recovery, the 50-hour rule, the major  
11 categories are based on actual costs, categories fives  
12 and six. You're exactly right that the Forest Service  
13 has not finalized cost recovery policy.

14 JOHN STEWART: Has not finalized cost recovery  
15 policy, nor has it finalized permit policy. When you  
16 take all of these factors into account and written them  
17 down, they now exist in an individual supervisor's  
18 mindset or planner's mindset for when they start  
19 working through this. There is no defined guidance.  
20 That's what I'm saying. The crux of the problem is,  
21 yes, you have the CFRs, so what. Yes, they are  
22 important. I'm not arguing the fact that they're not  
23 important.

24 USFS STAFF FLEENOR: Right.

25 JOHN STEWART: What it has done here, though, is

1 that in order to implement the CFRs, you have to have a  
2 policy guidance and step-by-step process to do that.  
3 And this is the crux of the problem right here, is the  
4 Forest Service has not taken that step to come up to  
5 that level of definitive items through a checklist.  
6 Now, you have done that for large-scale power line  
7 projects.

8 USFS STAFF FLEENOR: No, that's for recreation,  
9 too.

10 JOHN STEWART: If that's for recreation, then  
11 that is not applicable to what you are talking about.  
12 That's what I see is the problem.

13 USFS STAFF FLEENOR: Just to respond, the Forest  
14 Service has for many decades what's called the Forest  
15 Service Manual 2700 special uses and the 270911 Forest  
16 Service Handbook policies that interpret our 36 CFR  
17 regulations. Those have been in place for many years  
18 and are more particularly consistent with BLM and what  
19 you're referencing as their handbook or guide.

20 JOHN STEWART: And that is what I'm saying is  
21 that you are lacking in coming up with a handbook or  
22 guide that calls for you to interpret that so that the  
23 rangers, the planners, and everybody across the ranger  
24 districts and across the forests are talking the same  
25 language so that there is no cause for confusion.



1           Because what I've heard from all of this  
2 discussion is that there is cause for confusion on the  
3 user's perspective. And, excuse me, but what you're  
4 doing here, I believe, between you and Ms. Mick, you're  
5 adding to the confusion factor by not coming up and  
6 saying: Hey, we have a definitive written process.

7           You have not provided that, and I think that is  
8 something that would go a long ways to solving the  
9 issue at hand which is coming up with a practical  
10 approach to approving permits in a timely fashion and  
11 applying the proper rate of cost recovery to it.

12           USFS STAFF FLEENOR: Well, let's take it one  
13 step further. Every authorized officer, before they  
14 can sign as confirming with the cost recovery is to be  
15 collected, that authorized officer has to take  
16 training, and that's a self-study course that they are  
17 required to take, and it's recorded, so they do have  
18 the policy interpretation within that training.

19           JOHN STEWART: And I would offer up to you,  
20 that's not even taking it one step forward. One step  
21 forward, that particular training needs to be applied  
22 to the planner itself that are actually sitting down  
23 and reviewing the doing the interview in order to find  
24 out what is necessary for that permit.

25           USFS STAFF FLEENOR: And that's the requirement

1 by the Forest Service for them to do that. They can't  
2 be called a case reviewer unless they've completed  
3 their training.

4 JOHN STEWART: But you're talking about the  
5 authorizing officer, not down to the planner level.  
6 I'm saying move it down to the planner level where the  
7 work is actually being done on the ground. And, again,  
8 you cannot produce right now a written document that  
9 provides definitive guidance that all people across the  
10 forest use and cite. You're coming up with a vast --

11 USFS STAFF FLEENOR: I can show it to you. It's  
12 on the worldwide web. You can read it.

13 JOHN STEWART: Then I would submit, why did you  
14 not bring it today? That would have solved a lot of  
15 problems.

16 USFS STAFF FLEENOR: I asked if we could have  
17 access to the worldwide web. The stick isn't here  
18 today that would have provided that. I failed to ask  
19 for that ahead of time, but I did provide the worldwide  
20 website that you can go to to find the cost recovery  
21 training materials that the case reviewer has to take,  
22 the project leader has to take, and the authorized  
23 officer has to complete.

24 CHAIR WILLARD: John, we've got to let other  
25 people ask questions.

1 USFS STAFF FLEENOR: And I would like to show  
2 that to people if I'm back again because I think  
3 Jonathan helped me with that, and I said, well, maybe  
4 next time we can pull up the worldwide web for that.

5 The reference page where it talks about budgets,  
6 and it has a link described there in the worldwide web,  
7 that's the Forest Service national website. That's the  
8 place where you can look into special uses, and you can  
9 find cost recovery, and you can also find the budget  
10 narratives that describe what we're doing.  
11 Unfortunately, it only goes back to 2004 as far as  
12 looking at that historical information, but it could be  
13 found in the archives.

14 DAVE PICKETT: Dave Pickett, District 36,  
15 Motorcycle Sports Committee. Thank you, Nancy, for  
16 being here today. John mentioned Circular 325 that  
17 you're familiar with. It's the Office of Management  
18 and Budget. There's a section in here that has to do  
19 with recommendations, what I'm looking at, it says: To  
20 any other condition exists, that the opinion of the  
21 agency headers designate justifies an exception.

22 I would request that you check with Regional  
23 Forester Moore to see if Region 5 and the program that  
24 takes place with this Commission would fall under that  
25 exemption status, to see if that could possibly be an

1 avenue to get this cleaned up. That was the question,  
2 a suggestion, not a statement.

3 I also have another comment here. Earlier when  
4 you and John were having a little spirited discussion,  
5 I think he's referring to the BLM Handbook H 2930-1.  
6 Mr. Norquist, at the last Commission meeting, per the  
7 minutes, and a couple before that, except for one that  
8 was missed, acknowledged to the public that Forest  
9 Service and BLM cost recovery process is basically  
10 identical. I haven't been able to find any differences  
11 in regulation.

12 Anyways, my colleague here, Mr. Brazil, made a  
13 comment about that same 2930-1 handbook, and I, too,  
14 have a comment. It says: Monitoring an event for  
15 damage to inventory resources or permit compliance that  
16 might occur as a direct result of the permitted event  
17 is an appropriate charge, but routine monitoring of  
18 resources as required by law or policy -- which this  
19 Commission and Division has an MOU -- is not an  
20 appropriate cost recovery charge.

21 USFS STAFF FLEENOR: You're exactly right.

22 DAVE PICKETT: I would like clarification to the  
23 Commission, I think Mr. Lueder brought this up earlier,  
24 where this may be an area that could be touched on.

25 I also have a couple of other questions.

1           USFS STAFF FLEENOR:  Would you like for me to  
2 respond to that?  In that case, that's where I'm  
3 suggesting that there could be potential cost saving in  
4 that pre-event activity because the Forest Service  
5 needs to be reasonable in the collection of funds.  So  
6 if the club is going out there and doing the  
7 photography pre-event to show this is what the trail  
8 looks like today before our event is happening tomorrow  
9 and provide that photo documentation or the guidance  
10 that the Forest Service is saying we need to see this.  
11 And you really do want to protect yourself in the  
12 post-event activity as soon as it's over.  Instead of  
13 paying a Forest Service person to go document that, if  
14 you and the authorized officer can agree on what that  
15 photo documentation would look like, you would have a  
16 cost savings.  You wouldn't have a Forest Service  
17 person's feet on the ground to go do that.

18           DAVE PICKETT:  Thank you.  As you know, there is  
19 a report, I haven't seen one for a while, called *Report*  
20 *on Partnerships* that came out for Region 5.  Are you  
21 familiar with this?

22           USFS STAFF FLEENOR:  Yes, you can find that on  
23 the worldwide web, also.

24           DAVE PICKETT:  Then you can acknowledge that the  
25 number one contributor to dollar amounts to Region 5 is

1 from the off-highway vehicle community, and I think  
2 that was a comment that was made by others.

3 USFS STAFF FLEENOR: Right.

4 DAVE PICKETT: Is there some way we can use this  
5 because inside of that is also the volunteerism that I  
6 heard discussed earlier.

7 USFS STAFF FLEENOR: Right. We don't have that  
8 offset defined for us in our current regulation, but  
9 realize this is going to be reviewed in 2012, and so  
10 providing information to those people, the subcommittee  
11 in Washington, D.C., that's going to review cost  
12 recovery in 2012, that would be excellent information  
13 to provide.

14 DAVE PICKETT: I'll count on you to pass that on  
15 for us. Thank you.

16 USFS STAFF FLEENOR: I can't provide that  
17 advice. It needs to come from the public. You're the  
18 voice.

19 DAVE PICKETT: Trust me, they'll hear from us.

20 USFS STAFF FLEENOR: Actually, it is fantastic  
21 that we have informed citizens, and maybe you think I'm  
22 crazy, I enjoy the interaction with the public. And  
23 for people to be informed about what the government is  
24 doing is a very important aspect on how we should be  
25 managing the Forest Service for the public.

1           DAVE PICKETT: I want to make sure of a  
2 statement you made earlier that basically the forest  
3 supervisor is the one that can make all decisions in  
4 this arena on permanent events?

5           USFS STAFF FLEENOR: It could be delegated to  
6 the district ranger. So if it's only within the  
7 district ranger piece of ground, then it may be one  
8 district ranger, if the forest supervisor has delegated  
9 that authority to the district ranger. That varies by  
10 each forest in Region 5. So some forests, for example,  
11 is not delegated if it's multiple ranger districts.

12          DAVE PICKETT: Such as Grindstone in the  
13 Mendocino, for example.

14          USFS STAFF FLEENOR: It could be. I haven't  
15 looked at their delegation page recently.

16          DAVE PICKETT: The reason I've asked that  
17 particular question is I've attended a number of  
18 meetings where my club and the district organization  
19 that I represent were flat told there are no more  
20 one-year permits, and I don't believe that to be true.  
21 So the forest supervisor has the authority to override  
22 a district ranger to allow a one-year permit, even if  
23 on a temporary basis, while a five- to ten-year permit  
24 process is completed?

25          USFS STAFF FLEENOR: He's the boss.

1           DAVE PICKETT: So what you're telling me is,  
2 yes, he has the authority to make that decision?

3           USFS STAFF FLEENOR: The forest supervisor is  
4 the boss of the district rangers, and the regional  
5 forester is the boss of the forest supervisors.

6           DAVE PICKETT: I would like it on the record  
7 that a forest supervisor has lied to District 36 and a  
8 number of clubs that were in attendance. Sorry to trap  
9 you like that, but it has to be brought out.

10           Again, categorical exemptions versus cost  
11 recovery, since the Forest Service made a decision to  
12 reduce rider participation from 750 riders down to  
13 300 riders, the resource damage that I was hearing  
14 about earlier should be reduced especially with the  
15 grant money that goes in for trail maintenance, trail  
16 hardening, the red, yellow, green trail status,  
17 et cetera. Since it's been reduced to 300 riders, can  
18 a Forest Service supervisor override cost recovery and  
19 implement a categorical exemption?

20           USFS STAFF FLEENOR: Now, what policy did you  
21 say that is? I hate to do this, but I've got to defer  
22 to Kathy. I don't work in the recreation policy since  
23 I left the forest. I'm not familiar with that number  
24 limitation.

25           DAVE PICKETT: I'll refer back to what John



1 Stewart was talking about. There is confusion in  
2 regulation. We have events that we've been holding in  
3 our district longer than probably any Forest Service  
4 employee, 46 years in one particular case, and  
5 categorical exemptions all the way, almost to current.  
6 Now, what they could afford yesterday, they can no  
7 longer afford today. But during that time frame, the  
8 same organization has done a lot of volunteer work over  
9 this same 46-year period, and I think that's what  
10 Commissioner Silverberg was asking. The relationships  
11 that some of these clubs have with the Forest Service  
12 has been extremely strong until this cost recovery  
13 process has become into play. I don't want to see that  
14 volunteerism go away.

15 USFS STAFF FLEENOR: Right.

16 DAVE PICKETT: These clubs have donated one,  
17 two, 3,000 hours a year. Over 40 years, do the math.  
18 Do we want to lose those people on the ground because  
19 we can't figure out how to make this process work?

20 USFS STAFF FLEENOR: You're exactly right  
21 because as the other person, I think it was Karen, was  
22 talking about the deferred maintenance appropriations  
23 have shrunk as well as the other funds, and so all of  
24 the volunteerism is very important to the Forest  
25 Service.

1           DAVE PICKETT: Absolutely. So the 50-hour rule  
2 has been a real thorn. I'm having a hard time with  
3 some of these "ologists". We're able to have a quality  
4 event, clean up, follow up, follow the rules, whatever  
5 for decades without problems or exceeding the 50-hour  
6 rule. There was funding that was paid. There was a  
7 permit process, three, four dollars a head is what it  
8 ended up costing. Everybody was happy, and we moved  
9 forward.

10           If I'm hearing what you said a minute ago, the  
11 recreation budgets have been reduced so that makes our  
12 grant program here even more important. I'll use the  
13 Eldorado as an example, correct me if I'm wrong, they  
14 got \$1.2 million in overall grants, all categories this  
15 cycle.

16           USFS STAFF FLEENOR: I don't want you to  
17 misunderstand that what we have today in the recreation  
18 funds nationwide, if you compared it to say 2004, you  
19 would see that there is an increase of dollars. It's  
20 the value of the dollar that is different. For  
21 example, I looked it up with Keaton the other day. On  
22 the recreation funding nationwide for fiscal year 2011,  
23 it's \$297 million nationwide in the National Forest  
24 Recreation Wilderness Fund Code, NFRW fund code. In  
25 2004, it was something like \$245 million. It's the

1 value of the dollar. As I'm saying, the Forest Service  
2 has its highest budget in history, except the way that  
3 the pie is split.

4 DAVE PICKETT: I'll close with again thank you  
5 for coming. How do we fix this?

6 USFS STAFF FLEENOR: We've got to continue our  
7 dialogue and stay in the problem solving. And when  
8 cost recovery is up for review 2012, I wouldn't wait  
9 until 2012 to be providing information on how the  
10 implementation of this process is working.

11 FRANK FUNK: Frank Funk, Hi-Landers 4-Wheel  
12 Drive Club, good afternoon. I'll just give you some  
13 brief history of what our club has gone through. We've  
14 gone 35 years on the same trails. They have  
15 adopt-a-trails for the same forest, the same ranger.  
16 We've worked on them every year. Up until about five  
17 years ago, for 25-plus years we were allowed to permit.  
18 We made the permit, filled it out, five-year permit,  
19 one-year permits, we got them all.

20 Five years ago, they said now your permit is  
21 going to be \$10,000 cost recovery. It was supposedly  
22 for damage that we might create, might create. We  
23 never did. It was our adopt-a-trail. Whatever we  
24 used, we fixed. After that, we closed down for a year  
25 to decide what we wanted to do. It was on the same

1 weekend every year. It's always been Father's Day  
2 since day one. So the animals, they've come and gone.  
3 They never migrated at that time of year, I guess. We  
4 had a couple of years with the spotted owl that was a  
5 potential; he never showed up either. None of the  
6 trails were closed during our events. We used Forest  
7 Service roads. We used lumber roads. They were always  
8 open to the public. We just had a permit to run more  
9 than 25 vehicles on them.

10           Since we left the area, we've gone to a  
11 different ranger district. We've had our event the  
12 last four years, next year will be our 40th year. The  
13 ranger has retired. I went back into that area here  
14 two months ago, the 28 miles of trails are now closed  
15 with no less than 12 gates all the way around the whole  
16 area. So whatever money they did get out of us never  
17 went back into that area.

18           I recommend a permit manual get designed. I  
19 deal with two other forests in the area. We have no  
20 problem. Six months ahead of time, you apply. We've  
21 gotten a five-year permit. We've gotten one-year  
22 permits. They're easy to talk to. They don't throw a  
23 big number out at us. We pay for our permit and do our  
24 event. So somehow we need to work with everybody out  
25 here and get a good permit program going. Thank you.

1           AMY GRANAT: Hello, Nancy. Thank you for  
2 coming. Commissioners, Amy Granat with the California  
3 Off-Road Vehicle Association.

4           I was looking at this document over here, cost  
5 recovery processing special use authorization. I'm  
6 going to hazard an opinion that our biggest problems  
7 come from this bullet point number three. And that's  
8 in calculating whether a project will take 50 hours or  
9 less to process. The Forest Service ranger approves  
10 the application and prepares the environmental analysis  
11 needed for a defensible NEPA decision.

12           And I'm going to say that the problem with this  
13 comes with the word "defensible". We've had previous  
14 experience with the word "defensible" because when  
15 travel management started, and a number of us met with  
16 Jim Pena, the deputy regional forester, he told us his  
17 goal for travel management was to come out with legally  
18 defensible documents. In fact, we've seen recently  
19 with the two new lawsuits that have been filed against  
20 the forest, there is no such thing as a defensible NEPA  
21 document. There is no such thing that is going to  
22 prevent the lawsuit because NEPA is so nebulous and  
23 hard to understand. You can always find something to  
24 sue about.

25           And I'm going to read you a support for my

1 opinion that the Forest Service is going too far out to  
2 try to make these documents as complete as possible,  
3 which is then costing these clubs an arm and a leg  
4 because they have to pay for it in trying to come up to  
5 that word "defensible". In The Sacramento Bee article  
6 that's in the packet, it's very clear. It says: In  
7 2008, the Enduro riders submitted an application for a  
8 five-year permit; paid an \$11,000 processing fee --  
9 which they had no problem in paying, by the way, that  
10 wasn't the problem. Studies were completed; a permit  
11 approved -- which meant that the deciding officer must  
12 have thought he complied with bullet point number  
13 three; otherwise, he wouldn't have approved it. And  
14 then the Center for Sierra Nevada Conservation appealed  
15 the decision arguing that the analyses were  
16 insufficient, and the Forest Service withdrew its  
17 approval.

18           There's something wrong with that procession of  
19 events. If everything was done and everything was done  
20 according to the regulations that were in there, the  
21 event should have been allowed to continue and because  
22 they felt that they had legally defensible documents.  
23 Somewhere the Forest Service has to draw the line over  
24 what is really a form of blackmail, in a sense, it's  
25 recreational blackmail in this case, wanting the events

1 not to happen.

2 And somewhere you have to find a point where  
3 you're going to acknowledge that, yes, there are  
4 environmental forces or organizations that are going to  
5 want to stop these events. They're going to sue and  
6 threaten to sue, and you're just going to have to learn  
7 how to deal with it or create a defense against that,  
8 not a defense against the events.

9 And I'm going to close, and I'd really like to  
10 hear your opinion about it. I found a quote, and this  
11 explained to me a lot of things, and this is from Karen  
12 Uffelman who is the director of the Center for  
13 Biological Diversity. This was in an interview in the  
14 High Country News in 2009. It says: We use lawsuits  
15 to help shift the balance of power. The power shifts  
16 to our hands. The Forest Service needs our agreement  
17 to get back to work, and we are in the position of  
18 being able to powerfully negotiate the terms so they've  
19 become much more willing to play by our rules.  
20 Psychological warfare is a very under-appreciated  
21 aspect of environmental campaigning.

22 This is a direct quote. This explains to me  
23 what they are trying to do not only to the Forest  
24 Service. In a way the regulations might need to be  
25 improved, but I feel you're caught between a rock and a

1 hard place in having to fight against this  
2 psychological warfare and do the right thing by the  
3 citizens, on the other hand, you're not allowed to do  
4 it. But sometimes if there is a bully in the room,  
5 you've just got to attack it and go forward.

6 USFS STAFF FLEENOR: Right. I agree that to  
7 make a defensible NEPA document is a tremendous  
8 challenge, and it would be at a cost that a private  
9 club -- it would be terrible to try to meet that  
10 standard that we could be defensible in every aspect of  
11 NEPA. Because doing our best job, our quality job, our  
12 most thoughtful job, there could be a point that was  
13 missed. And that going through the appeal and then the  
14 review and if it becomes a lawsuit, then that's a court  
15 decision as a result of that. That's no longer in  
16 Randy Moore's hands, our the forest supervisor's hands,  
17 regarding that decision based on whether or not NEPA  
18 was sufficient.

19 AMY GRANAT: I've studied NEPA extensively.  
20 It's impossible to be sufficient. But somewhere along  
21 the line there has to be regulations created that says  
22 this is enough, this is what we have to do, and those  
23 don't exist.

24 USFS STAFF FLEENOR: Right. And in some  
25 sections -- and I'm not saying that this is what we



1 should aspire to, but an environmental impact statement  
2 is recognizing that there still remains uncertainty,  
3 that there is significance, potentially, regarding  
4 impacts. The Forest Service has to be able to  
5 articulate to the Fish and Wildlife Service or the  
6 State Historic Preservation Office if those are what  
7 they agree are significant and adverse. And that's a  
8 process of analysis that is much more time consuming.  
9 It's more programatic, if you will, than say a project  
10 specific analysis should be. For example, in some of  
11 our problem-solving discussions for the Mendocino, for  
12 example, who had their Enduro event just a couple of  
13 weeks ago, I was talking to the forest supervisor about  
14 the tremendous experience that he had. He was out  
15 there for two days, spent the time overnight with the  
16 group for that to happen, and basically he was really  
17 on a high note as to how this progressed well in a  
18 designated area. He enjoyed an analysis document that  
19 takes him through time regarding NEPA sufficiency that,  
20 again, it will be changed if there is new species or  
21 whatever. But at this point in time it's sufficient,  
22 and it met the test of the appeals. And he and I were  
23 talking about our diversity in our 18 national forests  
24 in California. I said but if a red-legged frog were  
25 found in your designated area, that presence would

1 change everything today. And he said, definitely, of  
2 course it would.

3 And those new information or new circumstances,  
4 say, for example, a fire event would change things for  
5 him as to what he could enjoy as an analysis document  
6 that was sufficient and went through the test. So we  
7 can do our best and try to keep the costs as reasonable  
8 as possible. And I'm not suggesting that we need to do  
9 an EIS on every designated area, because that's too  
10 much for a private individual or club to bear.

11 AMY GRANAT: I'll just close with in most of  
12 these forests in California, there were EISs for travel  
13 management that were anywhere from 800 to 1800 pages.  
14 I know the Commissioners all saw them. We carried them  
15 in, in some cases in multiple boxes, and that would say  
16 to me that these forests that we're talking about have  
17 been studied to death. They have been studied, and the  
18 amount of changes in a year or two were not that great  
19 to support these charges. It seems to me that the  
20 \$11,000 was not returned to the Enduro riders after  
21 their permit was denied.

22 USFS STAFF FLEENOR: Right, and that's according  
23 to regulation. That if the money has been spent, then  
24 it's not returned.

25 AMY GRANAT: As a taxpayer, I really have a

1 problem with that, seeing that the money comes out of  
2 all our pockets.

3 USFS STAFF FLEENOR: That follows BLM  
4 regulations that if the expenditures have happened,  
5 even though the activity is denied. And I looked that  
6 up to make sure that we did have consistency there, and  
7 it's the same is true.

8 And to help out with the programatic level of a  
9 environmental impact statement such as travel  
10 management, it's the same thing with the utility  
11 industry. They can do a programmatic level  
12 environmental impact statement, but each year when  
13 they're doing their operating plans and the site  
14 specificity of where they're going to be doing the  
15 disturbance, then whatever form of analysis that is  
16 needed has to come into play because some areas have  
17 more particular resource considerations than others.

18 AMY GRANAT: Thank you very much.

19 NICK HARIS: Nick Haris, American Motorcyclist  
20 Association. Thank you, Nancy, I have heard a lot of  
21 interesting stuff. I guess reading this agenda, I  
22 didn't realize we were going to come back and talk more  
23 about it. I kind of want to focus a little bit more on  
24 the Commission and your role in all of this.

25 It seems to me you're hearing some people saying

1 it's confusing, some people saying it's not, some  
2 people saying it's a guide, some people saying that  
3 it's not. So it seems like from the Commission's  
4 perspective, you could go send a letter, however you  
5 want to do it, to Randy Moore asking for some  
6 clarification, maybe working with some of these clubs.  
7 Maybe there needs to be a sit down like this. And I  
8 think there does need to be a sit down like this.

9           And I've heard a lot of interesting statements  
10 and comments and kind of point, counterpoint, and I  
11 don't think anybody has the upper hand. It's just a  
12 question of perception or a question of experience for  
13 an individual club. I've gotten many calls from clubs.

14           It seems like there needs to be like a Region 5  
15 guide or Region 5 policy -- and I never can remember  
16 which, where this is going to be put in the scheme of  
17 things. But there needs to be some guidance both for  
18 the forest for consistency but also for the club. So  
19 when the club says, I'm not being treated fair and here  
20 is why. Maybe they're wrong, maybe they're right. But  
21 they can find on page five that indeed this is  
22 required, and forest is doing this, or that's not  
23 really required, and then they could ask why. It  
24 doesn't mean it's not going to be done, but they can  
25 ask why.

1 I've heard some good comments. I'd like to get  
2 some credit for volunteerism, but I think that's  
3 another that Region 5 has to say: Here are some things  
4 we feel a volunteer could realistically do. Could they  
5 do the monitoring; could they do the photographs after  
6 the event occurs? I went to a Cal 4-Wheel event a few  
7 years ago, and they had oil booms across the water  
8 crossings. I asked them about that. They were asked  
9 to do that monitoring, make sure none of the vehicles  
10 were leaking. Well, there you go. That's a good thing  
11 to do.

12 If that question is not asked or that  
13 information is not volunteered by that forest, it's  
14 hard for the club to know where is an appropriate thing  
15 we can do. Likewise, the forest doesn't know that the  
16 club has someone who has the special talent needed to  
17 do that. I think we can start to break that down into  
18 sections, into components.

19 And I think the Commission obviously has a  
20 greater voice than an individual club or individual  
21 district organization. If the Commission goes to the  
22 Forest Service and says, you know, we would like some  
23 answers to these questions, and you guys are clearly a  
24 big partner for the Forest Service in this area. And  
25 likewise when it comes to scoring grant applications,

1 there is a category that includes events, what's the  
2 reports from local clubs about the relationship they  
3 have with an event. Is there an opportunity to start  
4 funding some of this stuff.

5 Discussions we've been having kind of on the  
6 sidebar, a bunch of us is, are there areas we can  
7 identify that are appropriate for an event that the  
8 forest can steer people toward. It doesn't mean you  
9 have carte blanche to do whatever you want, but it's,  
10 hey, look here, we've done the site specific analysis,  
11 we've done the travel, OHV management plan, or is there  
12 something that's lacking in this one spot? If we just  
13 had this one archeological survey, we can get this  
14 done, then we could probably have an ongoing event.

15 I found it funny -- I realize this wasn't  
16 intentional, but the advice I heard is apply for a  
17 one-year permit and don't tell us you're coming back  
18 next year. Tell us you want to do this for the next  
19 20 years, you're going to create all of these other  
20 problems for yourself. It just seems like that's the  
21 exact opposite of what you really think would be --  
22 they know you're coming back, so they can work with you  
23 and say, hey, we are going to have to address this  
24 issue in the next five years, that kind of thing.

25 I also thought I heard an interesting statement

1 that apparently part of the problem where there is an  
2 event going on, it's the lack of other trails for  
3 people to use is why the event is a problem. I thought  
4 I heard someone say, when a person comes out to use the  
5 forest when there is an event going on, they're not  
6 allowed to use the forest. I've been in the forest  
7 when events are going on; you're not excluded. They're  
8 not fenced. There is not a gate. You may not choose  
9 to go there, but that's different than saying you can't  
10 go there. And I think that's a real important  
11 distinction to make.

12           Likewise, I've been to mountain bike events,  
13 I've been to equestrian events where I just happen to  
14 be there camping and there is an event going on. So I  
15 think that the forest is there for all of us, but to  
16 try to pinpoint this on one group and say they're  
17 getting an extra benefit, I don't buy that. I would  
18 like to see the Commission use their authority to kind  
19 of bring the Forest Service to the table like this and  
20 have the discussion with whoever needs to be there;  
21 probably Randy Moore at this point.

22           (Returned at 3:15 from a break commencing at 3:00)

23           MIKE FALLON: My name is Mike Fallon, and I'm  
24 the president of Polka Dots Motor Club. And what I'd  
25 like to spend my time going through is actually a real

1 experience about what cost recovery process is going on  
2 on the national forests. We started in '07. Prior to  
3 '07, we had gotten all of our permits as temporary  
4 one-year use permits under a PD. And in '07, we were  
5 notified that it needed to migrate to a five-year term  
6 permit. The Forest Service required that. We didn't  
7 have a choice. We were happy to do one-year permits.

8           And at that time in '07, that event that was  
9 under a one-year permit, they gave us a cost recovery  
10 of \$2,966, and we negotiated to do the work in the  
11 forest to have that waived, and they did. We actually  
12 went out. We didn't just take pictures. We went out  
13 and measured trail depth and trail width and delivered  
14 data and all of that information to the Forest Service,  
15 and they did waive that cost recovery. Since then,  
16 there has been no willingness to allow us to do that  
17 again.

18           And then going forward, '08, due to  
19 communications, we didn't have an event because they  
20 wouldn't give us a one-year permit, and we hadn't  
21 really begun the five-year permit process at that time.  
22 In July of '09, we had our first initial meeting with  
23 the Forest Service on our five-year permit. They gave  
24 us a cost recovery fee of \$25,000 to do an EA. That  
25 was not for a permit. That was just to complete an EA.



1 At that time, it was for five events over a five-year  
2 period. Recent initiation and trying to capture one of  
3 our other events we had in the Eldorado National Forest  
4 annually, one is a family event and one is a regular  
5 Enduro. One is in the Amador district and one is in  
6 the Placerville district. At that time we said if we  
7 spend that kind of money, can we do it across both  
8 districts under one EA to gain some synergy in costs.  
9 They agreed.

10 And in May of 2010 -- took them nine months to  
11 come back to do another cost estimate for basically two  
12 events per year over five years; so ten events took  
13 them nine months to come back with these cost  
14 estimates.

15 Which the form that you showed us, we've never  
16 seen. They come up with something very similar to  
17 that, but we've never seen that form.

18 USFS STAFF FLEENOR: That's not an approved  
19 O and B form, so they would hate for us to use this.

20 MIKE FALLON: So at this point, they came back  
21 with a cost of \$37,258. So as we've talked today so  
22 far, and I've heard so far in this section that we're  
23 talking \$10,000, \$11,000. We're not even in that  
24 ballpark here. We're obviously three and four times  
25 that now, and that was just for EA costs.

1           On top of that there was a monitoring cost per  
2 event and that came up to \$7,000 for ten events. So as  
3 you can see, we get to the end of the five-year permit  
4 period, and we end up spending close to \$50,000 just to  
5 have an event in the forest.

6           Now, at that time we decided to pay the \$37,000.  
7 We negotiated with the Forest Service to split that  
8 cost into two, a data phase and a report phase; they  
9 agreed. We paid \$21,000. We paid that in July of  
10 2010. At that point after we paid that, they were to  
11 begin work. At that time we submitted two appeals.  
12 One appeal was for the temporary one-year use permit.  
13 They denied that, and that was only for the time period  
14 of which this process, this five-year process, was to  
15 be undertaken. They denied that mainly because we  
16 didn't have a written denial of a permit because we  
17 never submitted an application because we were told we  
18 couldn't have one. We never submitted an application,  
19 never got a written denial, basically they just threw  
20 out our appeal.

21           Also, at that time, we did an appeal to this  
22 cost recovery of \$37,000. They denied that, as well,  
23 saying that we are a category six, over 50 hours, and  
24 prove to me that you are under the category six or you  
25 belong to another category. And, of course, we can't

1 because this is their cost estimate and that kind of  
2 thing.

3           During this time when we negotiated this, we  
4 were talking about this section, cost estimates we  
5 talked about, and they said to me, Mike, you can go out  
6 and get a third party to do this. We thought about  
7 that. We looked at that. I'm a consultant, and I know  
8 these companies that do this, and the reason we decided  
9 not to do that is we needed professional credibility of  
10 the Forest Service in this document because in the end,  
11 when this document is done and the Eldorado National  
12 Forest, their track record for OHV environmental  
13 analysis is poor, as every one they've done prior is  
14 vague, at this time we were thinking if we did use an  
15 outside company to do this, that they had no  
16 professional credibility involved in it, and therefore  
17 if it failed or was essentially contested, they would  
18 just give it back to us and say, well, your guys didn't  
19 do a good enough job, go shore it up, which would then  
20 cost us more money.

21           At this time, you know, we've been putting on  
22 these events for 40-plus years in this forest, same  
23 place, and we made this decision. No business would  
24 make a rational decision to spend this kind of money  
25 without any guarantee of being able to continue your

1 business. We made a decision that was emotional. We  
2 wanted to stay in the forest. We wanted to stay here,  
3 and we wanted to make sure we could continue to  
4 recreate.

5 Since those appeals have been denied, one was  
6 then forwarded on to Randy Moore, which we have yet to  
7 hear back from. But since then, the Forest Service has  
8 come back to us and reduced our cost estimate to now  
9 basically \$29,000. I couldn't tell you why all of a  
10 sudden they decided that they could now do it for less.  
11 They had some internal meetings, but that was their  
12 decision. And that kind of concerned me because in the  
13 end, it's not about -- the money is a frustration and  
14 the cost recovery is a frustration, but in the end it's  
15 about staying in the forest and recreating. So it's  
16 not about money. It's about doing what we can. It's  
17 only about the money to the extent that we have it and  
18 could spend it. I would spend a million dollars on an  
19 EA, I really don't care. All I want is a permit. And  
20 that's why we are at today.

21 So we are here today, we've paid \$21,000 on now  
22 a \$28,000 cost estimate, and they have yet to lift a  
23 pencil to begin this process, and we're over a year and  
24 a half. They will not give us a temporary one-year use  
25 permit. I've appealed that all the way to Randy Moore,

1 and don't expect that to yield anything.

2 And also to some of the other comments that were  
3 made today, as well, we are not a nonprofit company.  
4 We are a corporation. The tax code doesn't allow us to  
5 be a 501(c)(3) Section 7, because most of our revenue  
6 is over 37 percent of our total revenue, so therefore  
7 it makes it difficult for us to be a nonprofit.  
8 However, we don't put these events on, like I said,  
9 because we make money. We only make \$2,000 to \$3,000  
10 on event, and that money goes back into next year. So  
11 in the end, we put these on because we love them, not  
12 because we make money, not because we want to harm the  
13 forest. As a matter of fact, we're there because we  
14 love the forest.

15 Anyhow, so that's where we stand today. And  
16 that's really what I wanted to say because some of the  
17 things that I think were brought up earlier, I think  
18 this shows that there's a lot of issues in the forest  
19 and in the region. Cost recovery for, as you heard  
20 from our other sister clubs, they completely failed on  
21 that attempt, and it wasn't even in this ballpark in  
22 cost. And so I think you can see there is a range of  
23 issues. And essentially that's all I wanted to leave  
24 you with. So thank you.

25 COMMISSIONER SLAVIK: Mike, I didn't hear what

1 forest you were talking about.

2 MIKE FALLON: Eldorado National Forest, and we  
3 were operating in the Placerville Ranger District.

4 COMMISSIONER SLAVIK: When you sat down with the  
5 planner, whoever was the person you were meeting with  
6 on this cost recovery worksheet, I assume they gave you  
7 these numbers, did you ever sit down and look at them  
8 line by line at what they were charging you?

9 MIKE FALLON: Yes, and the one that was the  
10 final for both sides, the Amador and Placerville, the  
11 \$37,000 was 900 hours to do an EA. An EA is the lowest  
12 level of environmental analysis of a system. It's not  
13 EIS.

14 COMMISSIONER SLAVIK: So that was one line,  
15 900 hours equals an EA?

16 MIKE FALLON: 900 hours, \$37,280, and that gets  
17 you an EA.

18 COMMISSIONER SLAVIK: They didn't break it down  
19 into the separate specialists?

20 MIKE FALLON: They did. They broke that down,  
21 but those 900 hours was the accumulation of all of  
22 those specialists.

23 COMMISSIONER SLAVIK: So were you satisfied with  
24 what they were charging you for, or you just felt it  
25 was exaggerated or what?

1           MIKE FALLON: 900 hours, I mean that's a lot of  
2 hours. You know, that's eight hours a day every day  
3 going to work, and that's for people that are in the  
4 forest all the time. That's their job. That's the  
5 people that did the travel management work already.  
6 All of the assessment was done, you know, archeological  
7 sites. New ones don't show up, right? They're all  
8 old. They've all been there, so why would you need to  
9 do that again? It's all the kind of stuff you guys did  
10 bring up. And I'm just describing here is the  
11 magnitude, 900 hours to do things that have been done.

12           Now, of course, they said to me, Mike, that  
13 travel management was forest wide so it didn't include  
14 a special use concentrated event, as they said it.  
15 However, you can look at Rock Creek. Rock Creek had  
16 two in theirs, an EIS, and they still wanted to do it.  
17 So they're talking two different directions. I'm not  
18 sure that, like I said, any of the ranger districts or  
19 groups are covered.

20           ED WALDHEIM: Ed Waldheim. Ladies and  
21 gentlemen, I've heard the biggest blackmail I've ever  
22 heard in my life tonight. I am so tired. Since 1978,  
23 I've been at this. I told Nancy, get upset with me,  
24 but I am very upset. We are being blackmailed. We are  
25 being stolen from. We are being lied to. We're being

1 totally taken advantage of.

2 This OHV program has given millions and millions  
3 of dollars for the Forest Service to do their job  
4 because they didn't have the staff and didn't have the  
5 money to do it. We gave you the money to do the job.  
6 For you to come and back now to do a cost recovery is  
7 insanity because you have gone over and over the same  
8 thing. I personally sat there with the regional  
9 forester where we gave them the \$13 million to do the  
10 route designation, that whole process, \$13 million we  
11 gave them. Amador, are you still around? He left. He  
12 got so mad with me because we did that, but we felt  
13 that was the right thing to do because we're going to  
14 be good stewards of the land, we're going to finally  
15 settle on what routes we're going to use. We have a  
16 system in place already. It's been used day in and day  
17 out.

18 For God's sake, I cannot understand how a forest  
19 supervisor or anybody can now start selectively  
20 blackmailing fees on something we already paid for  
21 upfront long time ago, many times over we did. The  
22 original grants, if you can remember, those of you who  
23 were in the Commission meetings in '83, '84, 1985, I  
24 was on it for ten years up there, state motorized trail  
25 system was part of every O&M grant. The trail



1 maintenance was part of every grant that we did. You  
2 have taken that money. You have used that money. And  
3 for you to come back now and start to try to charge for  
4 the same thing is totally insane.

5 Mr. Moore needs to come in front of this group.  
6 We are a big customer of that national forest Region 5,  
7 as is BLM, but they don't seem to bother to come in  
8 front of you. Because we are their customers,  
9 remember, we are giving them millions and millions of  
10 dollars. Normally when you're in business, if you have  
11 a million dollars or more, a \$100 million customer, you  
12 would take the time to come and say hi and understand  
13 what the issues are, but they don't. It's totally  
14 unfair for you to sit there and take the brunt when  
15 Mr. Moore should be up here. I have made it very clear  
16 to him he needs to be here, but he told me, Ed, I need  
17 to move. That was three years ago, and he still hasn't  
18 come down here.

19 So, Commissioners, I think you need to really  
20 put the foot down that the Forest Service needs to come  
21 forward and explain exactly why do they think they need  
22 to charge such exorbitant prices for something we have  
23 paid ten times over already upfront.

24 Now, to Karen's answer, we don't want to  
25 subsidize the use. That's a wrong statement. We are

1 not subsidizing these events. These events are being  
2 charged on a per capita or 10 percent, or whatever  
3 percentage, for whatever time they enter an event.  
4 It's not free. They are paying for the privilege of  
5 using that event.

6 The problem we have also with the BLM is that  
7 the 50 hours is cool, but if you go over to hour 51,  
8 they charge you from hour one forward without any  
9 control of what these 50 hours entail. And we have  
10 this problem now with the BLM.

11 Ed Waldheim for District 37 AMA for Southern  
12 California. We have the same cost recovery problem  
13 coming up with the BLM that they said eight, nine, ten  
14 people from BLM could monitor an event, and it's going  
15 to come back to us. They're going to want to charge us  
16 for that, and we have no control over how many people  
17 they are going to send out. So we have the same issue  
18 going on with the BLM that we've got to put our arm  
19 around, how can we volunteer, how can we get our people  
20 to do the work so the BLM does not have to send eight,  
21 nine or ten rangers or somebody with a BLM uniform out  
22 there to see what our races are doing.

23 We are in jeopardy of losing those also, just as  
24 we are in jeopardy of losing the Forest Service. BLM  
25 would love nothing better than for us to do that

1 because then they could just put the gate up and say,  
2 sorry, we're out of business. So the thing is that's  
3 not an option for us.

4 The option for us that we have to demand from  
5 these agencies who get our money that they provide the  
6 services for which we have paid upfront so these events  
7 can take place. The events are an integral part of our  
8 society. If I have 5,000 riders in an area, and I have  
9 200 guys in an organized event, what's the difference?  
10 It's the same area. It's the same usage. It makes  
11 absolutely no difference. Trail maintenance is trail  
12 maintenance. I've got to do trail maintenance for  
13 5,000 people or 200 people. Any way you look at it, I  
14 have to do trail maintenance. And I do that at Jawbone  
15 all the time. So what's new? That's why you get  
16 money. That's why we have grant money. That's why  
17 we've got tractors. What's new?

18 So this whole thing is totally blackmail, and I  
19 think the Commission needs to take a strong stand on  
20 this that this shall not move forward as they want to  
21 do, unless you really get a full explanation of exactly  
22 how you're coming up on this selective cost recovery.  
23 It is nothing but blackmail. Thank you.

24 JERRY FOUTS: Boy, I just did the math. Let's  
25 see, 50 hours versus 900 hours, that's one week and an

1 overtime day versus 22 weeks, wow, I'm sorry, that just  
2 blows me away. It's a little nutty to me.

3 I'd like to thank the state for recognizing the  
4 difference between nonprofits and promoters and the way  
5 they do business. If a promotor does a business in an  
6 SVRA, it's considerably more expensive than a  
7 nonprofit. And I would hate anybody in this room to  
8 somehow think that motorcycle clubs put on events  
9 because we make so much money, we live in these posh,  
10 palatial houses on stilts in the middle of Lake Tahoe,  
11 we don't, okay? We're nonprofits, most of us.

12 My club, the Red Roosters, we support the Contra  
13 Costa County Food Bank, the Christmas Wish Foundation,  
14 the Masonic Center, the Boy Scouts of America, and many  
15 others. We don't put a single dime of that in our  
16 pockets. We give to other nonprofit organizations  
17 because they need it, or we put it back into our event,  
18 in our communities, and the SVRAs, and the forest  
19 because that's what we love to do. It's part of our  
20 heart, just like what Mike said.

21 And you know what, the subsidized thing, I ain't  
22 buying that either, man. I got news for you, I  
23 subsidize all of the hiking trails I will never ever  
24 use. I subsidized the Bay Bridge that I don't use.  
25 And it has fishes that change every day, but we don't

1 do an EIS every day on the fishes that go back and  
2 forth under the bridge every day, there's Bob, there's  
3 Tom, oh my God, we've got a different fish. We've got  
4 to count them a different way today. I'm sitting there  
5 listening to that, I'm sorry, that's what's happening  
6 in the Forest Service. You drive down a road, there  
7 might be an owl out today that wasn't there yesterday.  
8 But somehow they made it work with the Bay Bridge.  
9 What the hell is going on here? What's the matter with  
10 us? No matter we can't afford to live in this state  
11 anymore. It's dumb; it's really dumb. I also  
12 subsidize Yosemite, all of the foreign tourists that go  
13 there every week and trample that place to death, and  
14 you know what, they're killing Yosemite up there. I  
15 subsidize that. I don't use it. I don't go there. Do  
16 they pay for it, on. That's what government is all  
17 about. They subsidize all of that weird stuff that we  
18 can't all afford to pay. We all get our money. We all  
19 pool it together, and we try to manage it until we  
20 somehow figure out how to put it in order, that ain't  
21 going to fly.

22 I'm really disappointed to hear the Forest  
23 Service can't somehow work with the clubs to find some  
24 job they can do, even if it's not related to  
25 motorcycling, to working on trails to buy back some of

1 this 900 hours. You know what, my club has got  
2 hundreds and hundreds of hours at Carnegie working out  
3 there digging -- at least when we used to be able to  
4 dig, working on fixing the trails. And it just seems  
5 ridiculous to me that we can't find something for that  
6 club to do to mitigate some of this stuff. We've got  
7 to work harder at that. Thank you.

8 MARK TUSTIN: Thank you for your time. One of  
9 the first things I'd like to do is thank everybody in  
10 back of me that has a lot of wonderful information  
11 because you're looking at average Joe. You're looking  
12 at the guy that goes to work every day, pays  
13 everybody's salaries here with the taxes. I have a  
14 son. I have a house, and I have a wife. I buy a truck  
15 to haul my toys in. I have a trailer that I put those  
16 toys in. I pay taxes to buy that truck. I pay taxes  
17 to buy that trailer. I pay taxes on the registration  
18 on my three motorcycles. I pay sales tax on that.  
19 When I get into my truck to come down here, I pay sales  
20 tax on gas. When I get in my truck to load it to go  
21 somewhere, I pay taxes on that. When I get onto my  
22 motorcycle to ride on these lands that I have already  
23 paid for because I'm a taxpayer -- taxpayers bought all  
24 of these lands we're talking about. I pay my Green  
25 Sticker on my bike, which just doubled, and I didn't

1 get double for it; I'm getting about a quarter and a  
2 half. I pay taxes on the candy bar and soda pop I  
3 bought at the stores on the way up there. I support  
4 Georgetown, and I support every town in Jackson, and  
5 everywhere we go on motorcycles. You are looking at  
6 the reason America exists, and the reason you have the  
7 ability to buy a car to drive and wear the clothes  
8 you're wearing. I'm raising a son that I'm raising to  
9 do the exact same thing. One of the things I'm getting  
10 being in the Polka Dot Club right now, getting back  
11 into motorcycle riding, when I was a kid, I was in a  
12 motorcycle club with my parents. And I'm going to tell  
13 you something, you know what's happening right now?  
14 I'm doing signage at the Prairie City Grand Prix. You  
15 know what I run across, the kids that I hung out with  
16 now have kids that they're bringing to our events, and  
17 it's amazing. And you want to know something about all  
18 of those kids that were in the motorcycle clubs, you  
19 know what they're doing, well, they're working just  
20 like me. But you want to know something really amazing  
21 of what's going on, is these people are with their  
22 children, they're with these events, they're families  
23 that go to these things. And we're America. Our kids  
24 aren't going to jail. Our kids are straight A  
25 students. Our kids are also in soccer. We're it.

1           If you want to know what you can do for America  
2 right now and get things going, you hold in your hands  
3 the ability to spur the American economy because you  
4 know what we do, we hold events. When I stop at the  
5 gas station, that's an event. When I go to the  
6 motorcycle shop to buy something for my bike, that's an  
7 event. That's a taxable event. These are events where  
8 people get things done, and we are what America is  
9 defined as. We bought these lands that we're arguing  
10 over. You designated them as lands to ride OHV on. We  
11 pay you to do that for us. And, furthermore, if you  
12 want to help get America out of what's going on right  
13 now, take all of those trucks, they're going to haul  
14 all of those trailers, with all of those motorcycles,  
15 put all of that food in it, all of those families that  
16 go to all of those places and do things, you would be  
17 amazed at what would happen if you would take into your  
18 hands to open the floodgates and let this piece of  
19 America help you help yourselves. We are in the  
20 economy. We go to work every day. We pay taxes, and  
21 we vote. We vote, and we get the word out. And we  
22 vote for and we vote against. We're America, what  
23 you're standing here looking at. I represent them,  
24 just average Joe. The fact my name is Mark Tustin,  
25 doesn't matter. I'm just average Joe. That's my



1 two cents' worth, and I hope it counts.

2 CHAIR WILLARD: Great, thank you. I want to  
3 thank the U.S. Forest Service for coming and being part  
4 of this interesting exchange, and I also want to thank  
5 the public. I think that was an excellent round of  
6 input. I hope the back and forth was good. I learned  
7 a lot listening to it. I think, though, we'd like to  
8 open it up to discuss what we think about the topic.  
9 Obviously it's a very important one, and we need to  
10 consider it as such.

11 We have another hearing coming pretty quick up  
12 in I think five or six weeks. Perhaps it might make  
13 sense to try to coalesce some of the input that we had  
14 and see if the Commission might want to also work with  
15 staff to investigate how the grant program works with  
16 cost recovery, if there is any way that it can, and  
17 then maybe come up with a subcommittee that can then  
18 come back to the next meeting with a recommendation for  
19 action for the Commission. Because I think it's real  
20 important for us to digest this, consider it, and then  
21 at our next meeting deliver specifically on an action.  
22 That's my suggestion, but I'm certainly open to my  
23 colleagues and any other ideas. If someone wants to  
24 propose more immediate action, we can discuss that,  
25 too.

1           COMMISSIONER LUEDER: I agree with you, Gary.  
2 We need to have a subcommittee and figure out how we  
3 get to Mr. Moore, convey these comments that have been  
4 put forth to come up with some sort of solution because  
5 the problem is obviously not going to go away. So we  
6 need to get to a resolution, and I believe he's the  
7 person that can best get us there. So I'd like to see  
8 a subcommittee formed.

9           COMMISSIONER SLAVIK: First of all, I'd like to  
10 acknowledge the passion in this room of the individuals  
11 that spoke and also the frustration that there was  
12 nobody here from the Forest Service that were  
13 decisionmakers. We have great people to carry the  
14 message, but I don't think you can carry the message  
15 that you heard today in the same tone as you heard it  
16 today back to Randy Moore or whoever needs to listen to  
17 this.

18           To follow up that, I would like to propose that  
19 we ask for a Commission meeting in Vallejo at the  
20 Forest Service Regional Offices. I've asked. There  
21 doesn't seem to be any legal reason why we can't do  
22 that, but we need to bring this message home to those  
23 folks. And for the years that I've been involved,  
24 we've had very little actual decision-making  
25 representation at these Commission meetings.

1           Mr. Waldheim and other people brought up the  
2 same thing, that all of the money we've given the  
3 forester, we're a customer. We're one of your best  
4 customers when it comes down to it, probably second in  
5 line to the federal budget. Why isn't anybody here to  
6 listen to these impassioned statements about people  
7 that actually want to use the forest in a responsible  
8 manner? If we quit, it's going to turn over to the  
9 outlaws is what it's going to end up being, then you're  
10 really going to have some problems.

11           I have a list of six or seven different things  
12 that I would like to get on record that we could  
13 consider to address this problem, in no particular  
14 order I kept adding to the list. One is going to be  
15 training for clubs to address this issue. It could be  
16 at OHMVR headquarters possibly, Forest Service staff  
17 hopefully would be there, but how these clubs  
18 individually could learn how to work with the Forest  
19 Service on this issue.

20           The second one would be research the education  
21 sector where we could provide some kind of a cost  
22 offset. Some entity like Davis or something like that  
23 could have somebody that is looking for a project. I  
24 thought that was good idea.

25           Credit for volunteer work has come up as the

1 third item.

2 Fourth item, OHMVR grants that are cost recovery  
3 specific.

4 Fifth item, initiate dialogue with the Forest  
5 Service. That speaks to what I originally talked  
6 about.

7 Six item here, I think Forest Service parity  
8 with the BLM, why are these people talking out of two  
9 different books -- actually, isn't talking out of  
10 anybody's book.

11 And the last item, the Forest Service should  
12 adopt BLM guidelines.

13 Just kind of what I heard, just rephrasing it.

14 CHAIR WILLARD: I think that's good. I think  
15 maybe something in between meetings we can again craft  
16 some sort of a statement that we can send to Mr. Moore,  
17 and that way he can have something from the Commission,  
18 some concrete suggestions on how to fix the problem  
19 because I think clearly there appears to be a problem.  
20 You've heard a lot of situations where people are upset  
21 at the process. The process doesn't seem to be fair,  
22 it's inequitable.

23 So I think hopefully one of the things you can  
24 take away from this meeting, you've heard from the  
25 public, as one person put it, your customers, that

1 there's a tremendous amount of frustration and maybe  
2 that has to do with your process, and maybe you need to  
3 take a closer look at the process, and maybe there's  
4 some things that you can do to ensure to fix the  
5 process. And maybe in the meantime we can come up with  
6 some suggestions, as well, that we heard today and put  
7 that forth.

8 Any other comments from any Commissioners? If  
9 not, I would like to appoint a subcommittee. I think  
10 Commissioner Slavik, do you want to serve on that  
11 subcommittee in the meantime?

12 COMMISSIONER SLAVIK: Sure.

13 CHAIR WILLARD: Anyone else? Commissioner  
14 Franklin?

15 COMMISSIONER FRANKLIN: Okay.

16 CHAIR WILLARD: We're limited to two on the  
17 subcommittee; otherwise, we have that Warren problem.  
18 No action then today on this subject. I want to thank  
19 you guys for coming, and we will have this on the  
20 agenda at the next meeting on December 3rd.

21 USFS STAFF FLEENOR: I want to thank you for  
22 allowing us to present the information to try to help  
23 clarify what's going on. I found over the years the  
24 most effective forum for making changes across the  
25 18 national forests with the regional foresters is a

1 networking workshop where it can be discussed, the  
2 success stories. For example, we know some forests are  
3 having a lot of success with the clubs being able to  
4 present events, and that there can be a lot of learning  
5 on how to think outside of our traditional bureaucratic  
6 box of doing things. And I think I've heard a lot of  
7 good suggestions. Again, I'd like to say that in the  
8 handout that I gave you regarding the budget discussion  
9 that relates to cost recovery, which you can find at  
10 this website, I encourage you to be as informed as  
11 possible.

12           And you'll note that it's called a pilot  
13 program. And 2012 is the year that there will be a  
14 review of the Forest Service regulations and also  
15 BLM's, because of our consistency, that we need to  
16 continue with that consistency as federal land  
17 managers, so it's very important. And I'm really  
18 encouraged with the passion and enthusiasm the people  
19 bring to the meeting because it is the forest that  
20 belongs to the people, and the federal managers need to  
21 hear when we aren't doing things that are in a  
22 consistent manner, and we need to be in a consistent  
23 manner, our approach and our responses, to what the  
24 public expects of our management of the Forest Service.  
25 So thank you for allowing me to be here.

1           And it might be a suggestion to you, the  
2 regional foresters meet with what's called the regional  
3 leadership team on a schedule for each year. People  
4 like yourself can ask for attendance to those meetings,  
5 potentially a subcommittee, for a presentation there,  
6 and to actually meet with the decision makers because  
7 that's where they spend time together. It's unusual  
8 and rare to have them all together at one time, but  
9 they do schedule that at least three times a year.

10           COMMISSIONER SLAVIK: Nancy, who are those  
11 people?

12           USFS STAFF FLEENOR: It's called the Regional  
13 Leadership Team.

14           COMMISSIONER SLAVIK: So it's supervisors,  
15 et cetera?

16           USFS STAFF FLEENOR: Yes, along with Randy Moore  
17 and his deputies.

18           CHAIR WILLARD: Also, for those of the public  
19 that made comments, if you want to reach out to the  
20 Commissioners on the subcommittee in the meantime with  
21 your comments, please do so. I think that they would  
22 appreciate your input in the interim.

23           COMMISSIONER VAN VELSOR: I just wanted to make  
24 a procedural comment at this point before we enter into  
25 the next item. And this is in reference to the staff

1 report, the content of the staff report that we got on  
2 this. It's my perspective, my feeling that the staff  
3 report should provide an unbiased, objective overview  
4 of the issue that's being brought in front of the  
5 Commission and where appropriate that the most  
6 up-to-date scientific data is available for us to use  
7 to best make our decision or base our decision on that  
8 information.

9           And I felt that some of the information that was  
10 provided in this staff report was not objective. The  
11 three articles from the newspaper, that is not really  
12 data driven. Newspaper articles generally aren't  
13 objective, and I don't think that that's the type of  
14 information that the Commission should be using to make  
15 recommendations. And in the future I would recommend  
16 that we're only provided with kind of an overview of  
17 the information based on the best available information  
18 you have and, again, the most up-to-date scientific  
19 information that we need in order to make our decision.

20 //

21 **AGENDA ITEM V(C) - 2011 REPORT - Draft 2**

22           CHAIR WILLARD: The next business item is the  
23 Draft 2011 Report. It's due January 1st, 2011. It's  
24 something that staff has been working on for months,  
25 and I just got my copy over the weekend. At some point



1 we need to approve this before it's finished. If the  
2 Commission desires, we can do so today or we can wait  
3 until the December 1st meeting to do so.

4 I also want to take a moment to thank staff for  
5 their tremendous effort in preparing the draft report.  
6 I'm very pleased with it so far. I think it's very  
7 comprehensive. I think it does an excellent job in  
8 answering the legislative mandate, in answering any  
9 questions that are out there. So kudos for a job well  
10 done. I think we need to get it finished, and I'm sure  
11 we have some comments to go from here, and then we can  
12 move forward. We're on the path.

13 Does staff have an overview, any comments they  
14 want to give us?

15 OHV STAFF LATHAM: Connie Latham with the OHMVR  
16 Division. Good afternoon, Commissioners. If you don't  
17 mind, I do have an overview to give you an update of  
18 where we are and also possibly highlight some of the  
19 key changes that are in Draft 2 that we've made.

20 First, let me say I'm very pleased to have an  
21 opportunity to discuss this draft Commission Program  
22 Report. It's without a doubt been a work in progress  
23 and, as you mentioned, a collaborative effort amongst  
24 many people in the Division, BLM, and Forest Service  
25 staff.

1           As you kind of just mentioned, it is the second  
2 draft of the Commission Program Report, and per the  
3 Public Resources Code Section 5090.24, the report shall  
4 be adopted by the Commission after discussing the  
5 contents during two or more public meetings. This is  
6 the second public meeting of which we have taken this  
7 opportunity. And, again, reminding everybody that this  
8 is a report to the Legislature and Governor with  
9 specific reporting elements or requirements.

10           This is a very large document, and, again, the  
11 challenge has been what do we add and what do we take  
12 away, and it's been at the center of many discussions  
13 in the Division here for the last few months,  
14 especially since Draft 1.

15           We took to heart the comments we received from  
16 yourselves as well as the public, and what we found was  
17 there was obviously a common theme in which we needed  
18 to add more detail in a few sections of this report,  
19 primarily condition and resources, monitoring and  
20 restoration sections. We've added detail in other  
21 sections as well, but there was quite a theme in those.

22           As I mentioned, if you don't mind, I would like  
23 to take you through the document and address some of  
24 those key changes we've made. I think it might help in  
25 the overall discussion to have comments at the end, if

1 I'm allowed to do that, versus stopping in between.

2 In this document currently, there is no message  
3 from the Chair or executive summary. That will be in  
4 the final document.

5 We restructured Draft 2 to flow a little bit  
6 easier, make it easier for the reader in hopes of  
7 understanding what the requirements were, but also to  
8 get through the document and have it make sense. We  
9 really appreciated the valuable comments. Looking at  
10 the draft report, you'll see at the beginning we have  
11 an overview of the program upfront. We addressed the  
12 role and function of the Commission and of the  
13 Division. We give a history of the status of the  
14 program, including the funding. This has also been  
15 key. We received a lot of comments really wanting to  
16 address the loan to the General Fund, and you'll find  
17 this upfront where our money comes from, where that  
18 money goes. So you'll see that we've added a few  
19 charts there on pages six and seven.

20 And then here upfront we've added a new section  
21 that was not in the Draft 1. And from pages nine  
22 through 35, you'll see that there's an overview of the  
23 SVRAs, and they're in alphabetical order. I will note  
24 at this point, all sections involving the SVRAs are in  
25 alphabetical order so we have consistency throughout

1 the report.

2 As we move forward, that brings us to the six  
3 specific report requirements, the first report  
4 requirement being the status of the strategic plan.  
5 And obviously the strategic plan sets the stage for  
6 where we are going, kind of the roadmap. This document  
7 was completed in March of 2010.

8 And looking at page 40, it brings us to Report  
9 Requirement No. 2, the condition of natural cultural  
10 resources of area trails receiving state off-highway  
11 motor vehicle funds and the resolution of conflicts of  
12 use in those areas. So there's kind of two parts to  
13 this section. This area also had the largest amount of  
14 edits and changes based on comments that we received.  
15 So you'll see that the SVRA sections, basically pages  
16 40 to 59, had quite a bit of editing and detail added  
17 to them.

18 And then if you look towards page 60, we get to  
19 the federal program. We talk a little bit about the  
20 changes to the grants program, OLGA, changes from our  
21 baseline of \$17 million to \$26 million and then you add  
22 the 1.1 million. And on page 61, we also have that  
23 funding by fiscal year in the grants program, so you  
24 can kind of see how that has changed.

25 Then as you look at page 68 and go towards pages

1 86, this is another section that has really been  
2 extended. It's the section on the cultural resources,  
3 condition of those resources, the overall program, not  
4 only the SVRAs but as well as the federal partners.

5 And then as I've alluded to on page 90, we get  
6 to that second component of this report requirement,  
7 which is the resolution of use conflicts. And in there  
8 we go over some of the strategies that the Division has  
9 used and some of the accomplishments that have gone on  
10 regarding how we deal with these use conflicts.

11 Going to page 95, that brings us to Report  
12 Requirement No. 3. This section, the status and  
13 accomplishment of funds appropriated for restoration  
14 pursuant to paragraphs of subdivision (b) of Section  
15 5090.50. The reason I mention that one is because  
16 5090.50 is related to the grants specifically. That's  
17 why you do not see restoration projects, especially  
18 with the SVRAs here.

19 If you look on page 100, there is a good example  
20 of one of the restoration efforts that took place at  
21 Alabama Hills. We tried to not only do a good overview  
22 of federal partners, but highlight throughout the  
23 document some of the accomplishments that have been  
24 going on out in the field with the federal partners and  
25 nonprofits and such.

1           Also, what is very new in this document that was  
2 not in Draft 1 are some maps. If I could draw your  
3 attention to page 101, you'll see that this is the  
4 overall map of all of the grant funded projects since  
5 2004. I'm going to back up just a second.

6           This is a triennial report. At the Division, we  
7 made the decision to go back and actually have this  
8 report period be from 2004 to 2010, so more than just  
9 the requirements of the three years, and we based that  
10 decision on wanting to line this document up with the  
11 current administration. So there's been a lot more  
12 efforts and a lot more data to really go through here  
13 to put this document together.

14           So we've added maps that give you an idea  
15 visually of what projects are going on where within the  
16 Forest Service, BLM, and our city and county folks, as  
17 well. These maps do not include the law enforcement  
18 funding. I actually have a chart in another area of  
19 the report, and the reason being is it's really hard to  
20 put a GIS spot on a map where you've done law  
21 enforcement funding. So that really wasn't feasible to  
22 do at this point. Moving on to page 104, we have that  
23 city and county map.

24           Page 105, we've got Report Requirement No. 4,  
25 summary of resource monitoring data compiled and

1 restoration work completed. This is where you're going  
2 to find the SVRAs, the details have been added here for  
3 monitoring as well as restoration. We included quite a  
4 few project examples. And I really hope, if you  
5 haven't already, that you really take the time to look  
6 through this section. We really put a lot of effort  
7 into it, especially all of the folks in the field.

8 I just want to mention that when we look at the  
9 next report in 2014 -- it's amazing we're already  
10 looking ahead -- that we may possibly look at merging  
11 report elements two and four, because they are kind of  
12 related together, and it's been a challenge to separate  
13 them in some ways here. So you see various restoration  
14 efforts there.

15 If you go to page 133, I believe it is, we get  
16 into Report Requirement No. 5, actions taken by the  
17 Division and Department since the last program report  
18 to discourage and decrease trespass of off-highway  
19 motor vehicles on private property. Again, this is a  
20 section that we have talked about the strategies that  
21 we've used and the efforts that have gone on in the  
22 Division with the law enforcement, staff, visitor  
23 services staff.

24 And on page 136, as I kind of alluded to  
25 earlier, that's where you will find that law

1 enforcement grant funding chart. And if I might just  
2 bring to your attention here, you'll see there is a  
3 dotted line there kind of two-thirds of the way across  
4 the chart, that's where SB 742 was enacted. So you'll  
5 see some changes there. And then also on page 137, we  
6 list for you the training that law enforcement staff,  
7 Loren's group, has provided to the local, state, and  
8 federal agencies the last couple of years, really doing  
9 that educating and cooperating with other agencies. So  
10 really good at accomplishments there.

11 On page 138, we get to Report Requirement No. 6,  
12 the section of other relevant program-related  
13 environmental issues that have arisen since the last  
14 program report. Here we outline quite a few different  
15 environmental issues from the Forest Service Travel  
16 Management, green initiatives, alternative fuel  
17 vehicles, solar development. We have quite a few  
18 buildings in our SVRAs that use solar power. We also  
19 highlight here the Rubicon, some of the trail  
20 assessment / water quality management issues that have  
21 gone on, as well as the law enforcement efforts that  
22 took place this last summer.

23 If you don't mind, I'd like to get you back to  
24 page 67, and this is the area within Report Requirement  
25 No. 2, it's the Habitat Management Program that's



1 associated with your grantees, with primarily our  
2 federal partners, but any grantee that we've given  
3 funds to. And we heard at the last meeting that there  
4 was really a need for more information on monitoring  
5 efforts and how we're tracking those in the Division.

6 So what I'd like to do now is introduce  
7 Paula Hartman. She's been instrumental in putting this  
8 chart together. And rather than bumble it here, I'm  
9 going to let Paula explain to you what this summary is  
10 and how it relates to the big insert that you have in  
11 front of you as well, because this really shows you the  
12 efforts that have been going on and how we track them.

13 OHV CONSULTANT HARTMAN: Paula Hartman with  
14 TRI Environmental Sciences, and I'm glad that Connie  
15 started with that table on page 67. It's a good  
16 overview, a summary, just one component of the  
17 monitoring that occurs on the BLM and Forest Service  
18 lands. And as Connie said, this is a summary of the  
19 Habitat Management Program monitoring, and that's  
20 important.

21 I just want to start off at bat by explaining  
22 that the Forest and the BLM have their own monitoring  
23 that they engage in, but under 5090.35 they're required  
24 do what's sometimes referred to as WHPP, the Wildlife  
25 Habitat Protection Plan, but under the grants program

1 it's commonly referred to under the regulations as the  
2 Habitat Management Program. So this table provides a  
3 summary from 2004 to 2009 of that monitoring. And it's  
4 an adaptive management program, and it was designed in  
5 in collaboration with the Forest Service and BLM  
6 biologists.

7 So perhaps the easiest thing to do is to walk  
8 you through a line and explain what the numbers mean.  
9 We can just simply start with the BLM 2004-2005. And  
10 under the HMP program, the first thing that an  
11 applicant has to do if they're submitting a project  
12 that is subject to these monitoring requirements, when  
13 they're filling out the HMP, they have to -- biologists  
14 would be thinking about what species are in the general  
15 project area that we need to consider for this program.  
16 And so in this case, this is summary, so this is for  
17 all of the field offices. When you see that first box,  
18 it says 192. That's all of the BLM field offices that  
19 submitted applications that particular year.

20 So all of the field offices combined considered  
21 192 species. Of those, what they have to consider is  
22 which of these species might we have some concerns  
23 specifically related to the project, perhaps a plant  
24 population that could be run over by an OHV or a bird  
25 that could be disturbed by the recreation. And so of

1 those 192 species they considered, they determined that  
2 122 needed to be monitored under this HMP program. So  
3 that's what they're submitting, and that is what comes  
4 into the Division.

5 And then when they report on that the following  
6 year, they report on whether they met objectives for  
7 each of those species, and they report on whether those  
8 objectives were met. So for each of those species,  
9 they established a success criteria. And again using  
10 the example of if it was a plant, that their success  
11 criteria might be going out to monitor and confirm that  
12 indeed there were no tire tracks in the vicinity of  
13 that plant population. So they establish those success  
14 criteria and then they report upon whether they were  
15 met.

16 So for this particular year, 2004 and 2005, of  
17 the 122 species that they determined they needed to  
18 monitor, they reported back to the Division that for  
19 all of those species, all but one of those success  
20 criteria were met. They also reported -- and this is a  
21 mandatory component of the HMP. They also reported  
22 they took corrective actions where they didn't meet the  
23 success criteria. So here they report they met all but  
24 one of the success criteria, and they reported that  
25 indeed they recommended or implemented a corrective

1 action to address that one occurrence where their  
2 objective wasn't met.

3 That's kind of a summary just for the BLM for  
4 that one year. And this table presents that  
5 information for both the BLM and the Forest Service for  
6 this period of the 2011 Report. And, again, to get  
7 back to what I mentioned previously, those 122 species  
8 that the BLM discussed reporting in the HMP may not be,  
9 and surely are not, the entire group of species they  
10 monitored. Because under 5090.35, the HMP really  
11 applies to the project area. And as you know, the  
12 project area is really one subset of the federal lands.  
13 So they have a much broader area for which they're  
14 responsible for monitoring. And even within the  
15 general project area, you might have a project that's  
16 confined to a trail, and they might have an aquatic  
17 species that's not near the trail but they're  
18 monitoring it. It's in the general area, and so  
19 they're monitoring it. It's not part of this HMP  
20 program. They're not required to monitor it under  
21 this. I wouldn't want you to get the impression  
22 they're just limiting their monitoring to these  
23 specific species. They're listed for the HMP program.

24 OHV STAFF LATHAM: That's a very quick overview  
25 of where we are and of the Habitat Management Plan.

1           Also, what we did in Draft 2 is at the very end  
2 of the document we have endnotes where we have  
3 referenced some of the documents in our summary reports  
4 on monitoring restoration, additional resources. We've  
5 noted some references there, so we want to make sure we  
6 let you know those are in the back of the document, as  
7 well.

8           So, again, very brief, very quick overview.  
9 Willing to take any discussion or any comments.

10          CHAIR WILLARD: Great. Thank you.

11          COMMISSIONER SLAVIK: The endnotes you talked  
12 about, are they referenced in the text?

13          OHV STAFF LATHAM: Yes, they are. They are  
14 numbered all the way to 19.

15          COMMISSIONER SLAVIK: I see that number. I  
16 didn't seem to run across any when I was scanning it.

17          OHV STAFF LATHAM: In primarily the resource  
18 section.

19          COMMISSIONER SLAVIK: The other comment I had, I  
20 sent an e-mail, and I forgot to cc you. Hopefully they  
21 passed it on. One of the things I forgot in that  
22 e-mail was in the BLM and the Forest Service, I would  
23 like to see -- and hopefully the other Commissioners  
24 would, too -- some reference to the total number of  
25 acreage on BLM and Forest Service land.

1           So total acreage, and then subtract from that  
2 acreage what's wilderness and is not accessible to OHV  
3 recreation, and then if we can come up with a number  
4 for OHV recreation acreage on that total number. Just  
5 some reference point for the reader to kind of focus in  
6 on, and I think that applies to the environmental  
7 concerns of this document.

8           OHV STAFF LATHAM: Excuse me if I cannot pull up  
9 the paragraph right away, but I do know in a section  
10 here, it might be under the Forest Service and  
11 monitoring, they do reference the overall acreage.  
12 It's just not broken down.

13           COMMISSIONER LUEDER: Connie, first of all, I  
14 want to say you guys did a great job of revising this.  
15 It's really a much more complete and readable document,  
16 and so I thought it was great.

17           As far as getting information from outside  
18 sources, so when you placed information in here about  
19 Forest Service lands and BLM, was that based on  
20 information you received from them?

21           OHV STAFF LATHAM: Yes, we had the Forest  
22 Service and BLM folks actually came over to OHV  
23 headquarters for two or three meetings to discuss how  
24 to put this document together -- this is a year and a  
25 half ago -- and looked at layout and we actually did

1 request specific information from them. What you're  
2 seeing in here are their complete report summaries in  
3 the document.

4 COMMISSIONER LUEDER: Because I note on page 63  
5 where you start talking about U.S. Forest Service  
6 Natural Resource Conditions, there's three or four  
7 pages of information there, which is good information.  
8 But then when you get to the BLM section, it's half a  
9 page. So I'm assuming that that information didn't  
10 come in time?

11 OHV STAFF LATHAM: No, it came in time. We have  
12 in this document what was given to us by our federal  
13 partners based on the request for information.

14 COMMISSIONER LUEDER: Perhaps BLM could enhance  
15 that information so it would be in parity with the  
16 Forest Service information, at a minimum.

17 CHAIR WILLARD: Let's take public comment.

18 BRUCE BRAZIL: Bruce Brazil, California Enduro  
19 Riders Association. And being that this version of the  
20 document I think came out just about a week ago maybe  
21 on the web, I only got a very small snippet of it, even  
22 with that, on page seven where they're talking about  
23 the finances and such, a couple of minor errors, or at  
24 least one for sure. That's where they say SB 742  
25 increased the registration fees to \$52. It's only \$50.

1           OHV STAFF LATHAM: We are aware of that. That  
2 extra two dollars was CHP. Instead of going into a  
3 whole page of explanation, we just tried to keep it  
4 simple.

5           BRUCE BRAZIL: Further down on the page, you're  
6 talking about repayment of the loans that were made to  
7 the General Fund. And basically it says that the  
8 repayment shall be made -- blah, blah, but no later  
9 than June 30th, 2010.

10          OHMVR STAFF LATHAM: That is a typo. That  
11 should be 2014, I believe.

12          BRUCE BRAZIL: Yes, thank you.

13                 Another thing as far as financing, about the  
14 only expenditure from what I've seen and heard is  
15 coming out of the OHV Fund is for the grants process.  
16 I think if I were a legislator, I would like to see  
17 where the other money is being utilized, how much for  
18 the Division, how much for the SVRAs, capital  
19 improvements, possible purchases by the Division, and  
20 just something very brief to look over. Thank you.

21          ED WALDHEIM: Ed Waldheim for CTUC. I agree  
22 with Bruce on his questions and issues there,  
23 especially we need to know the total distribution of  
24 our \$80.516 million, where it goes. We need to really  
25 be able to see how small the portion of the grants and



1 cooperative agreement is against the total pie. You've  
2 got \$80 million of income, and we only get \$24 or  
3 \$27 million depending what year we're in. So there is  
4 a big discrepancy that makes it look different.

5 And also what we need to know in this document,  
6 we need to show how important the federal agency land  
7 is to us. 80 percent of our opportunity takes place on  
8 the federal lands, not on the 200,000 acres that we  
9 have in the SVRA system.

10 And also we need to show the disparity between  
11 where the customers are. Over 80 percent of the  
12 customers that use the public lands on motorized  
13 recreation are in the south versus the 20 percent in  
14 the north. We need to really let the legislators  
15 understand exactly where all of this opportunity is  
16 taking place and where is the money going to because  
17 there is a direct relationship between the amount of  
18 usage and the amount of need to maintain our resources  
19 versus when you go and have very many people in there.  
20 We haven't pointed that out. That needs to be in  
21 there.

22 We also failed to bring out the \$21 million  
23 that's due to us from our \$52 million lawsuit that we  
24 entered during Mr. Wilson's era. We won that lawsuit.  
25 The \$21 million was supposed to go back to us.

1       However, he went and appealed it, and he won on the  
2       appeal.   However, the Department of Finance still shows  
3       on the books there is \$21 million due to us.   I don't  
4       want to lose that fact.   I'm going way back in history.  
5       We don't want to lose \$21 million just because we  
6       dropped it.   That's very, very dangerous.

7               As far as the acreages are concerned, that is an  
8       excellent point that needs to be there.   I've talked  
9       until I was blue in the face.   Pull out your old  
10      Waldheim budgets, your answers are right in there of  
11      the amount of acreages that we're actually utilizing.  
12      So when you look at the big picture of the millions of  
13      acre out there on public lands, BLM, and the Forest  
14      Service land versus the little percentage that we use,  
15      it's a no-brainer.   It makes you think why are we  
16      arguing over this little one-and-a-half percent that we  
17      use for recreation versus the big pie.

18              It makes us look like we're using the whole  
19      resources.   That is farthest from the truth.   We are  
20      not using hardly anything in comparison of the overall  
21      picture.   That needs to really be pointed out, how  
22      minute the impact we have is on the public lands and  
23      the resources.   We have not really pointed that out.  
24      That needs to be done.

25              And I'm sure if I find something else, I'll send

1 it to you.

2 DAVE PICKETT: Dave Pickett, District 36. Bruce  
3 and Ed made some good comments. I, too, would like to  
4 see those incorporated. Typos are going to happen,  
5 that's why it's called a draft.

6 But I'm especially interested in page six that  
7 shows the growth of registration. I know that in the  
8 early part of 2000 and beforehand, getting all  
9 off-highway vehicles registered was a big deal. And I  
10 think this draft shows the improvement that was made.  
11 There is a small dip you can see in '09/'10, which is  
12 to be expected considering the economy, but it still  
13 shows folks are out there keeping the vehicles  
14 registered, and they're riding.

15 I like this draft. I, too, just got it today.  
16 I'll submit written comments to Division if I have  
17 something else. Good job everybody in the Division,  
18 looks good.

19 JOHN STEWART: Good afternoon, Commissioners,  
20 John Stewart, California Association of 4-Wheel Drive  
21 Clubs. I want to commend the staff for putting  
22 together a very comprehensive report. Yes, it is one  
23 of the first ones in a long time to come forward. I  
24 like the section where you do submit descriptions of  
25 the SVRAs.

1           But looking at it, I think there is one critical  
2 piece of information missing from that description, and  
3 that is some kind of snapshot of what the visitorship  
4 per SVRA is. In other words, that helps to put it in  
5 perspective of the importance of the individual SVRAs  
6 with respect to each other and with respect to the  
7 major geographic areas that they are in proximity to.

8           In addition to that, I think when you look at  
9 the federal side, some kind of account of the number of  
10 people involved in OHV recreation has got to be brought  
11 into the picture in order to put it in perspective as  
12 to the relationship with the number of miles of trails.  
13 You have some of that there, you know, the dollar  
14 spent; that's great; the dollars collected, but there  
15 is no real count of the number of people that the OHV  
16 touches.

17           And I know this is not going to be easy  
18 information to collect. It may not be possible this  
19 iteration, but something to be kept in mind for the  
20 future to have a much better demographic breakdown of  
21 the individual users, both in the SVRAs and within the  
22 federal agencies, also.

23           KAREN SCHAMBACH: Karen Schambach, PEER and  
24 Center for Sierra Nevada Conservation.

25           My first comment is, are you going to put

1 captions on the pictures? There are a couple there I'm  
2 really curious about.

3 OHMVR STAFF LATHAM: Yes, we had that  
4 discussion. That may be in the final.

5 KAREN SCHAMBACH: On page five, the page where  
6 it talks about income, program funding where it says,  
7 the program receives no support from the General Fund;  
8 all funding is directly generated by the recreation  
9 community, and then it identifies fuel tax, OHV  
10 registration and entrance fees. That's really not  
11 complete because if you go back to the latest fuel tax  
12 study recommended -- well, whatever. The program is  
13 getting an extra \$30 million a year of fuel taxes that,  
14 according to the latest fuel tax study, isn't directly  
15 from these three sources. So I think that needs to be  
16 included that there is this additional money in  
17 addition to what was identified in the fuel tax study  
18 that's going into the program.

19 Also, as Connie knows and very kindly assisted  
20 me in, as I looked through the data that was provided  
21 by the SVRA staff for this report, and they were  
22 admirably frank about not only the good things that  
23 were happening in the parks but also all of the  
24 challenges and deficiencies based on the program. And  
25 I don't really see those identified. I think clearly

1 and obviously when you're writing a report about your  
2 own program, you want to present it in the best light.  
3 On the other hand, we all know that there's still  
4 challenges, and I don't think you ever get to solutions  
5 for those until you admit them. And in some cases I  
6 know that the staff was actually discouraged from  
7 offering those sorts of comments. But I think the  
8 report really should be a little more self reflective,  
9 if you will, about the challenges that remain.

10 And I will be offering written comments.

11 CHAIR WILLARD: Thank you. That concludes the  
12 public comment. Commissioners can now provide you with  
13 our comments. I'll kick it off.

14 I have a couple of specific comments. In the  
15 beginning, there is a nice overview of the program, and  
16 I think that's great for the person that's not familiar  
17 with the program to have that. But in it, I didn't  
18 really find an overview or description of the Grants  
19 and Cooperative Agreements program. Maybe that was by  
20 design, but I was trying to read this from the  
21 perspective of somebody who didn't know what was going  
22 on with the OHV program, and indeed that information is  
23 contained further back, but I thought in an overview it  
24 might be good to have some information just describing  
25 the grants program upfront.

1           Then the other thing, I'm very keen on this  
2 legislation appropriation of the Trust Fund, the loan.  
3 And I think that anywhere we can, we need to state the  
4 fact that it's a loan and point out some of the issues  
5 that the appropriation of these funds is causing our  
6 program, some of the jeopardy it's caused.

7           For instance, I think there is an opportunity on  
8 number seven under Acquisitions and Capital  
9 Improvements to talk about some of the native issues.  
10 The two big ones that jump out at me are: When you  
11 don't have funds for acquisitions, you can't increase  
12 the rider opportunity. The population is growing.  
13 More people want to recreate, but if you've got a  
14 finite area, in fact the area is actually being reduced  
15 from closures, then you have greater impact on those  
16 areas that are left. I think that's an important part  
17 of what's going on in the program are these increased  
18 impacts from increased usage.

19           Also, trespass is another negative impact and  
20 not being able to have acquisitions and to grow the  
21 program through increasing riding opportunity. I think  
22 there are a couple of other areas where that same point  
23 can be made, perhaps under number five, again, dealing  
24 with trespass. I think the loss of riding opportunity  
25 results in trespass, so I think that could be brought

1 up on page 133.

2 On page 90 there is discussion of resolution of  
3 use conflict, the statement made, Division has  
4 developed a land acquisition plan and Division staff  
5 are considering assessing possible land opportunities.  
6 That's all way and good. If you don't have the funds  
7 in hand, you really can't move forward with an  
8 acquisition program, which is important to reduce use  
9 conflicts. So, again, I would like to look at  
10 opportunities to bring that one forward. That's it.

11 COMMISSIONER VAN VELSOR: Thanks, Connie, and I  
12 want to say that I think this is much improved over the  
13 first draft. I appreciate the fact that you have taken  
14 a lot of the comments and recommendations that I made  
15 and addressed those in this, and I do appreciate that.  
16 I do have a couple major comments I would like to make.  
17 And in the interest of time, I probably will just  
18 submit the rest of them to you in writing.

19 The first thing I think would help, the section  
20 on Federal Resource Management, this seemed to be, as  
21 Eric said, much less extensive than the information on  
22 the SVRAs, and not surprising because you manage the  
23 SVRAs. But I think it would be worthwhile to try and  
24 get a little more information from the federal  
25 government, if you could, as Eric suggested.



1           And I would like to just make a couple of  
2 recommendations that relate to the Forest Service. I  
3 know the Forest Service has a fairly extensive program  
4 of best management practices that they use in  
5 management of roads and a variety of other activities,  
6 and those best management practices are in effect to  
7 reduce the environmental impacts from projects. In  
8 addition to those best management practices, they have  
9 a best management practice evaluation program, and they  
10 evaluate the implementation of the projects as well as  
11 the effectiveness of the project. So there's a  
12 monitoring component to that. They have those records.  
13 And so an explanation at least of the best management  
14 program process, and I think it would be beneficial if  
15 you could provide some overview of the results of the  
16 evaluations that they have done on at least some  
17 segment of the projects that are associated with grant  
18 funding.

19           And also you discussed the soil conservation  
20 standard, and I know that's required on all of the  
21 projects. And the Forest Service and BLM are required  
22 to provide an evaluation of how those standards were  
23 implemented, and so those you must have, and I think it  
24 would be helpful to have that information added as well  
25 because that's an overview of how they have done from

1 the standpoint of implementing those standards.

2 And then in the monitoring section, I was really  
3 pleased. I thought that you did a very good job of  
4 bringing out a lot of the information about monitoring.  
5 You expanded that section a great deal, and I like what  
6 you've done with that.

7 But I would like to adjust one thing or comment  
8 on one thing, and that's the peer review that was done.  
9 And I think that's fantastic that you folks had an  
10 outside group come in and evaluate the program. It's  
11 necessary to do that on a regular basis because  
12 oftentimes what we think is going to be the best  
13 procedure and set of protocols for monitoring, after we  
14 do it for a period of time, we discover that there  
15 needs to be some changes and modifications which is  
16 exactly what this report determined.

17 But I think you should expand a little bit on  
18 what the report says. I think it would be valuable to  
19 point out what the shortcomings were that the report  
20 found, which is pretty straightforward. That the  
21 protocols and standards have been inconsistently  
22 implemented and not adequately informed by management  
23 needs to be articulated by the staff. And I think  
24 that's valuable information to have because it then  
25 directs how we can improve on the existing monitoring

1 program.

2 And I would also include the recommendations  
3 here. There are four recommendations that the peer  
4 report made to make improvements on monitoring, and I  
5 think it's worthwhile to have those included as well  
6 because it really provides the reader information as to  
7 how the Division is looking at their monitoring and  
8 working to identify areas where there's problems, and  
9 then correcting those errors and using that information  
10 to make management decisions, which is exactly what  
11 this report said, monitoring is used so we can make  
12 better management decisions. So I think it's  
13 worthwhile to highlight that. That's all I have today.

14 CHIEF JENKINS: Just one comment on the soil  
15 standards stuff, so we will pull out and see what we  
16 can gather together to put in there. What we were  
17 struggling with to some degree was the new soil  
18 standard that's in place was applied to the current  
19 year grants, and so those grants have not been  
20 concluded and turned into final reports. We will have  
21 soil monitoring information from the old standard that  
22 was in place, but the new standard stuff, I don't think  
23 we're going to have completed information to  
24 incorporate in this report yet.

25 But we can maybe include a section that

1 discusses that and about what we're looking forward to  
2 receiving and how we're going to move forward with  
3 that.

4 COMMISSIONER SLAVIK: Under the SVRAs, there was  
5 a couple of things -- and this goes back to kind of the  
6 challenges that we have in some of the SVRAs.

7 I made a note here of discuss the challenges  
8 with visitors accessing the Los Padres from Hungry  
9 Valley. It's been an ongoing issue for years and  
10 years. People are trespassing, doing all kinds of  
11 weird things to get up to the Los Padres. At least we  
12 need to identify that.

13 Oceano Dunes, under all of the little maps of  
14 the SVRAs, you have location, total park acreage, et  
15 cetera. But I'd like to see the total acreage of land  
16 that's available to OHV. You have total park acreage,  
17 but we know that it's a lot less than that for OHV use.

18 And if you could do it, going back to  
19 Mr. Waldheim's comments here earlier, we know that if  
20 we have 5,000 acres for OHV, possibly only one or two  
21 percent of those 5,000 acres are really impacted by  
22 trails and roads. I don't know if we can come up with  
23 that number. I think that's a concept that really  
24 needs to hit home to people that are looking at these  
25 kinds of documents. In other words, what is the impact

1 per acre of the trails and roads in these individual  
2 components.

3 COMMISSIONER LUEDER: Did I hear you correctly,  
4 you're going to be drafting an executive summary?

5 OHMVR STAFF LATHAM: Yes.

6 COMMISSIONER LUEDER: I think that's vitally  
7 important. The legislators, I don't expect to read the  
8 entire document. I'm sure some of their assistants  
9 will, but that will be great.

10 And also possibly a conclusion to wrap things  
11 up, lessons learned, and things like that. So other  
12 than that, I don't have any other comments.

13 CHAIR WILLARD: Again, thank you so much for a  
14 job well done, and I look forward to finishing this  
15 off. I think what we'll do is we will have this as a  
16 business item at our December meeting and hopefully  
17 approve it and then we can be done with it.

18 CHIEF JENKINS: Just one clarification,  
19 Commissioner Slavik, just to be clear, on page 24  
20 Oceano mentions that there is 3600 total acres and 1500  
21 available for OHV recreation.

22 Were you looking for something as a finer  
23 breakdown, or did you just not notice that?

24 COMMISSIONER SLAVIK: That would be nice if you  
25 can go -- Oceano is different because it's an open

1 area. Other places that have just trails  
2 opportunities.

3 What I was looking at here underneath this  
4 picture, the 1500 acres -- I'm looking at the wrong  
5 one. Underneath those individual maps of the SVRAs,  
6 that that bullet point information was there and jumped  
7 out at you, Just so it's not buried.

8 And just one additional thing, there are certain  
9 things that are gone through real fast that I thought  
10 were very important things. Is there some way to bold  
11 those things? Like you talked about a hill climb  
12 restoration project or something like that, it's kind  
13 of buried in the text. Like somebody says, they're not  
14 going to read everything on this thing.

15 CHIEF JENKINS: And I will point out, a lot of  
16 these things, we haven't gone to the detail. If you  
17 looked, for instance, at our strategic plan, the way  
18 that we have sidebars, pullouts, and things like that,  
19 now that we're getting closer to having a finalized  
20 document, we just haven't at this point gone to the  
21 effort to do those sorts of pullouts until we knew we  
22 were working with text that's going to stay in place.

23 On the executive summary and all those various  
24 pieces, we wanted to make sure that we were summarizing  
25 the right things and pulling out the right points. So

1 it's very good feedback. Thank you for that. Because  
2 we've been struggling with how much effort to put into  
3 reformatting that into a format more like a strategic  
4 plan, and that sounds like something that would be  
5 desirable.

6 COMMISSIONER VAN VELSOR: I'm curious. When  
7 would you like to have comments from the public and  
8 when would you like to have our comments so that we can  
9 have all of this ready for the next Commission meeting?

10 OHMVR STAFF LATHAM: Thank you very much for  
11 bringing that up. That's what I was hoping we could  
12 get to today. I would put forth a recommendation based  
13 on the tentative dates for the next Commission meeting  
14 and having to have a document posted, that we end the  
15 comment period for this November 8th. That would give  
16 us only a week and a half to consolidate any comments  
17 we would get before this would have to be posted again,  
18 if we're looking at an early December Commission  
19 meeting.

20 CHAIR WILLARD: I think that's appropriate.

21 COMMISSIONER SLAVIK: What's our deadline to  
22 publish the report?

23 CHAIR WILLARD: Supposedly it's due January 1st.  
24 That's per the code.

25 CHIEF JENKINS: And the next meeting, just to

1 clarify again, we mentioned earlier the 3rd is the next  
2 meeting. The actual meeting date set aside is the 1st  
3 and 2nd.

4 CHAIR WILLARD: And at that meeting, the  
5 Commission would review what would be a final draft at  
6 that point and make a motion to approve, and that's  
7 hopefully the way the vote would go. It would be  
8 smooth and we would be done with it.

9 CHIEF JENKINS: There certainly would be the  
10 opportunity to do very minor fine tuning of that.

11 COMMISSIONER SLAVIC: Good work.

12 CHAIR WILLARD: Very good.

13 With that I would like to make a motion to  
14 adjourn.

15 COMMISSIONER LUEDER: I'll second that.

16 CHAIR WILLARD: All those in favor?

17 (Commissioners simultaneously voted.)

18 (Meeting adjourned at 4:43 p.m.)

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