

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

April 29, 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 8:36 a.m.

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

4 Commissioner Lueder 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: Motion to approve the last
11 meeting's agenda.

12 COMMISSIONER LUEDER: I'll make a motion to
13 approve the agenda.

14 COMMISSIONER SLAVIK: I'll second that.

15 CHAIR WILLARD: Any discussion on the agenda?
16 Hearing none, call for the vote.

17 (Commissioners simultaneously voted.)

18 CHAIR WILLARD: Motion passes.

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

20 CHAIR WILLARD: I need a motion to approve the
21 minutes from our last meeting, February 25th.

22 COMMISSIONER LUEDER: I'll make a motion to
23 approve the minutes as written.

24 COMMISSIONER VAN VELSOR: I second.

25 CHAIR WILLARD: Any discussion on the minutes,

1 any questions?

2 COMMISSIONER SLAVIK: Just a short note, mine
3 are very light. I appreciate the fact they are on two
4 pages or back to back, I guess I should say, but it was
5 very difficult to read.

6 CHAIR WILLARD: We have a new format that we're
7 considering using, so maybe if you could tell Vicki
8 your preference.

9 OHMVR STAFF PEREZ: We can take care of it
10 off-line.

11 CHAIR WILLARD: Call for the vote of approving
12 the minutes. All those in favor?

13 (Commissioners simultaneously voted.)

14 CHAIR WILLARD: Motion passes.

15 **AGENDA ITEM IV(a) - REPORTS - Commission**

16 CHAIR WILLARD: Commissioner reports. I'd first
17 like to acknowledge that Mark McMillin is no longer on
18 the Commission. His four-year term had expired, and he
19 had asked to be reappointed, but apparently the
20 Governor decided not to make any reappointments. So
21 his seat will sit vacant with the two others that are
22 currently vacant. So we're supposed to be nine, but
23 we're six, and it looks like we'll be six until
24 sometime after the fall elections. So we are sorry to
25 see Mark go. He was a valuable member of the

1 Commission and made a substantial contribution to our
2 efforts over the past years, so he will be missed.

3 Commission reports. Commissioner Franklin, can
4 you give us an update on the CPSC issue concerning lead
5 in off-highway vehicles.

6 COMMISSIONER FRANKLIN: Today, April 29, at
7 ten o'clock eastern time, they are having a hearing.
8 Congressman Waxman has called for a hearing on the bill
9 that he is sponsoring, the Consumer Product Safety
10 Enhancement Act. And basically what that act will do
11 is provide the CPSC with the flexibility that they have
12 specifically requested so that they can look at and, if
13 prudent, apply exceptions for certain manufacturers in
14 certain cases. We have every reason to believe that
15 this bill is going to move through both houses very
16 smoothly. The term used from DC is quickly, but what
17 that means for the rest of us is about a two-month
18 process before that bill is voted on, discussed in
19 conference, and then signed and passed. After that
20 point, it will probably be another two months before
21 the CPSC can review existing exemption requests and
22 begin to grant them. So long story short, it looks
23 like possibly September, October we should begin to see
24 long-term permanent relief for the unintended
25 consequences of the CPSC's improvement act, which

1 banned lead in children's products.

2 CHAIR WILLARD: Commissioners, any questions of
3 Commissioner Franklin on that one?

4 Before I move on to the Deputy Director's
5 report, I just want to make sure that everyone in the
6 audience knows that we will be taking public comment
7 throughout the meeting. There will be an opportunity
8 for public comment at one o'clock on anything to do
9 with off-highway motor vehicle that is not on the
10 agenda. You can come up to the podium and speak, and
11 that's at one o'clock. Typically, we do it at 11:00,
12 but we're doing it at one o'clock today. And you need
13 to fill out the blue form and hand it up here to the
14 desk over here to my left. And if you'd like to speak
15 to items that are on the agenda, business items, then
16 you would fill out one of these green slips. Thank
17 you.

18 Deputy Director.

19 //

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

21 DEPT. DIRECTOR GREENE: Good morning,
22 Commissioners, members of the public, it's nice to see
23 everybody here today. We have a very full agenda so we
24 are going to try to keep our report somewhat brief.

25 And so on that note, I will turn to my colleague

1 on the left, Tim LaFranchi.

2 ATTORNEY LA FRANCHI: Good morning. The first
3 issue is the Carnegie SVRA lawsuit. You may recall
4 that was a water quality lawsuit that the court ordered
5 the park closed until the Water Board had taken action
6 on a report of waste discharge filed by the Department.
7 The appeal court basically ordered the lower court to
8 dismiss that lawsuit on the ground that the plaintiffs
9 had not exhausted their administrative remedies by
10 going through the Water Board and the State Water Board
11 with their complaints to see if the water boards could
12 resolve them. So where that case stands now is the
13 park is open. The plaintiffs are trying to backtrack
14 and exhaust their administrative remedies at the water
15 boards.

16 There are still two causes of action alive in
17 that lawsuit, and the lawyers, as I understand it, are
18 working on what the resolution might be. First, as you
19 may recall, the plaintiffs have alleged that the SVRA
20 has not complied with the Department's soil standards
21 at the park, nor with wildlife habitat protection
22 plans. And so those issues are still alive, but the
23 last I had heard, the plaintiffs weren't that
24 interested in possibly pursuing them. So at this point
25 the park is open, and it's operating. The Water Board

1 and the park are working toward some kind of an outcome
2 in terms of what the water board regulatory action
3 might be. And that's where that stands.

4 //

5 **AGENDA ITEM IV(B) (1) (b) - OCEANO DUNES SVRA AIR QUALITY**

6 COUNSEL LAFRANCHI: The other issue that we've
7 been working on is the Air Pollution Control District
8 Phase II Study of Particulate Matters at the Nipomo
9 Dunes in San Luis Obispo County. As you may recall, we
10 reported last meeting that a report was going to be
11 issued shortly. That report was issued and a
12 presentation made to the Pollution Control District's
13 Board of Directors. The Board of Directors voted to
14 receive the report and file it and ask the District and
15 State Parks to go back and have some dialogue about
16 what next steps might be possible to deal with the
17 issues that were raised in the report. At the present
18 time, the Air Pollution District and SVRA are working
19 on setting up a meeting to start some dialogue about
20 what the next steps might be.

21 And, secondly, the Division has put a team
22 together to review the report. There's still a number
23 of unanswered questions about the extent to which the
24 report supports what kinds of next steps and how
25 extensive those next steps might be. So the next

1 meeting of the Board of Directors of the Pollution
2 Control District is May 19th. The Division will be
3 participating in that meeting and will probably have
4 more to report at your next meeting.

5 //

6 **AGENDA ITEM IV(B) (2) - GRANTS PROGRAM UPDATE**

7 DEPT. DIRECTOR GREENE: And on that note,
8 Sixto Fernandez, the grant manager, unfortunately is
9 sick today. And so we have Mr. Kelly Long who will be
10 presenting an update on the grants, which has been very
11 busy this time of year.

12 OHMVR STAFF LONG: Good morning, Commissioners.
13 I believe we're passing out right now -- and also to
14 the public we have it available on the table in the
15 back -- a summary sheet of all of the grants that we've
16 received for this current grant cycle, and we also have
17 a listing of the grant applicant agencies.

18 March 1st was the deadline for the preliminary
19 application. Then beginning March 2nd through
20 April 5th, the public and the Division had the
21 opportunity to review the grants and make any comments
22 to the grant applicants. And then this coming Monday,
23 May 3rd, the final applications are due.

24 So what you have in front of you, this list, is
25 a listing of the 104 agencies that have submitted grant

1 applications this year. And on the chart that we have
2 here, we've broken down the applications received by
3 the appropriate funding category and by the agency
4 type, whether it's Forest Service, BLM, local agencies,
5 cities, counties, that sort of thing.

6 You can see we have 104 applicant agencies. We
7 received a total of 216 applications at the preliminary
8 application period. We will also note across the
9 bottom we indicate how much money is available in each
10 category, and this year every funding category, except
11 acquisition, is oversubscribed. This will be a
12 competitive process. We will begin scoring. Final
13 applications are due Monday. We are going to have our
14 first meeting on Tuesday to begin the scoring at that
15 point. It's going to be very competitive this year.
16 You'll notice some of the categories are oversubscribed
17 by double in some instances. So that's it in a
18 nutshell. If you have any questions, happy to answer.

19 COMMISSIONER SLAVIK: The BLM, the acquisition,
20 171,000, what is the BLM asking for?

21 OHMVR STAFF LONG: That is at the Eagle Lake
22 Field Office, and they requesting funding acquire a
23 piece of property that essentially is an inholding and
24 in some BLM property at the Fort Sage OHV area up
25 there. I believe that's Lassen County.

1 COMMISSIONER VAN VELSOR: Was there an increase
2 in the number of nonprofits that applied for funding
3 this year compared to last?

4 OHMVR STAFF LONG: Unfortunately, I don't have
5 those numbers in front of me. It was about the same.
6 I would say, if I may go on a little bit, we received a
7 smaller number of applications this year. We had 237,
8 I think, last year at the preliminary. We have 216
9 this year. But the total dollar amount requested this
10 year is larger by about \$3 million than what we had
11 last year.

12 COMMISSIONER VAN VELSOR: Why do we feel there
13 may have been fewer applications?

14 OHMVR STAFF LONG: I think some people sort of
15 realized last year that it may be easier to focus on
16 one or two areas. There were some applicants last year
17 that literally had an application in every category or
18 nearly every category, and there's a lot of
19 administration that goes in with that. So I think in
20 some instances they focused their efforts more on
21 certain areas.

22 COMMISSIONER VAN VELSOR: So the number of
23 applicants necessarily didn't change?

24 OHMVR STAFF LONG: It's approximately the same.
25 I think there were 115 or so last year. We're down to

1 104 this year.

2 DEPT. DIRECTOR GREENE: If I may as well, I
3 think that part of that is due to Division's efforts
4 about accountability. And to that end, we want to make
5 sure that those applicants who are applying for funding
6 recognize that the requirements that go along with that
7 funding need to be met; otherwise, the following year
8 it will affect their score. And so that may have
9 something to do with it.

10 We will certainly find out the number of
11 nonprofits, to answer your question, by lunchtime.

12 COMMISSIONER SLAVIK: What is GO?

13 OHMVR STAFF LONG: Ground operations. That is
14 essentially maintenance of existing opportunity.

15 //

16 **AGENDA ITEM IV(B) (3) - LEGISLATION UPDATE**

17 DEPT. DIRECTOR GREENE: Legislation update.

18 CHAIR WILLARD: We could perhaps skip going
19 through each individual piece to shorten the time frame
20 up here, unless there is something important.

21 DEPT. DIRECTOR GREENE: Things are changing so
22 quickly right now. Even yesterday there were some
23 changes in developments. So we will provide you an
24 update in July, but we can go through them now if you'd
25 like.

1 CHAIR WILLARD: Commissioners, what's your
2 preference? Move this to the next meeting if there is
3 nothing pressing or is there any particular legislation
4 that you want to hear about?

5 We can make this real brief.

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7 **AGENDA ITEM IV(B) (4) - PUBLIC SAFETY UPDATE**

8 DEPT. DIRECTOR GREENE: Public safety update,
9 John Pelonio.

10 OHMVR SUPT. PELONIO: Good morning, John
11 Pelonio, Public Safety Superintendent, OHMVR Division
12 Headquarters. Just a few things have taken place since
13 the last Commission meeting.

14 Staff conducted law enforcement site visits with
15 five different agencies. We continue to prepare for
16 enhanced OHV law enforcement on the Rubicon Trail for
17 the summer of 2010. We reviewed and commented on the
18 draft enforcement draft applications.

19 Staff participated in planning and
20 implementation of targeted enforcement efforts directed
21 at motorcycle use on the Pacific Crest Trail and
22 trespass in that immediate area. The first weekend
23 resulted in a total of 76 contacts, ten citations and
24 three arrests. One of our officers patrolled through
25 the Wonder Valley area twice during that period. I

1 attended meetings with the Search and Rescue
2 Coordinators Group and Law Enforcement Mutual Aid
3 Coordinators Group. While there, I talked to a variety
4 of representatives from the sheriff's departments, and
5 we've taught some OHV law enforcement update classes
6 attended by officers from a variety of different
7 agencies. Any questions?

8 CHAIR WILLARD: Regarding Wonder Valley, does it
9 appear that there's been a decline in illegal off-road
10 activity?

11 OHMVR SUPT. PELONIO: We haven't been finding a
12 lot of evidence. There were some reports over
13 Thanksgiving, so we haven't seen much evidence of OHV
14 activity out there at all when we go through.

15 CHAIR WILLARD: And perhaps you might want to
16 elaborate on what happened on the Pacific Crest Trail
17 at Tehachapi. That was an interesting case where we
18 were notified of an issue, took action, and got
19 something done.

20 OHMVR SUPT. PELONIO: The issue is the area
21 between Highway 58 southeast of Tehachapi and continues
22 along the edge of the mountains there to the southwest,
23 and people have been riding motorcycles up in that
24 area. Some of it appears to be legal, but there's also
25 a lot of trespass on private land and riding on the

1 Pacific Crest Trail which is closed to motorized
2 vehicles. So we had a couple of reports. We contacted
3 the various agencies involved and got more information.
4 We participated in the planning process, so we worked
5 with them to help give them ideas and suggestions to
6 develop the operations plan, and then we provided a few
7 officers to help out on the actual deployment on Easter
8 weekend, on the following weekend. We helped them to
9 develop strategies and then implement it and reviewed
10 effectiveness. And from what I understand, people in
11 the area feel that it was pretty effective at reducing
12 illegal OHV use in the area.

13 CHAIR WILLARD: I'm sure we'll continue to
14 monitor that area.

15 OHMVR SUPT. PELONIO: Yes, we will maintain
16 contact with the agencies involved and the people
17 involved. And if there is need later on for additional
18 deployments, we would be happy to participate in that,
19 as well.

20 COMMISSIONER VAN VELSOR: I'm curious, is there
21 something about that particular area as it relates to
22 the Pacific Crest Trail that's different than other
23 parts of the Pacific Crest Trail that would result in
24 more trespass?

25 OHMVR SUPT. PELONIO: Well, that's hard to say.

1 It is high desert, so there's not a lot of vegetation
2 and it did burn -- I don't remember when the actual
3 fire was -- so there is little vegetation to keep
4 people from getting access to the trail. Other than
5 that, I'm not sure. Maybe the Forest Service could
6 address that.

7 COMMISSIONER VAN VELSOR: I'm wondering, are
8 there more trails going across the PCT allowing access
9 in that particular area than in other parts of the
10 trail?

11 OHMVR SUPT. PELONIO: I can't really answer that
12 because I'm not that familiar with the Pacific Crest
13 Trail elsewhere.

14 CHIEF JENKINS: If I may, I did talk to one of
15 the other officers that had been up on the detail, and
16 one of the things that they noted was that there was a
17 lack of signage. Adequate signage could really make a
18 difference in that area, in particular when you have
19 the wide open areas. And if there's opportunity nearby
20 and there's no signage, you can come up on a really
21 nice route, and there is nothing saying this isn't for
22 you, this is for the Pacific Crest Trail. Then that
23 makes it very difficult for the public to comply with
24 the law when they're not clear where the trails are.
25 So that is one thing we noted, one of the things we'll

1 be talking to the various entities up there to try to
2 correct so that the people who want to obey the law
3 don't inadvertently end up on the trail.

4 COMMISSIONER VAN VELSOR: This is mostly Forest
5 Service?

6 OHMVR SUPT. PELONIO: BLM. Pacific Crest Trail
7 is managed by the Forest Service, but in this area the
8 contract is with the BLM.

9 DEPT. DIRECTOR GREENE: And in this particular
10 area, and he's not here, but I do need to give kudos to
11 Ed Waldheim and the Friends of Jawbone. They have done
12 a remarkable job once it was brought to their attention
13 about the lack of signage. In the area that they
14 could, I know that Ed's son, a couple of weekends ago
15 hiked about 15 miles with packs of signs to put those
16 signs up, to make sure that the public was able to
17 know. So it is difficult, but I think everybody is
18 trying to make that effort because clearly riding on
19 the PCT is not acceptable whatsoever. So efforts are
20 trying to be made.

21 I will just thank particularly the BLM, the
22 Forest Service, and Kern County for the collaborative
23 effort that all of us had in that effort.

24 CHAIR WILLARD: Commissioner Slavik.

25 COMMISSIONER SLAVIK: I have a little experience

1 in that area, and it goes back to like maybe 40 years.
2 But my sense of that is that anybody riding on
3 Highway 58 looks up toward the mountains, it looks like
4 a wide open area. There is just nothing to prohibit
5 anybody from riding, and there isn't real signage or an
6 education process to help people understand that.

7 Having said that, the closest area for somebody
8 to actually ride I believe is Jawbone, is that not
9 correct, legal riding area? Unless there is some small
10 private stuff.

11 OHMVR SUPT. PELONIO: There's a lot of areas
12 where people ride that would be north of Rosamond.
13 There's nothing to indicate that it's not legal riding.
14 Some of it, it's marked roads that show up on my GPS,
15 and they have some manner of sign identifying them as a
16 named road, but they're about as rough as you can get.
17 There were some places we couldn't drive through with
18 the four-by-fours. So from what we can tell, those may
19 be legal riding opportunity.

20 COMMISSIONER SLAVIK: As far as I know, maybe
21 Mike Ahrens or someone can help us with that, Jawbone I
22 think is the only legal riding area, unless I'm missing
23 something here. Be that as it may, it's all about
24 education when it really comes down to it.

25 CHIEF JENKINS: I think the key that we're

1 looking for in this program, is it a managed area.
2 Because there might be small county roads out there
3 that may or may not be on the map. We will be
4 following through to try to find out what's going on
5 with these routes. Because if there is a sign on them,
6 once again, the public can be confused if there is a
7 sign that appears to be a legal road that you can ride
8 on, a roughly graded road, a county paved road,
9 et cetera. So we're trying to sort out what's going on
10 with those.

11 To your point, we would be directing people to
12 the managed areas where we specifically manage for OHV
13 use, and that's going to be over in Jawbone, Dove
14 Springs, in that vicinity.

15 COMMISSIONER SLAVIK: You're saying roads, but
16 that's not green sticker available opportunity.

17 CHIEF JENKINS: Roads by definition of 38001
18 says a highway, state highway that's considered a
19 roughly graded road, as Mr. Pelonio is describing, is
20 available for the green sticker riding. So when a
21 highway is not a highway, it's when it's a roughly
22 graded road. So it's still a road. It could be a
23 signed road, it could be a county road, it could be a
24 publicly maintained county road, but when it's one of
25 those roughly graded roads, the county can allow green

1 sticker activity on it.

2 DEPT. DIRECTOR GREENE: There's also in that
3 area some private property. There were a number of
4 recreationists out there who had the authority, the
5 paperwork, to indicate that they had permission to ride
6 on that property. So that's where it gets confusing
7 because we all know the desert, and it can be very
8 difficult to navigate as to what's legal and not.

9 Recently, again, the efforts that Friends of
10 Jawbone have been doing is admirable. Commissioner Van
11 Velsor, here is an indication of a nonprofit coming in
12 for trail maintenance. I think they are out on the
13 ground seven days a week making sure they're working on
14 those trails.

15 OHMVR SUPT. PELONIO: Part of the efforts that
16 were made on the deployments was to educate people, and
17 they did have a handout to give them that would direct
18 them to the managed OHV riding opportunities. We
19 should mention California City, also.

20 CHAIR WILLARD: Thank you for that, and I see
21 BLM is up next and maybe they can shed some light on
22 this during their report.

23 Deputy Director, do you have any more on your
24 report.

25 DEPT. DIRECTOR GREENE: No, I don't know whether

1 or not at this time you want to take public comment, or
2 do you want to keep going through and then separate out
3 public comment? I do know that I think that we need to
4 put up a screen for a member of the public who has
5 something they want the Commission see.

6 CHAIR WILLARD: I think what I'd rather do is
7 take the public comment at the end of the reports to
8 condense things because we are under a real time crunch
9 today. I think that's what we can do. Again, you need
10 to submit your slips if you'd like to make comments.

11 Commissioners, any other questions of Deputy
12 Director or staff on the report?

13 //

14 **AGENDA ITEM IV(C) - BLM REPORT**

15 CHAIR WILLARD: Mr. Ahrens and Mr. Keeler, it's
16 great to see Jim back with us. I want to welcome him
17 and glad to see that your health is getting better and
18 hope that continues. Welcome back, good to see you.

19 MIKE AHRENS: Thank you, Mike Ahrens, BLM. I
20 also want to acknowledge Jim is with us and am happy to
21 have him here today. And the work he continues to do
22 on all of our behalves in our state office, he actually
23 continues to be quite active in the program, and we'd
24 actually considered having him do the report today and
25 decided just for matter of continuity to go ahead and

1 have myself do that and stay in the mix.

2 I don't want to really go through the entire
3 report. It appears as though we have largely captured
4 the agenda today. But I did want to acknowledge the
5 folks that are either here or will be here from the
6 Bureau. As you know, Jim; Rich Williams is here
7 sitting next to Jim. He's in our Bishop Field Office;
8 has been very involved in the past with the development
9 of our regulations and helping us with budget issues
10 and just a lot of various kinds of issues, what have
11 you. Jamie Nyland I haven't seen yet, but will be here
12 to make a presentation for the Imperial Sand Dunes.
13 And then Karla Norris, a new position for us, as the
14 Associate Deputy Director for Lands and Natural
15 Resources in our Sacramento Office, helps provide some
16 leadership and coordination of all of our various staff
17 within that office. So she'll be attending today to
18 help try to get to know you guys and better understand
19 the program itself.

20 Jim is available, had some thoughts on the PCT
21 issue if you wanted a few minutes to do that. And I
22 did want to acknowledge, it's pretty neat the
23 collaborative interagency effort that's occurring
24 there. We want to make sure we acknowledge the OHMVR,
25 their role and leadership in putting that collaboration

1 together and being the nexus and making that happen.

2 So with that, I'm not going to belabor the
3 report. If there are other questions, I will be happy
4 to help you with that if we can.

5 COMMISSIONER SLAVIK: Mike, we asked about the
6 PCT, I don't want to belabor that, but in the details
7 of that, how many individuals were involved in law
8 enforcement, how big of an area did they cover? I
9 understand there were three arrests. I wonder if that
10 got on some club's or some of these websites where
11 people can now understand there is something going on
12 there.

13 MIKE AHRENS: Clearly, I know we had several
14 rangers involved, Forest did, as I understand, Parks.

15 KARLA NORRIS: Hi, Karla Norris, I was there for
16 the meetings, and I again want to acknowledge the
17 State, the Forest Service, and the Kern County
18 Sheriff's Department. Actually, we were out there for
19 more than one weekend. There were two consecutive
20 weekends, Easter and the weekend after that we were
21 handing out maps.

22 The biggest problem with this piece is it's
23 about 13 miles long, and it is officially managed by
24 the BLM, even though it's a Forest Service trail,
25 Pacific Crest Trail. The first weekend there were

1 probably about 20 rangers and sheriff's people out
2 there, and the second weekend probably about 12. And I
3 can get those exact numbers to you or to the
4 Commission.

5 And we were going at it two ways. A couple of
6 the problems there are access. There are multiple
7 points of access, education, and then the checkerboard
8 of ownership. So we're meeting as a group, all of us,
9 that have parcels and responsibilities down there to
10 come up with some long-term plans for how to resolve
11 the issues there. And the Student Conservation
12 Association is out there right now doing trail
13 maintenance and signage, so we're kind of trying to
14 come to grips with both our short-term and long-term
15 solutions out there. So we will update you at the next
16 meeting on what we're coming up with on some of our
17 long-term solutions.

18 CHAIR WILLARD: Unless you have something to
19 add, we'll be seeing a lot more of you later on today,
20 so thank you.

21 //

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

23 CHAIR WILLARD: U.S. Forest Service's report.

24 KEATON NORQUIST: Good morning, Commissioners.
25 My name is Keaton Norquist. I'm here with the U.S.

1 Forest Service. I would like to start off by also
2 mentioning the PCT activities. I sit right next to
3 Beth Boyce, who is the Pacific Crest Trail manager.
4 Even though it goes over private land, BLM land, she is
5 actually the person in charge of the PCT. And she's
6 had a lot of trouble getting Kern County to make this a
7 priority. When she told me about this -- I mean this
8 goes on for months and months. When she told me about
9 this, the first thing I did was talk to Kathy, and we
10 called up John Pelonio. So I would really like to give
11 a shout out to John Pelonio because this is really all
12 of his help. Beth Boyce, ever since then, she's done
13 nothing but sung the praises of the Division because
14 without that, I don't think this would have been a
15 priority. I just wanted to thank you guys and thank
16 John specifically.

17 I'm going to mix up the agenda a little bit.
18 Kathy is going to present a little bit of information
19 about Subpart A at the end, the second item, but I will
20 start with the general update on route designation.

21 //

22 **AGENDA ITEM IV(D) (1) - USFS - ROUTE DESIGNATION UPDATE**

23 KEATON NORQUIST: Currently, we have four
24 forests that are awaiting decisions. We expect the
25 Sierra to issue their route designation decision in mid

1 May, and soon after we have the Klamath, the Plumas.
2 As you know, the Tahoe is undergoing supplemental EIS.
3 Right now, the Shasta-Trinity is in the appeal period.
4 I don't have any more updates on the El Dorado
5 litigation at this point.

6 //////////////////////////////////////

7 **AGENDA ITEM IV(D) (3) USFS - VISITOR-ORIENTED GUIDE MAPS**

8 KEATON NORQUIST: I wanted to give you an update
9 on the visitor-oriented guide maps. This was something
10 that we actually applied for in the grant program, but
11 I thought it might be useful to give you an update on
12 our own initiative with our own appropriated dollars.
13 We've been producing these already. I thought it might
14 be helpful for the Commission and public to see what
15 these are.

16 A lot of you know and have heard of MVUMs.
17 These are the legal enforcement documents. As you can
18 see, they are not very friendly for a rider. They're
19 paper. They're black and white. There is not a lot of
20 information on them other than legal routes. These are
21 very easy to tear, not going to last very long.

22 On the other hand, the visitor-oriented guide
23 maps have lots of information, safety information,
24 emergency contact information, how to read signage.
25 They're color. They're waterproof and tear proof.

1 They're, I'd say, a good product if you're a user. I
2 can pass these around, too, in case anyone hasn't seen
3 them.

4 Right now in production the Eldorado has two
5 maps, one on the Rock Creek Ranger District, and
6 another map that's going to be two ranger districts,
7 Sequoia Hume Lake Ranger District and the Los Padres
8 Santa Lucia Ranger District is going to be producing
9 those. And those should be out pretty soon; printing.

10 Basically all of the forests want these maps, so
11 that's why we applied for a regional grant just to kind
12 of help that along. And really which forests and which
13 districts get those depends on what we're appropriated
14 and how our grant application goes.

15 //

16 **AGENDA ITEM IV(D) (4) USFS - COST RECOVERY PROCESS**

17 KEATON NORQUIST: I've also included as a new
18 topic, moving on to cost recovery, we've received a lot
19 of questions about cost recovery in the past. So we
20 prepared a little one-page informational guide. And so
21 this will help maybe resolve some of the questions
22 about what cost recovery is, provides the basis for it,
23 kind of explains what happens in cost recovery. So
24 what happens when you submit your application, what is
25 the Forest Service doing, what is the BLM doing. And

1 actually one of the points there is the regulation for
2 cost recovery between the Forest Service and BLM are
3 virtually indistinguishable. So if you're familiar
4 with BLM cost recovery process, you should be familiar
5 with the Forest Service, as well. Any questions about
6 cost recovery? It really helps to be as specific as
7 possible. If you have questions, we're definitely here
8 to answer them.

9 Last time we offered to do a more in-depth
10 presentation on cost recovery. We're still willing to
11 do that. We were told that this agenda was too full to
12 fit that in today. We're ready to go whenever you guys
13 are, just let us know. Hopefully this will help us
14 resolve any questions you have.

15 One question I did know that did come up, one of
16 the requirements of cost recovery is that all fees have
17 to be paid upfront. And I know that there's been some
18 desire to do phased-in payments over time, and Marlene
19 Finley, the director of our recreation at the Forest
20 Service, she has actually been in contact with the
21 Washington office this week, and she is discussing
22 maybe allowing phased-in payments for cost recovery,
23 which would be beneficial. But I would like to
24 emphasize that that would be a change in policy from
25 what the regulations currently say. That would

1 definitely take some time, and I don't think one region
2 could it on their own initiative.

3 //

4 **AGENDA ITEM IV(D) (5) USFS - GENERAL UPDATE**

5 KEATON NORQUIST: On to another topic, over the
6 past month or so, I've seen a couple of e-mails
7 circulating about the numbers that different forests
8 have been using in those grant applications as compared
9 to their EISSs when it comes to visitor counts. And I'd
10 just like to emphasize a couple of points about that.

11 The EISSs for the route designation process,
12 those visitor count numbers are based on what's called
13 the National Visitor Use Monitoring Numbers, and this
14 is a Washington office policy. It's a very strict
15 methodology about how they count those. And so
16 actually when you look at the specifics of it, it's
17 actually pretty reasonable for forests to maybe use a
18 different number than that.

19 For one thing, the NVUM, not to be confused with
20 the MVUM, the National Visitor Use Monitoring numbers,
21 that only measures the number of visits in which OHV
22 activity was the primary activity. So it doesn't
23 include any trip where someone said that they were
24 there to do something else like hunting, camping,
25 fishing, or hiking. If someone identified that as a

1 primary activity, OHV activity wasn't counted at all.

2 Another difference was National Visitor Use
3 Monitoring data only applies to OHV use for recreation
4 purposes. So anyone using an OHV for commercial
5 purposes like mining or maintenance of a permanent
6 infrastructure or anyone who was using an OHV for
7 transportation purposes for getting from point A to B,
8 not for recreation, those people were not going to be
9 identified in the NVUM data.

10 And finally the NVUM data only measures the
11 number of visits, which is distinct and separate from
12 the number of activity days. For instance, if someone
13 were to go to a forest for a weekend camping vacation
14 with the OHV, even if they identified that camping trip
15 as the primary activity, the NVUM data would only count
16 that as one trip, but it would be reasonable for a
17 forest to say that counts as seven visitor days.

18 So as you can see, the methodologies between the
19 two counts could be very different, and I think it
20 would be reasonable for the Forest Service, for the
21 different forests, to have higher activities than are
22 reported in the EISSs, which rely on the strict
23 methodology of the NVUM.

24 Moving on, as a general update, I don't know if
25 anyone is aware, Angela Coleman has left as the Deputy

1 Regional Forester in Region 5. She's going back to the
2 Washington office, and her replacement is going to be
3 announced very soon. We're actually expecting that
4 probably in a matter of days. And then also Joe
5 Stringer is the new director of Ecosystems Management.
6 He was perviously a deputy Forest Service supervisor on
7 the Coconino National Forest in Arizona.

8 Then I had a couple of follow-up points. One
9 was relating to I believe a question by Commissioner
10 McMillin. Maybe he will be reading the transcripts
11 online. He asked me about a special use application on
12 the Cleveland, and I followed up with this a little bit
13 more. There was an application by some ASI
14 instructors. Their permit had expired, and I believe
15 the application had stopped being processed because the
16 proponents failed to provide proof of insurance, so
17 that was kind of the issue there. I don't believe
18 Commissioner McMillin had more specifics about it. I
19 believe that was the issue he was talking about.

20 And the second question I received last time was
21 about GPS maps and what the status is on those, and I
22 followed up with our mapping people, and they talked
23 with the Washington office, who is kind of in charge
24 with this, and apparently it's very close. The
25 Washington office right now has one last beta tester on

1 the GPS maps, and they're actually working on the
2 marketing plan right now. So I don't have a date of
3 when they expect it to be out, but they're working on
4 the marketing plan for distribution. That's a pretty
5 big sign.

6 And with that, I'd like to turn it over to
7 Kathy, who's going to talk about Subpart A.

8 CHAIR WILLARD: Before we do that, I have some
9 questions. On the maps, is it envisioned that all of
10 the U.S. forests in the state would be covered by these
11 maps?

12 KEATON NORQUIST: I believe that's the goal.
13 That's the vision. So a lot of that kind of depends on
14 funding, obviously.

15 CHAIR WILLARD: So this is a multi-year deal
16 then it sounds like.

17 KEATON NORQUIST: Right now we only have about
18 four out right now.

19 CHAIR WILLARD: And it looks like there would be
20 more than one per forest. Depending on the size of the
21 forest, you could have several to many maps per forest.

22 KEATON NORQUIST: Exactly. The Eldorado is
23 doing a two district map, depending on the district
24 size and how that fits on those pages.

25 CHAIR WILLARD: This is great. I'd like to see

1 these happen sooner than later.

2 COMMISSIONER SLAVIK: I have a question about
3 the visitor use days. The methodology for determining
4 visitor use days and what was the other --

5 KEATON NORQUIST: The NVUM measures the number
6 of visits. And on the grant applications it asks for
7 the visitor days. So a visit is distinct from a
8 visitor day.

9 COMMISSIONER SLAVIK: My question would be, if
10 someone is sitting in an office somewhere determining
11 that or is someone on the ground counting people that
12 are actually in a campsite or going by a trailhead or
13 something along those lines?

14 KEATON NORQUIST: From the NVUM data, they have
15 people coming in. It's very scientific. It's not
16 someone sitting in an office eyeballing it. It's based
17 on surveys that people are different on the ground. I
18 don't even believe it's people in that forest. They
19 bring in outside people to do that survey.

20 COMMISSIONER FRANKLIN: On your cost recovery
21 process, you had indicated that you would be willing to
22 give a more in-depth explanation. I would appreciate
23 that the next time, if we could please make time. With
24 that, I would like examples, real life examples. Pick
25 two dissimilar events, motorized recreational event and

1 something else, Girl Scouts, Boy Scouts, whatever. I'd
2 like to see a real life explanation.

3 KEATON NORQUIST: I'm not sure. We might have
4 to make it hypothetical. I'm not sure about using a
5 live permit.

6 COMMISSIONER FRANKLIN: Pull the data from a
7 live permit. You can make it blind. That would be
8 great. Two of them.

9 KEATON NORQUIST: Okay.

10 COMMISSIONER LUEDER: I had a couple of
11 questions that could be folded into that as well for
12 cost recovery. On some of the forests there are
13 multiple clubs who hold events. It's been suggested
14 that possibly they could combine their efforts into one
15 permit to cover all of those events, so that might be a
16 cost savings.

17 And, secondly, many clubs volunteer a
18 significant amount of hours for trail maintenance, and
19 I think there should be some discussion of how that
20 could possibly be considered as an offset.

21 And then, lastly, would be consideration of how
22 much grant funding has already been given to that
23 particular forest and how that might be considered as
24 an offset, as well.

25 KEATON NORQUIST: These are good questions that

1 I can pass along to our OHV experts.

2 DEPT. DIRECTOR GREENE: A quick follow-up, if I
3 may. Ecosystems Management, can you explain what that
4 position does?

5 KEATON NORQUIST: That position, as far as I
6 understand, that person is in charge of basically all
7 of the scientists, all of the biologists, botanists,
8 fisheries. It's kind of the top person of all of the
9 scientists.

10 DEPT. DIRECTOR GREENE: Can you also say thank
11 you to Angela? She was a pleasure to work with.

12 KEATON NORQUIST: Yes.

13 //

14 **AGENDA ITEM IV(D) (2) USFS -**

15 **SUBPART A, TRAVEL MANAGEMENT RULE UPDATE**

16 KATHLEEN MICK: Good morning, Commissioners.
17 I'm Kathleen Mick, and I work for the U.S. Forest
18 Service in the regional office, and I am the Regional
19 Trails OHV and Travel Management Program Lead.

20 And as Keaton mentioned, I'm going to address
21 the project that we're starting to take on, which is
22 Subpart A. And the reason it's called Subpart A is we
23 promulgated regulation back in 2001 and made some
24 changes to how we administer our transportation system.

25 And then in 2005 when we had our Travel

1 Management Rule, which most people are familiar with,
2 that created the regulations on how we'll designate
3 routes, we also made a few changes to some definitions
4 about how we manage our road system. And so when we
5 did that, the rule was broken up in the Federal
6 Register with Subparts A, Subparts B, Subparts C.

7 Subpart A is part of our regulation that deals
8 with road management and the requirement that we have
9 nationally to minimize our road system. Subpart B is
10 the part about designating motor vehicle use. And then
11 Subpart C is the part about designating snowmobile use,
12 which we haven't got to yet.

13 So as you know, we've been working on Subpart B,
14 which is our route designations for motor vehicle use,
15 and we our getting close to completing that effort.
16 Now, we're being asked by OMV to start to figure out
17 when we're going to complete Subpart A. We started
18 doing that back in the early 2000s, and you might have
19 heard of it as a Forest Service activity called the
20 Roads Analysis Process. And that's been changed now
21 with some of the changes in the regulations that were
22 in the Federal Register to the Travel Analysis Process.

23 So what that means is that we have an obligation
24 to look at our road system and to use a science-based
25 process and make recommendations about minimizing the

1 system and developing -- when we use the word minimum
2 system, that may or may not connote shrinkage of the
3 system. But first we have to look at the system, do a
4 science-based analysis, and then determine what roads
5 are needed to manage the national forests, and that
6 would be the minimum systems. So it's not just about
7 public use. It's about administrative use, and then
8 any kind of permitted use, for instance, access to cell
9 towers or communications sites, any other mining
10 claims, those types of things.

11 So we're starting to undertake that now. We're
12 developing a process that we will be releasing to the
13 public pretty soon. The key to this is that Subpart A
14 is a list of recommendations that will eventually end
15 up being in the future proposed actions that would then
16 be taken through the NEPA process. Right now the whole
17 goal is to get through this process for our road
18 system. As I mentioned, we started on it in early
19 2000s, but we only looked at our Maintenance Level
20 Three, Four, and Five roads. We did not look at our
21 Maintenance Level One and Two roads. So we have to go
22 back and we have to do that.

23 I think the biggest key for the public to
24 understand about this process is it is not a decision
25 process. It's not a NEPA process. It's a left-side

1 science-based analysis that yields recommendations, and
2 then those recommendations may or may not turn out to
3 be a proposed action, which would then go through the
4 NEPA process, just like any other typical Forest
5 Service project would.

6 That's really all I wanted to share today
7 because you might start hearing something more about
8 Subpart A. You might see news releases. You might see
9 questions from the user community as they start to deal
10 with some of the national forests. As we have more
11 information, we will provide that to the OHV Division
12 and the Commission.

13 So right now what we wanted to do was just
14 provide you a general understanding. For people that
15 want to learn more about what the regulations say, it's
16 36 CFR 212.5. You can look it up on the Internet.
17 Pretty straightforward what it says, and there's two
18 pieces to it. One is identify the minimum system, and
19 then also identify unneeded roads; and then make
20 recommendations for those unneeded roads to either be
21 decommissioned or converted to another use, which
22 typically means converted to a trail.

23 That's really all I wanted to say. I'm happy to
24 take questions if you have them and just kind of give
25 you some general information that this is another thing

1 we're taking on.

2 CHAIR WILLARD: Thank you for that. So this is
3 a national process, and then each region is doing their
4 own or is it I guess down to the forest level and then
5 the forest goes to region and region to national?

6 KATHLEEN MICK: It is a national process. It's
7 in our Code of Federal Regulations, so it applies to
8 every national forest and grassland in the United
9 States. We have already directions in our manual that
10 tell us how to do it. It's a six-step process, so it's
11 in manual and it's in handbook. So, again, that stuff
12 can be looked up on the Internet. Anybody can go look
13 up our handbook. And off the top of my head, it's
14 770955, Chapter 20, and then Forest Service Manual, I
15 think, 7700. And there is some stuff in there you can
16 get on the Internet. The public can look at our
17 directives and see what they say. Look at the six-step
18 process, see what's involved.

19 So what we're working on now is our regional
20 forests are already -- and the letter I think is
21 already out in the hands of some of the public -- has
22 made a decision that we now have a time frame to
23 complete this. We're going to complete it in two
24 years, which means by January 2012. That's our
25 commitment to complete it. Now, whether or not he

1 decides to hold to that timeline as forests start to
2 get into the work, that's unknown, and only he can tell
3 me whether or not he's going to give relief to the
4 timeline if forests feel that they need longer. But
5 right now he has set that timeline to the forest
6 supervisors through a policy direction letter.

7 CHAIR WILLARD: So will the NEPA process be on
8 an individual forest basis? And if so, will they all
9 start at the same time or will it be staggered, and
10 will that occur in 2011?

11 KATHLEEN MICK: The NEPA process for any of the
12 proposals that may come out of recommendations is
13 unknown at this time because right now what we're
14 trying to do is go through the science-based analysis.
15 And if anyone is familiar with the NEPA triangle, we
16 typically do any type of analysis before we cross over
17 into the actual NEPA process where you have a purpose
18 and need to take on a project, and then you develop a
19 proposed action. You scope the public based on that,
20 and then you enter into the full-blown NEPA process
21 with public input.

22 So the science-based analysis is just going to
23 yield a set of recommendations. If you go back to any
24 of your favorite or familiar forests and look at --
25 sometimes they have them on their websites, their own

1 roads analyses, and the one I'm most familiar with is
2 the Six Rivers. So if you access them to see a copy of
3 their road analysis, it's a document that talks about
4 benefits, risks, and opportunities, and economics about
5 their transportation systems. And then in the back
6 there is an appendices that has a listing of all of
7 their Level Three, Four, and Five roads. And I think
8 they may have even had some recommendations for some
9 Level Two. It says literally road by road things that
10 need to be done, whether it's mitigation because
11 they're having some environmental effects, or there is
12 some recommendation for that road to be decommissioned
13 or converted to a trail, and then what type of trail
14 they might have suggested that it would become. And
15 that's all nice. It's just a recommendation.

16 Once they go to actually doing that, it's got to
17 go through the NEPA process. So that's the piece in
18 question is when will there be a decision on that
19 particular forest to act on one of those
20 recommendations and now make it a project. So that
21 piece of it is unknown in terms of what NEPA will occur
22 first.

23 We do have another initiative called Ecological
24 Restoration, which I'm not as familiar with because
25 it's not in my shop. It's in the ecosystem shop. But

1 basically this is also national and in manual. With
2 everything that we do, we need to take into
3 consideration the ecology of the area and the balance
4 between human use and the natural environment. The
5 public can also find that in the Forest Service Manual.
6 I believe it's 2020, and it's called Ecological
7 Restoration, and you can look it up. It's about five
8 or seven pages, and you can kind of understand where
9 we're trying to go.

10 And basically the President has said that we're
11 going to look across all lands, we are going to try and
12 do things that stretch beyond our own borders by
13 working with the state or the BLM or other agencies.
14 We're going to be doing things to look at improving
15 water quality, but we're also looking at still doing
16 the commercial types of extraction, whether it be
17 mining or some type of vegetative removal or fuel
18 treatments. So what we are trying to do is look at
19 these things together instead of in their own style.
20 So I think you're going to see more of that intent as
21 the Forest Service moves forward into the future.
22 Hopefully that answered your question.

23 CHAIR WILLARD: Thank you. Commissioners, any
24 questions of the Forest Service?

25 DEPT. DIRECTOR GREENE: Just if I may, you

1 shared a lot of good information. From the public, we
2 get asked quite frequently, so through route
3 designation some roads were identified as no longer
4 motorized. Are those non-motorized roads now going to
5 be considered as you go through this next phase of
6 Subpart A, or is it all roads? So, for instance, where
7 non-motorized recreation may take place, are those
8 looked at, as well? Or is it simply looking at those
9 roads --

10 KATHLEEN MICK: The starting point, at least in
11 draft that we've identified, as looking at our Level
12 One and Two roads, and that's all roads. Now, as I
13 said, we don't have the specifics worked out about how
14 this region is going to go through the nut and bolts of
15 it. That's the piece we're still working on.

16 But, for instance, we have a lot of closed
17 roads. And some of them have trails on them, and some
18 of them were just designated. So whether or not a
19 forest is going to go back and take a look at that has
20 not been decided yet. But what we will do is be
21 looking at the transportation system as a whole, so
22 looking at the old recommendations that we made, seeing
23 that they are still valid, and then trying to move
24 forward and figure out what is it we still need to look
25 at that we haven't.

1 And, again, they're just recommendations. And
2 that's a piece that really can't be overemphasized, is
3 that this is just a science-based analysis looking at
4 affordability, looking at economic benefit, looking at
5 risks to the resources, all of those things combined,
6 and then making some recommendations that get to a
7 system of how the Forest Service needs to manage that
8 particular forest.

9 DEPT. DIRECTOR GREENE: So in looking at that
10 science-based, as we look at recreation, does that have
11 any standing?

12 KATHLEEN MICK: Yes, the recreation is a
13 component. The public use is a component. And so
14 sometimes, as an example, with our appropriated money,
15 we can only afford -- and it's not a secret that the
16 Forest Service has said that with our appropriated
17 money we can only afford a certain percentage of our
18 system. But then we find other ways to afford the rest
19 of the system, or sometimes you have the Cadillac
20 version of the system, and then you have the Volkswagen
21 version of the system. Still doesn't mean that there's
22 health or safety issues, doesn't mean that there are
23 resource issues, it just may mean that we're finding
24 ways to alleviate those things, but not have the road
25 be in the best condition for public travel.

1 For instance, with a sedan, so one of the things
2 might be that a recommendation comes that some roads
3 are downgraded, maybe the roads will be downgraded from
4 a maintenance Level Three, which is a standard that's
5 acceptable for passenger cars and easy travel for
6 passenger cars, to a maintenance Level Two, which is a
7 high clearance road that's recommended for high
8 clearance vehicles, requires less maintenance and is
9 less costly. Now, we can afford a lot more of those,
10 which is Level Three, Four, or Five, which is a higher
11 standard road. We also get grant money, not just from
12 the OHV Division, like from Federal Highways. We have
13 cost share roads and things like that. As much as any
14 other agencies, we don't just do business based on
15 solely appropriated money. We have other ways of
16 having partnerships to do things.

17 DEPT. DIRECTOR GREENE: To follow up, I don't
18 know if it's you or Keaton, on April 6th there was a
19 public meeting on the rule. Could you provide an
20 overview for the Commission so they can get an update
21 on where you go from here.

22 KATHLEEN MICK: That's something that we can
23 look into. I'm not prepared to give that today because
24 the planning shop is not within the staff that I work.
25 I do know, just because I saw it in an e-mail

1 yesterday, coming up there is going to be -- so in
2 general, I guess if you don't know, the Forest Service
3 is going through a new planning rule. And basically
4 when that rule is developed, that will be the basis for
5 how we develop our land management plans. So that's
6 occurring right now.

7 There were some public meetings, as Deputy
8 Director Greene mentioned, I guess a couple of weeks
9 ago where there was an ability for the public to link
10 in and participate and provide comment on the
11 information provided and share their thoughts on what
12 type of rule they think the Forest Service should
13 develop. There I believe will be more of those to
14 come. And I also know that there's going to be one --
15 I don't know whether it's going to be open to the
16 public or not -- for a lot of the tribes throughout the
17 country to provide their input. There's also going to
18 be one for Forest Service employees to share their
19 input.

20 So before an actual rule is promulgated and put
21 out in draft, there is still a lot of work to go. And
22 we can certainly provide more updates as it comes, if
23 that is something that the Commission or Division would
24 like to see. I just don't have that information today.
25 And we can also probably arrange to have someone from

1 our planning shop come in and give you a brief
2 presentation about what this all means, as well,
3 because, again, I know about it. It's just not my area
4 of expertise.

5 CHAIR WILLARD: Thank you. All right. We are
6 going to open this up to public comment regarding the
7 Commissioners' reports, Deputy Director's report, BLM
8 and U.S. Forest Service reports. And if you're an
9 organization, the time limit is four minutes. If
10 you're an individual, the time limit is two minutes.
11 Please stick to our regulations on the time.

12 //////////////////////////////////////

13 **AGENDA ITEM IV - PUBLIC COMMENT ON REPORTS**

14 NELL LANGFORD: Good morning, Commissioners and
15 Chair Greene, I am Dr. Nell Langford, and I'm here with
16 Save Beach Now, but I will take two minutes.

17 The first thing I want to ask you to do is
18 dissolve yourself. You are a dinosaur. You burn
19 fossil fuels. You cause global warming. You are out
20 there terrorizing the environment. You're disturbing
21 the ecological balance.

22 Second, you're robbing cities and counties of
23 our rightful fuel tax. It's been skimmed off by you to
24 promote off-highway vehicle recreation when it like
25 should not be taken off at all.

1 Three, you're polluting the water, and you're
2 polluting the air. In terms of Carnegie, we at the
3 Oceano Dunes State Vehicular Recreation Area have
4 completed all of our internal work to try to get the
5 local water board to acknowledge the waste discharge,
6 to acknowledge that there is no waste discharge report
7 for the thousands of vehicles that go through Arroyo
8 Grande Creek. Furthermore, you have no streambed
9 alteration agreement, and we have, unlike Carnegie,
10 exhausted all of the administrative remedies, and we're
11 coming after you on that one. We don't want you
12 polluting our water anymore.

13 Also, you're polluting our air. Public Resource
14 Codes require you to hear our concerns and to act on
15 them and to mitigate and to remedy. You're destroying
16 the health of whole communities. Hospital bills, you
17 should pay them; lost days of school, you need to
18 compensate school districts; lost days of work, lost
19 days of productivity for California citizens because of
20 the air pollution downwind of the Oceano Dunes State
21 Vehicular Recreation Area.

22 And you cannot argue with the science of this
23 study. Your science is ridiculous. How dare you,
24 after you have skimmed off 50 percent more of the
25 gasoline tax than you were supposed to, according to

1 another study; how dare you after going before the
2 public and telling them that the ODS area brings in
3 200 million a year with that study that was totally
4 fraudulent; how dare you attack a scientific study put
5 on to assure that the Clean Air Act is followed and
6 that you, a polluter, is stopped. Thank you.

7 DAVE PICKETT: Good morning, Dave Pickett,
8 District 36, Motorcycle Sports Committee. I don't
9 think you guys are dinosaurs. I think you're tigers.
10 You're awesome. District 36 appreciates the hard work
11 that you, Deputy Director Greene and her staff have put
12 forth on behalf of millions of California
13 recreationists.

14 Having said that, a couple of comments mentioned
15 on a few issues that popped up by the prior speakers in
16 this segment of the agenda. I'm looking at the cost
17 recovery sheet that was on the back table there, and I
18 would ask you to take a peek at bullet point three and
19 the way it's written for a defensible NEPA decision.
20 And I'm tying this totally into cost recovery, and I'll
21 explain here in a second. Also, if you go to bullet
22 point six, full reasonable costs, and finally the last
23 bullet point, due to understaffing.

24 I'm sitting here looking at the California
25 Enduro Riders Association cost recovery worksheet on a

1 five-year permit application. This particular club has
2 been in that area since the mid '70s putting on
3 responsible OHV recreation for thousands of families,
4 primarily without incident. On the monetary issue that
5 we were looking at, I mentioned the cost recovery fee
6 is excessive, nearly \$38,000. And if you go back to
7 your cost recovery sheet, you're talking about an
8 exemption for 50 hours. On this estimate we have
9 40 hours alone for GIS work that needs to be done on
10 existing roads and trails that were already done on the
11 travel management plan. That's just one item. So
12 50 hour rule is not feasible at all in this particular
13 forest. The total hours that I'm looking at here is
14 576 staff hours at their full salary rate.

15 This is a little club that puts on a trail ride
16 in the woods in the same forest on the same trails for
17 nearly four decades, outrageous. This is not the
18 promises that were made to the Roundtable Stakeholders
19 Committee of which I was a member years ago. Kathy
20 Mick was involved in that. Dr. Farrington was involved
21 in the five-step process. It's way outside the
22 parameters. That's that.

23 Commissioner Franklin, you asked about other
24 activities that have cost recovery involved. Each
25 forest has something called a SOPA, which is a schedule

1 of proposed actions, comes out quarterly by each
2 forest. I just recently got one in the mail the other
3 day. And very interesting, if you look at the category
4 type that's there, if it's for profit, nonprofit, what
5 have you. Certain forests do categorical exemptions
6 where there are basically minimal fees. As an example,
7 five-year permit on a snowmobile organization was under
8 a categorical exemption, where an OHV event that
9 involves motorcycles is a full cost recovery program.
10 I'll button up with that on this. Thank you very much
11 for your time.

12 KATRINA DOLINSKY: Katrina Dolinsky, good
13 morning, Commissioners, I'm thrilled to be here. I'm
14 also a recreational rider, but I ride on two wheels and
15 my own muscle power and do great distances. But I'm
16 here for an issue having to deal with the air quality
17 on the Nipomo Mesa. You see before you the Phase Two
18 APCD Executive Summary, and I highlighted some specific
19 areas for you to take a look at. This is a culmination
20 of several years due to the phrase one / phase two
21 study, and of three independent investigations and
22 technologies used. Totally peer reviewed by experts in
23 their field.

24 Now, if you want to do your own EIR, I
25 understand, okay. But let's be fair about the facts.

1 Particulate Matter 10 is a very dangerous and insidious
2 issue. What the APCD report doesn't get to show us is
3 the afternoon problems that we suffer at least one
4 quarter of the days, and growing, per year.
5 Afternoons, when the PM -- on the last three pages if
6 you take a look -- you've got the air quality index and
7 you've got two days in May 2008 where it definitely
8 shows for four to six or longer hours on a daily basis
9 we exceed not just the state standard but the federal
10 standard. That doesn't show that in the report, which
11 takes a 24-hour average, we have a plumb that comes
12 over the hill. Because it's particulate matter, highly
13 suspendible, one-seventh of a diameter of a human hair
14 down to one-quarter of a human red blood cell, and each
15 time that you grind the silica, it gets finer and finer
16 and it's suspended and stays there. I was a resident
17 here 25 years ago, and I was able to see that there is
18 a problem, not then but now, and there is a problem.

19 I'm asking for a moratorium until you figure
20 this out. People are ill, thousands of people. We
21 have six communities on our mesa now that weren't there
22 in 1974 when the Chappie Z'berg Act was legislated.
23 Please, I would ask you to do something in the favor of
24 health. Thank you very much.

25 MICHAEL DAMASO: Good morning, I'm Michael

1 Damaso with the Merced Dirt Riders. All the
2 Commissioners should have got a copy of my letter and
3 some other information. This is about U.S. Forest
4 Service cost recovery. Our club is a 501(c)(3)
5 nonprofit. We've been putting on events in this area
6 on the same trails since 1982. We used to put our
7 event on in April. After a fire, we lost several miles
8 of trail. We went back in and requested that those
9 miles be put back in when they could, and that our
10 event -- they gave us an EA for a June event. A
11 June event is one of the worst times of the year you
12 can be in the forest on a motorcycle.

13 Since 1997 or so, we've been trying to get our
14 event back into either April or May. We finally pushed
15 the issue real hard in 2008. They came back with a
16 cost recovery of over \$18,000. Our total income for an
17 event, which was a good event, in 2009 was \$15,000.

18 So how can we afford these cost recovery fees
19 and put on an event for a nonprofit organization,
20 especially when these trails have been used over and
21 over. A lot of these questions have actually been
22 closed, so we're not using even the same amount of
23 miles of trails that we used to use. And they've been
24 doing studies since 1982, and yet they still have to do
25 all of these other studies on the same trails? I think

1 the cost recovery is another way of eliminating OHV use
2 on the forests.

3 One other topic is our travel management plans.
4 The Forest Service writes their purpose and needs,
5 which limits what can be done. They write it so that
6 it ends up being what they want as an outcome. When
7 they say limited additions, when you take like Tahoe,
8 1700 miles of inventory trails that we use, and they
9 only added 43 miles to the transportation system,
10 because under the purpose and needs it says limit
11 additions. This is not correct. We should fight this
12 as hard as we can. Thank you very much.

13 AMY GRANAT: Good morning, Commissioners,
14 Amy Granat with the California Association of 4-Wheel
15 Drive Clubs. And as you can hear, I have lost my
16 voice, so I'll try to make it very brief.

17 Keaton Norquist from the Forest Service
18 mentioned the MVUMs. I just wanted to show you that
19 the MVUM for the Rubicon came out. I'm sure all of you
20 know that Eldorado completed the Rubicon recognition
21 process where they identified the trails and a few
22 variants on the trail. The Forest Service at the last
23 Rubicon Oversight Committee meeting said that they came
24 out with a MVUM based on that recognition process and
25 would be ticketing people on the Rubicon. This is the

1 Rubicon Trail Map here. The Rubicon Trail is this
2 little tiny line through there, and I will be happy to
3 pass this around. And I would challenge anybody to
4 figure out when they're on the Rubicon Trail where they
5 are based on this map. It would be a miracle if
6 anybody would be able to. And I had this in my
7 briefcase, and I pulled it out, and I already tore it.
8 I travel in an open jeep, windshield down, top off, I
9 think the way nature intended jeeps to be, but that's
10 my personal experience, and it already tore. So I'm
11 not sure how many trips on the Rubicon this is going to
12 take. But this is going to be very difficult for
13 anybody, any enthusiast to follow.

14 The other disappointment that happened between
15 now and the last Commission meeting was the decision on
16 the Modoc National Forest. And why this was a
17 disappointment was because the Modoc National Forest
18 came out with a plan that took into account very, very
19 carefully the community needs. They worked with the
20 county, they worked with enthusiasts, they worked with
21 all of the local environmental groups and came out with
22 a decision that we all thought was pretty well done.
23 And it was appealed, and it was dismissed. And now
24 they have to go back and issue a new one.

25 A lot of people who worked very hard on that

1 were very disappointed. I was also an appellant on
2 that decision only because one of my four-wheel drive
3 clubs lost access to a particular trail. During the
4 process, they promised to restore access. We found
5 another route, and we're going to start work on
6 repairing the access to that trail. Now that the
7 decision was turned over on appeal, all of the promises
8 that were made to me were dismissed, and I feel that I
9 was dealt with extremely fraudulently by the officials.
10 And I know a lot of people are upset about the Modoc.
11 It's just something to watch, something to put out and
12 say something happened in the process that didn't work
13 right.

14 And I'm very pleased to see Kathy Mick here
15 today and hear her report on Subpart A. Thank you,
16 Kathy, for being here. I'm very, very concerned about
17 Subpart A and what it has to hold. Anytime now that
18 the Forest Service says it's just an analysis and we
19 will be taking action later, I find it hard to believe
20 that a science-based approach will take into account
21 the individualities of how a forest is used.

22 As he heard from Keaton Norquist, their own
23 measurements takes out everything other than someone
24 self-identifying as recreation. The people in
25 California Association of 4-Wheel Drive Clubs, we have

1 people who use four-wheel drives to access the mining
2 claims. They use it for hunting. We have actually a
3 new hunting club that we're working with. We have
4 people use four-wheel trucks to access their properties
5 in remote areas. Why is that taken out of OHV? And I
6 would pose that as a question. I don't feel that the
7 Forest Service is taking into account the myriad of
8 ways and the wide variety of use of OHV. OHV has
9 become a term that is very, very narrowly defined, and
10 I would challenge all of you to think of OHV in a much
11 bigger picture because that's in reality how it's being
12 used.

13 FRED WILEY: Good morning, Fred Wiley with the
14 Off-Road Business Association. I want to thank the
15 Commission and the Division for this meeting today and
16 the opportunity to speak here.

17 My comments are primarily to the Forest Service.
18 As we heard a report on Subpart A, and as I understand
19 Subpart A, the science-based analysis does not have
20 peer review. So, in essence, we feel that not having
21 that peer review does not complete the component
22 necessary of a science-based analysis in the very
23 primary section.

24 And a secondary comment or question to the
25 Forest Service in Subpart C where they address

1 snowmobile, are they willing to share with us today
2 where they are in that process, and is Region 5 looking
3 at some kind of a designated route system for
4 snowmobiles within the region? And if so, why?
5 Because technically snowmobiles have been left out of
6 the process with specific direction as to how they
7 could be managed with specific uses. But we'd like to
8 see that answered if we could today. Thank you.

9 CHAIR WILLARD: I'd like the Forest Service to
10 respond to that question.

11 KATHLEEN MICK: Good morning, Kathy Mick, U.S.
12 Forest Service. So, Fred, what was your first
13 question?

14 Typically peer review is usually done with
15 scientific studies. What Subpart A is is just using
16 the best available science to help make recommendations
17 or sometimes in making decisions, like in a NEPA
18 decision, you'll see a biologist do research on the
19 best available science to learn about habitat or a
20 particular species, so I think that's the difference.

21 But one of the things that I didn't mention that
22 I probably should have, because I was just trying to be
23 brief about Subpart A because we just haven't worked
24 through the nuts and bolts. So these types of
25 questions start to come up, and we don't have all of

1 the answers yet of what we're doing, so it's a little
2 bit difficult to answer them.

3 But what I can say to Mr. Wiley and the rest of
4 the public and the Commission is that one of the things
5 that is in Subpart A is the requirement to involve the
6 public. And so what, again, that looks like -- and
7 we've at least identified three or four public
8 engagement points as we go through the process. But
9 how that all fits together in our strategy is unknown
10 because we are not done developing the strategy yet.
11 So then here is the danger of trying to provide
12 something really general because everybody wants to
13 focus on the specifics. And I understand that; that's
14 human nature. So what I can tell you, Fred, is that
15 there will be plenty of time for the public to be
16 engaged, and the more we flush out the process, the
17 more definitive those engagement points will become.

18 In terms of Subpart C, there have been other
19 regions that have felt the need to take on Subpart C,
20 particularly up in I believe Montana like on the
21 Gallatin, which is next to Yellowstone. I hope, at
22 least in my career, that I don't have to be the one to
23 take on Subpart C. The way I'd like to do things if I
24 could be Regional Forester today is be proactive, and
25 our new Regional Forest Randy Moore is really trying to

1 do that; however, typically our service history with
2 the Forest Service is it would be sort of like turning
3 the Titanic on a dime. We have a tendency to be more
4 reactive than proactive. That's just an inherent
5 nature of government. So we typically don't do things
6 until there is a problem.

7 And so right now in California, there isn't a
8 recognized issue that would create a purpose and need
9 to take on Subpart C because Subpart C is about
10 designating snowmobile use, and for the most part, a
11 lot of the forests have done that. And I don't think
12 at this time, except for in areas that they've already
13 done it more specifically in terms of making a closure
14 area to snowmobiles, I don't think there is any intent,
15 at least in the next couple of years, there has been
16 absolutely no talk of taking on Subpart C. So it's not
17 that we don't care about snowmobiles, because we do.
18 There just isn't right now an issue to address that's
19 not being dealt with in a satisfactory manner at a
20 local level. So does that get to your answer? There's
21 no secret or black helicopters or anything about
22 Subpart C.

23 CHAIR WILLARD: If you can keep the Commission
24 informed on how we're progressing with Subpart A, you
25 can use this as a forum to reach out to the public, as

1 well.

2 TOM TAMMONE: Tom Tammone, speaking as an
3 individual. I'm still a member of CORVA, however, at
4 least until the end of June.

5 Anyway, I don't agree with all of the speakers
6 here today, especially ones that tell me as a
7 recreationist to wipe the motorized portion out of my
8 life. What I will say, you know, you have your right
9 to your time, and I'm still going to continue my time
10 to give you more time to speak, as much as I don't like
11 being told to go away. But I'm going to say is, I'm
12 kind of glad you're here. You really emphasize my
13 point to people in this room that don't understand my
14 frustration of going to the table on issues. Because
15 no matter how much we sit down and talk to people, it
16 doesn't work. And somebody comes along and just finds
17 every law and stretches every law beyond its
18 imagination to do nothing, but as their stated
19 intentions are to make us go away. We try to reason
20 with people. We try to do everything we can. We want
21 to. I've been involved with land management for over
22 12 years now as a volunteer, and I found it a
23 fascinating thing to get involved with, but it's
24 frustrating because everything we do to try to make
25 everybody happy in this arena just gets thrown in our

1 face later on. After you've been at it so long, you
2 just get tired of it, and you just throw up your hands
3 and say why bother. But you're entitled to your time
4 to come up here and speak, just like I'm allowed to
5 speak when I come here.

6 But I got to tell you what, you make it
7 impossible for us to manage the sport. One is your
8 stated intention to just tell us to go away, it's too
9 hard, it's too difficult, give up. What you're really
10 saying in my mind is didn't we make it hard enough for
11 you yet. And that's why I'm having a hard time getting
12 past when people ask me to go to the table and quit
13 complaining. Thank you.

14 BRUCE BRAZIL: Good morning, Bruce Brazil,
15 California Enduro Riders Association.

16 I'd like to add a little bit of information on
17 to what Dave Pickett had mentioned on the cost recovery
18 program. I am part of the organization that he's
19 referring to where the recovery costs have really
20 escalated. I'm also very happy that Keaton Norquist
21 presented us a bit of information, especially the part
22 about the cost recovery regulations for both Forest
23 Services and BLM are virtually indistinguishable. I've
24 been trying to find information on the Internet,
25 reference material as to just what they can charge and

1 cannot charge for. And what I did find on the BLM is
2 that there should not be any fees charged for studies
3 on regular designated routes only something that's
4 going to be superficial, something extra as far as
5 permits.

6 Up there in the Rock Creek area of the Eldorado
7 National Forest where we put on our event, about
8 90 percent of the route that we utilize for the Enduro
9 is recognized routes. There's only a couple of miles
10 of events-only trails that we utilize. I can
11 understand some cost recovery to have those areas
12 checked.

13 Another item also on the cost recovery, from
14 what I've noticed, it seems like the BLM does not
15 charge nearly the fees that the U.S. Forestry Service
16 does, so there may be a little difference in approach.

17 And also on our permit, initially we were doing
18 one-year permits, then we found out if we can do it
19 maybe five years at a time, the overall costs on an
20 annual basis would be less. So that's what we tried
21 for. But we were first told, okay, it's going to cost
22 a little over \$10,000 on your cost recovery for that.
23 We gave them the 10,000. They did their studies, and
24 then, oh, we need more information. It's going to cost
25 you an additional \$17,000. We had already paid the

1 10,000 upfront, we can't recover that, so that money is
2 gone. But now we've got an additional \$17,000, which
3 our budget, our kitty just doesn't have it.

4 The permits we have been getting were one year.
5 We went for a five year, we're trying for the five
6 year, and recently we were told that we can no longer
7 even apply for a one-year permit. It's got to be a
8 multiple-year permit, and I don't know where that
9 authorization came from, if it's local within the
10 Eldorado or just Georgetown District, Region 5 or on a
11 national basis. And maybe I can talk to Keaton or
12 Kathy during the break or something and maybe get some
13 information on that.

14 Tomorrow there is a meeting up in the Georgetown
15 Ranger District, and it's called the Rock Creek
16 Collaborative Forum, and I will be attending that and
17 will hopefully get some more information. Thank you.

18 CHAIR WILLARD: That concludes the public
19 comment period, and I think we should probably take a
20 quick ten-minute break.

21 (Break taken from 10:10 to 10:33 a.m.)

22 DEPT. DIRECTOR GREENE: To respond to
23 Commissioner Van Velsor's earlier question about the
24 nonprofit applications submitted, we found out: In
25 '08/'09, preliminary applications were 15; final

1 allocation was 12. And this year, the preliminary
2 applications we received was 16.

3 COMMISSIONER VAN VELSOR: Thanks.

4 //////////////////////////////////////

5 **AGENDA ITEM V(D) - ELECTION OF OFFICERS 2010**

6 CHAIR WILLARD: Thank you. So now we're moving
7 on to business items. We're making good headway here.
8 We are going to go a little bit out of order. We are
9 going to take election of officers 2010. We need to
10 have a chair and a vice-chair. I am currently chair
11 and Commissioner McMillin was vice-chair.

12 And so I'd like to see if someone wants to
13 entertain a motion for a nomination?

14 COMMISSIONER FRANKLIN: I have a slate of
15 officers to recommend. I would like to recommend
16 Gary Willard to continue on as chair and recommend that
17 Eric Lueder for vice-chair.

18 COMMISSIONER SILVERBERG: Second.

19 CHAIR WILLARD: Have a little discussion. You
20 guys sure you want that slate?

21 I want to make a disclosure that I've had a
22 career change since I was put on the board, since even
23 I was appointed chair last year. So I am now an
24 investor in a company, also chief operating officer, in
25 a company that manufacturers electric motorcycles,

1 electric dirt bikes, electric street bikes, and
2 electric scooters. And, in fact, the Division
3 purchased four of our dual sport motorcycles last year.
4 This was way before I got involved, but I just want to
5 make sure that everyone knows that relationship between
6 me and this company that has done business with
7 Division exists. And if at any time in the future,
8 some business comes where the Commission needs to
9 discuss anything to do with that, then I would recuse
10 myself. But I wanted to go on record as full
11 disclosure.

12 COMMISSIONER FRANKLIN: Thank you very much.
13 With that disclosure, I still make the following
14 recommendations.

15 CHAIR WILLARD: All those in favor?

16 (Commissioners simultaneously voted.)

17 CHAIR WILLARD: Motion passes. So
18 congratulations, Commissioner Lueder, you're now
19 vice-chair, and I'll be chair again for one more year.
20 And you know what that means.

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

22 **AGENDA ITEM V(B) - IMPERIAL SAND DUNES**

23 CHAIR WILLARD: Moving on to Item 5(B), Imperial
24 Sand Dunes. BLM will make a presentation. I
25 understand we have some technical difficulties with the

1 AV equipment and hopefully will get that sorted out
2 while we're in the process of learning more about the
3 Imperial Sand Dunes Recreation Area Management Plan and
4 Environmental Impact Statement.

5 NEIL HAMADA: Good morning, Commissioners, Neil
6 Hamada from BLM El Centro Field Office.

7 ERIN DREYFUSS: Erin Dreyfuss, California State
8 Office BLM. I'm also the RAMP team lead.

9 CHAIR WILLARD: Thank you for coming, and I want
10 to acknowledge that you guys have had some tough going
11 lately with a lot of shaking and being very close to
12 the epicenter of the earthquake.

13 ERIN DREYFUSS: That's correct. I wasn't down
14 there when that happened, but I received lots of
15 photographs of the damage and was amazed.

16 CHAIR WILLARD: How extensive is the damage to
17 the facility?

18 ERIN DREYFUSS: Well, the El Centro Field Office
19 had the ceiling come down, the air ducts came down, all
20 of the insulation came down. So there was a lot of
21 filing cabinets tipped over, just a big mess basically.

22 So we'll improvise and use these maps, and I'll
23 refer to these maps since we don't have a projector.
24 Are you ready for me to start?

25 First, I wanted to give a little bit of

1 background of how we got to this process and why we're
2 here. In 2000, as you may recall, the BLM was
3 litigated by the Center for Biological Diversity
4 alleging that the BLM failed to consult under Section 7
5 of the Endangered Species Act. In 2001, the court
6 ordered that we close several areas administratively of
7 the Imperial Sand Dunes to protect Peirson's
8 milk-vetch. In 2006, the court vacated our Record of
9 Decision and ordered us to maintain those
10 administrative closures. And I guess I'll have Neil
11 hold up Alternative 2 to remind you what that
12 administrative closures look like that are on the
13 ground right now.

14 NEIL HAMADA: It's the purple areas here, here.

15 ERIN DREYFUSS: And also as part of that
16 process, they ordered us to maintain those closures,
17 the Biological opinion that Fish and Wildlife Service
18 had delivered to us was also remanded back to us.

19 In 2008, then the Fish and Wildlife Service
20 designated new critical habitat for Peirson's
21 milk-vetch. That was actually February 2008, and that
22 designation of that critical habitat triggered us to
23 start a new planning process for this RAMP. So if Neil
24 could hold up the new critical habitat boundaries.

25 NEIL HAMADA: The critical habitat extends from

1 Mammoth Wash in the north to the North Algodones Dunes
2 Wilderness and then continues here in the middle
3 section of the dunes. There's a small polygon in this
4 area and along the Mexico border.

5 ERIN DREYFUSS: So just a quick description of
6 the planning area for a little bit more background.
7 It's about 200,000 acres, 150,000 of that is BLM
8 managed land, and 25,800 acres approximately is
9 designated as the North Algodones Dunes Wilderness
10 Area. We're bordered on the east by the Chocolate
11 Mountains and bordered on the west by the East Mesa
12 Management Area, which is also Flat Hill Horned Lizard
13 Management Area, and of course, bordered on the south
14 by the U.S./Mexico border.

15 I'll launch into the alternatives. We have
16 eight alternatives in this document. Alternative 1
17 basically goes back to what the condition was in the
18 1987 RAMP, which was the last RAMP that the BLM did
19 before 2003. As you can see, no closures except for
20 the North Algodones Dunes Wilderness Area, and that is
21 because the wilderness area was designated by Congress.
22 We can't go back and de-designate. We have to go
23 forward in all of the alternatives. That's basically
24 Alternative 1.

25 Alternative 2 is what you saw earlier with the

1 current administrative closures in place, which is what
2 is on the ground now.

3 Alternative 3 would close all of the designated
4 critical habit, in addition it would close microphyll
5 woodland habitat on the east side of the sand dunes,
6 and also in addition it would close areas of critical
7 habitat that were originally proposed by U.S. Fish and
8 Wildlife Service but were taken out of that final
9 designation due to economic reasons. So that large
10 area that you see that Neil is pointing to was included
11 in the original critical habit designation.

12 Alternative 4 is kind of a different iteration.
13 We would propose under this alternative to close a
14 large swath of microphyll woodland on the east side of
15 the sand dunes. We would propose to keep that Mammoth
16 Wash closure north of the wilderness area, and we would
17 also propose to close a large chunk of the critical
18 habitat; however, as you can see, it would be squared
19 off under this alternative. And then we would also
20 propose to have a seasonal closure south of that area
21 that would only be closed during the time of year where
22 Peirson's milk-vetch would be growing, so that would be
23 a seasonal closure.

24 Alternative 5 is yet another iteration. You
25 would include that microphyll woodland closure on the

1 east side, an even larger chunk of the critical habitat
2 south of 78 would be closed, also squared off,
3 including the critical habitat south of Interstate 8,
4 and also the critical habitat north of the Algodones
5 Dunes Wilderness Area would be closed.

6 Alternative 6 would propose to close a large
7 swath of the dunes that would include the large sand
8 dunes, pretty big chunk of critical habitat, and also
9 microphyll woodland. There would be no other closure
10 north of the wilderness area and no closures south of
11 Interstate 8.

12 Alternative 7, a simple iteration would be to
13 just close that large chunk of critical habitat
14 basically north of Patton Valley and south of
15 Highway 78 and squared off.

16 And now Alternative 8, this is our preferred
17 alternative as identified in the draft Recreation Area
18 Management Plan. We would propose to close all of the
19 critical habitat, as you can see, and only the critical
20 habitat. We would not propose to square off the
21 critical habitat and close areas that aren't actually
22 designated. On the east side of the dunes, we would
23 propose a microphyll woodland camp enclosure. That
24 area would be closed to camping but would still be
25 available for OHV recreation. But then it's kind of

1 hard to see, but the Dune Buggy Flats area, we have
2 proposed to close the Dune Buggy Flats campgrounds in
3 years of extremely high rainfall, and that means
4 1.82 inches between October 1 and December 31. So
5 that's Alternative 8 in a nutshell.

6 I wanted to go over a quick overview in your
7 PowerPoint of the acres available for OHV. Under
8 Alternative 8, 179,622 acres would be available for OHV
9 recreation, as opposed to the current iteration which
10 is only 140,740 acres available for OHV. So under the
11 preferred alternative, about 40,000 acres additional
12 would be available for OHV recreation.

13 I'm not sure if we have a map of this, but I
14 also wanted to bring to your attention that we are
15 making lands available for solar, wind, and geothermal
16 development in the planning area.

17 NEIL HAMADA: This light blue area that forms
18 kind of a perimeter around the dunes, this is the area
19 she's talking about.

20 ERIN DREYFUSS: So the areas that we would
21 propose to make available is actually in limited use
22 OHV designated areas. It is not part of the OHV open
23 areas.

24 DEPT. DIRECTOR GREENE: Commissioners, as well,
25 in your binders, you'll see there are color copies that

1 are just like these maps in the binders.

2 ERIN DREYFUSS: So for renewable energy, we had
3 a pretty big range. Under Alternative 1, that goes
4 back to the '87 RAMP, basically the whole area was
5 available for energy. And under our preferred
6 alternative, we would propose 37,961 acres be available
7 for solar and wind development.

8 So quick overview of the preferred alternative.
9 About 179,622 acres would be available for OHV
10 recreation, that includes the open area and the
11 limited-use area. We would propose to close
12 100 percent of the critical habitat for Peirson's
13 milk-vetch. About 11,154 acres of microphyll woodland
14 would be closed to camping but still available for OHV
15 use. In years of high rainfall, i.e., 1.82 inches by
16 December 31st, Dune Buggy Flats Campground would be
17 closed to camping but still available for OHV use. As
18 I said before 37,961 acres available for wind and solar
19 development. 12,654 acres would be available for
20 geothermal leasing in that same outer area that Neil
21 showed earlier. We would propose to delete the North
22 Algodones Dunes ACEC because it overlaps the North
23 Algodones Dunes Wilderness. And since the wilderness
24 is a more restricted boundary, we decided to delete the
25 ACEC. And we would reduce the East Mesa ACEC to avoid

1 the overlap. It overlaps the other two open areas, so
2 we decided to delete that small amount of acreage.

3 So in closing, about 100 percent of the
4 Peirson's milk-vetch critical habitat would be closed
5 under our preferred alternative. There is more acreage
6 available for OHV in our preferred alternative than
7 there is in the current situation out on the ground.
8 We would provide for extraordinary protection of
9 Peirson's milk-vetch in those extraordinary years of
10 rainfall, and have made lands available for renewable
11 energy. So any questions?

12 COMMISSIONER SILVERBERG: So the allocation of
13 land for the renewable energy, how is that going to
14 affect future OHV?

15 ERIN DREYFUSS: Basically Alternative 8, the
16 preferred alternative, it proposes to protect the OHV
17 opportunity in the Imperial Sand Dunes and would only
18 allow renewable energy development in the area outside
19 of the recreation area, the pertinent area that I
20 pointed to. That's the area that overlaps with the
21 northern and eastern Colorado Management Area on the
22 east side, and on the west side with the Western
23 Colorado Route Travel Plan. So the Imperial Sand Dunes
24 would basically be off limits to renewable energy
25 development.

1 COMMISSIONER SLAVIK: I think maybe where Kane
2 is going to is in the future if you have facilities
3 around the parameter of the sand dunes and those
4 facilities are somehow impacted by dust or something
5 else is affecting the operation of their facility, does
6 that give them the opportunity to come back and say,
7 okay, we need to close a certain amount of riding area
8 because our renewable energy operation is being
9 affected?

10 ERIN DREYFUSS: Well, what we wanted to do under
11 this plan is to make areas available. We don't have
12 any proposals at this time. And if we were to get
13 proposals, they would have to go through another NEPA
14 process. So there would be another public comment, a
15 whole another NEPA process to go through before
16 anything like that would ever be permitted on BLM
17 lands. So those issues would most likely come up under
18 the other NEPA process.

19 COMMISSIONER SLAVIK: What does the ground look
20 like in where you're talking about?

21 ERIN DREYFUSS: It's basically flat creosote
22 scrub.

23 DEPT. DIRECTOR GREENE: But aside from something
24 being congressionally designated, the reality is you
25 could still go back through a process and Imperial Sand

1 Dunes could still be vulnerable at that time.

2 ERIN DREYFUSS: Not the dunes themselves, just
3 the outside parameter would be available under this
4 draft plan.

5 DEPT. DIRECTOR GREENE: Under this plan, but
6 that doesn't preclude 15 years from now if there were a
7 demand in the internal part of the dunes to reopen, BLM
8 could go back and do a completely different management
9 plan for the area, correct?

10 ERIN DREYFUSS: It could happen in the future,
11 yes. But we have to do a whole another RMP and amend
12 the California Desert Conservation Plan again.

13 COMMISSIONER FRANKLIN: Just for clarification,
14 so I think you said it was the blue band around the
15 outside for possible solar and wind generation, so what
16 you're saying is that area around there would be open
17 if you choose to grant an exception to use that, and
18 that area is also then considered for what they need
19 for mitigation by acre for the solar and wind power, or
20 would you need to go back and find more area to
21 mitigate what was now covered up by solar panels?

22 ERIN DREYFUSS: You mean to mitigate for loss of
23 OHV recreation?

24 COMMISSIONER FRANKLIN: No, the loss of
25 available area where you're covering up your scrub

1 creosote with solar array, and what have you.

2 ERIN DREYFUSS: As I said before, we would have
3 to go through another NEPA process and identify lands
4 that would be suitable for that type of mitigation.

5 COMMISSIONER FRANKLIN: So it's not now
6 included.

7 COMMISSIONER LUEDER: How are you proposing to
8 protect the habitat areas, would that be with fencing
9 or some other barriers?

10 NEIL HAMADA: We would install a similar type of
11 signage that we have now. The current administrative
12 closure, it's about 49,000 acres closed with a variety
13 of signs, but most of them are carsonite fiberglass
14 posts. So we would remove the current posts and
15 probably reuse a lot of those signs for the preferred
16 alternative closure.

17 COMMISSIONER LUEDER: And then second question,
18 I see a lot of white checkerboard patches, a few within
19 the sand dunes, are those owned by other government
20 agencies or are they privately owned?

21 NEIL HAMADA: Both. I believe most of the white
22 ones you're going to see on there are private. There
23 are some in the Olgiby area, I think there is one
24 section in the center and around the Glamis area.

25 CHAIR WILLARD: Can you give us the timetable

1 after the expiration of the 90-day public comment
2 period on what happens next?

3 ERIN DREYFUSS: After the 90-day comment period,
4 we will collect all of the comments, respond to all of
5 the comments, publish a final RMP EIS. That will have
6 a protest period associated with it. We will try to
7 resolve protests if we can, publish a Record of
8 Decision, and we're looking at hopefully a year from
9 now publishing a Record of Decision.

10 COMMISSIONER SLAVIK: Your total visitorship
11 there on an annual basis?

12 NEIL HAMADA: It varies. It's been dropping
13 recently. I expect at the end of this season it will
14 probably about around the 1.2 million number. A few
15 years ago it was up to about 1.4.

16 COMMISSIONER SLAVIK: So your outreach for this
17 management plan to reach some percentage of those
18 people, obviously those are the people that are going
19 to be most affected by this. Most people return, from
20 my experience, on a fairly regular basis, return for
21 seasonal riding time. Is part of your plan to be able
22 to get to these people and let them know what's going
23 on?

24 ERIN DREYFUSS: From the research studies that
25 we've done in the dunes, the majority, 70 percent of

1 our visitors, would like to get the information via the
2 Internet. So we have all of the documents and maps a
3 available on the Internet. We also had three meetings,
4 one in San Diego, one El Centro, and one in Phoenix a
5 couple of weeks ago, this meeting, of course. And on
6 May 15th, Erin and I will be attending the American
7 Tent Association information meeting in La Habra,
8 California.

9 CHAIR WILLARD: Any other questions of BLM by
10 the Commissioners? Thank you. I think what we'd like
11 to do now is hear from the public on this, and then we
12 can carry on with our discussion.

13 NEIL HAMADA: I think one important note, today
14 when people make comments or have questions, it's not
15 in the official record for the recreation area
16 management plan. I would invite those people to mirror
17 those comments to us directly via the Internet, our
18 website, mail, fax, so that we can get their comments
19 on record and address any of their concerns that they
20 may have.

21 TOM TAMMONE: Tom Tammone, as an individual. I
22 just want to formally support ASA's position on this
23 matter. Thank you.

24 KATRINA DOLINSKY: My concern, again, is the air
25 quality even for the Imperial County. We're dealing

1 with the fact that you do have issues in that area, as
2 well. And be aware that we're concerned because of
3 even an area of El Centro, there is a lot of issues
4 having to do with air quality, not just from the SVRA,
5 but also from Mexicali and the factories over the
6 border and agriculturalists, but we have a lot of
7 issues with flucrylate dust there for the fact that
8 40 percent of the children under the age of 18 are
9 asthmatic. There are cases now that the American Lung
10 Association has put out disproportionate to the
11 population. Again, we're going to have to look at this
12 area and see how to manage it because, yes, we're very
13 aware of the habitat for these creatures, but let's
14 also take into consideration the habitat for humans and
15 the need to agree. That's all I have to say. Thank
16 you.

17 HARRY BAKER: Good morning, I'm Harry Baker of
18 the California Association for 4-Wheel Drive Clubs. I
19 have one big question, other than the fact that I'm
20 disappointed that the audience couldn't see the maps
21 and have the different areas pointed to. And that is
22 it was suggested that the Imperial Sand Dunes area
23 would be protected from development by solar and wind,
24 and yet we're going through another process in another
25 area where it's going to be caused by it. Is this the

1 same type of thing where this is an OHV area that is
2 administratively protected and is going to keep out the
3 solar and wind, yet in the high desert in the Johnson
4 Valley area, for example, administratively-designated
5 OHV area, that now has applications and were being
6 processed, until it was stopped by the Marine Corps,
7 for solar and wind development? What's the difference
8 in the two entities? Thank you.

9 NELL LANGFORD: I'm Dr. Nell Langford. I
10 appreciate the concern for Peirson's milk-vetch, and I
11 would like to ask this Commission what happened in the
12 OD SVRA to the La Graciosa thistle? It has disappeared
13 off the face of the earth where you have ridden your
14 OHVs right over the area that is the habitat for the
15 La Graciosa thistle, and I would like an investigation
16 as to how that occurred and why you allowed it. Thank
17 you.

18 CHAIR WILLARD: James Bramham, I understand, is
19 a former commissioner. Welcome back. I understand you
20 might have a lot of information to give us, and if you
21 need a little bit more time, that's okay.

22 JAMES BRAMHAM: I appreciate that, and I
23 appreciate your service on the Commission. It's a joy
24 to be back in the room and see lots of familiar faces.
25 The American Sand Association, of which I am on the

1 board, thanks you for an opportunity to speak to this
2 recreation area management plan. We are, as everyone
3 else, certainly delving into the minutia of it. But
4 the top of the read, we're appreciative that the BLM
5 has recognized the importance of OHV recreation in that
6 area, its historic recreation, and its desire to
7 continue to have recreation of that sort in that area.

8 Having said that, we have some serious concerns
9 about how in-depth some of the analysis have been on
10 certain of the documentation on certain aspects that
11 are, what we consider to be, virtually life changing in
12 the dunes. The stoppage of camping in the Dune Buggy
13 Flats Area during high rainfall seasons, what
14 justification there is for that? Where are they going
15 to monitor the locations for that water monitoring?
16 What is going to be done to try to keep that systematic
17 approach? Where are those displaced people going to
18 camp? What effects will that have on the other camping
19 areas as they get displaced into those areas? What is
20 the exact definition of camping? Many people come to
21 the desert and ride at night, so if you come out of
22 San Diego on a Friday night, you unload your material
23 there in Dune Buggy Flats at ten o'clock in the evening
24 to go for an all-night night ride, are you camping or
25 day using or night using?

1 So there are a lot of concerns about the
2 definitions that are in that. And while we are on Dune
3 Buggy Flats, specifically the area that's immediately
4 adjacent to that, the southern portion of the dunes
5 north of Interstate 8, is also in the critical habitat
6 area. There has been corridors into what's called the
7 Patton Valley area, a very heavily used OHV area, a
8 great destination. It lines up with one of the canal
9 crossings. There are about five. That access has been
10 eliminated by Alternative 8, and we're very concerned
11 about that and the patterns of use that will be
12 required.

13 Furthermore, every study that's ever been done
14 on PMV, I think the maximum they've ever come up with
15 is one percent of the plants were actually affected by
16 OHV use because OHV does not enjoy recreation where the
17 milk-vetch live. They are trying to get into the open
18 sand dunes, into the center parts of the dunes. So the
19 PMV that grows along the edges and the swells and
20 valleys on the very edges, those are transition areas.
21 And that has been proven through the administrative
22 closure that people will use those corridors when
23 they're offered, and we certainly would like to see
24 some situation where there's a corridor access or
25 multiple corridor accesses.

1 And on a fundamental level, this is an area that
2 has been open to OHV use and heavily camped. The Dune
3 Buggy Flats area is the destination for most San Diego
4 visitors. They come there. Immediately as they go up
5 on to what is the western access up and down the dune
6 area of what's called the Sand Highway, immediately to
7 the east of that is the primary habitat for PMV. It
8 has been opened. It has been used, but yet it still
9 remains such an occupied habitat, even with all of that
10 use, that it's sacred enough that they want to now
11 close it off to all recreation.

12 So even with all of the recreation that's
13 occurred there, as many occupied cells, and the 2005
14 study that showed that basically the distribution is
15 equal whether or not there is OHV recreation in those
16 areas, pretty much precludes the idea that PMV needs to
17 be -- that critical habitat needs to be protected to a
18 total closure level. Certainly parts of it probably
19 need some form of protection, but there's nothing in
20 the law that says that they have to close all critical
21 habitat, that we've been able to determine, and there
22 is no reason that we can find that the areas that have
23 been so greatly impacted but still have heavy cells
24 during the monitoring, why those would have to be
25 necessarily excluded if there are transition routes

1 available for the users to be able to get up into those
2 dunes.

3 The second portion of that, the same types of
4 concerns go with the analysis that's on the eastern
5 side of the dunes, the northeast corner -- well, not
6 the total northeast corner up by Mammoth Wash. It's
7 south of 78, the Wash Road, the railroad makes the
8 border down the eastern side, and the road that runs
9 down that is called the Wash Road, and it gets a
10 tremendous amount of camping, historic use in through
11 there.

12 And they have determined in Alternative 8 that
13 they want to move a no camping closure well further up
14 north on that road than has historically been done
15 based on bird and habitat; feel that that study is
16 relatively weak and not brought forward real analysis
17 of those issues. That camping has been there even with
18 the administrative closures. The access road needs to
19 remain and camping needs to be allowed there. Yes, you
20 can now, according to this Alternative 8, you can still
21 use it OHV-wise, but there is a way to distribute
22 camping, try to keep the impacts down on the other
23 areas because if you move that all to north Wash 25,
24 all those people who have enjoyed that side of the
25 dunes as a recreation area, you're just going to impact

1 that more and squeeze those people into less area. So
2 we would certainly like to see a better analysis of
3 that, better analysis of the rainfall.

4 And overall we have some other problems with the
5 critical habitat on the western edge. They did follow
6 the circuitous route in Alternative 8 to keep to the
7 most occupied cells of PMV, but this makes it very
8 difficult from an administrative standpoint and from a
9 visitor standpoint to know where I'm in, where I'm out.

10 Alternative 7 creates a straight line border,
11 but we feel it goes way too deep into the dunes because
12 its eastern boundary is based on very few occupied
13 cells very deep into the dunes, and there are no
14 occupied cells for quite some area to the west of that.
15 And so if we're going to do some closures, the seven
16 closures with the bottom being open adjacent to Dune
17 Buggy Flats and more realistic alignment of the eastern
18 boundary, that certainly seems to be a more plausible,
19 workable, manageable, and certainly a species
20 protection issue.

21 If people know where they can ride, they will.
22 And we've proven that with the administrative closures
23 there. Through the years, they've had these closures.
24 People have, to a huge extent, complied with those
25 closures and stayed out of the areas whether or not

1 requested, but, again, they've been given access
2 through the administrative closures that no longer
3 exist in Alternative 8. And we're seriously concerned
4 about that.

5 So I don't know how you folks now proceed,
6 whether you can direct staff to make comments, whether
7 you make comments, whether this needs to come back to
8 you folks for a vote to be able to do that. And I
9 certainly don't think there is time within the
10 constraints of the process right now for you to do that
11 and bring it back to this body. So certainly if you
12 are inclined to do that, we would certainly like to see
13 you ask for an extension to the Bureau to give
14 yourselves more time to be able to do that.

15 Certainly, we're looking at that as we have to
16 reach out to all of our users and all of the people who
17 are not members of ASA to try to figure out how we can
18 get to those folks, as well. So we have not made that
19 decision as of yet whether we're going to, as an
20 organization, ask for an extension. But we certainly
21 would like to have your comments on this, have staff
22 put some time into it, and requires that we're going to
23 have to bring that back to a second meeting, we
24 certainly would like to at least start at this point by
25 you folks requesting a lengthening of that comment

1 period. Open to any questions.

2 COMMISSIONER SILVERBERG: Do you have anything
3 prepared for us to just look at that sort of
4 corresponds to the alternative that you're
5 recommending?

6 JAMES BRAMHAM: We have not developed that at
7 this point. We have just some outline type of an idea
8 based on the comments that I made. But certainly that
9 we would adopt portions of seven, as far as the
10 critical habitat goes, but lessening that boundary that
11 also removes, the rain threshold, that also removes the
12 camping moratorium on the northeast side of the dunes
13 in the washes down further. And so there are some of
14 those things. Also, doesn't have closure in Buttercup
15 or the Mammoth Wash area. So parts of Alternative 7 we
16 like. There are other parts of Alternative 7 we don't.
17 And, no, we have not. Am certainly glad to share that
18 with you as soon as we've develop that. But we have
19 not actually formalized that document at this point.
20 We've only had this a few weeks like everybody else.

21 COMMISSIONER SLAVIK: What are your feelings on
22 this alternative energy around the parameter of the
23 site?

24 JAMES BRAMHAM: We have great concerns about
25 that. The board is unfamiliar why that got put into

1 the situation. We don't remember this ever coming out
2 of the scoping meeting. We don't remember it was ever
3 part of any other analysis, so it was kind of thrown at
4 us. We obviously need to look at it more to determine
5 whether that boundary is something that will work with
6 the use, whether it's outside the actual recreation
7 boundary. But, again, the concerns I heard when we
8 were in the back of the room here, now suddenly you
9 have basically a power buffer area around the dunes.
10 What happens to the neighbor that suddenly you have
11 someone with an overriding decision to have something
12 changed next door to them? Those are concerns to us.

13 COMMISSIONER SLAVIK: It seems to me we need a
14 recreation buffer.

15 JAMES BRAMHAM: And certainly some other
16 mitigated area. And certainly a lot of that buffer
17 area, especially on the east side, you close Dune Buggy
18 Flats for camping for Presidents' Day holiday weekend,
19 people are going to go somewhere. And some of that is
20 they're going to try to be in some of that area,
21 certainly outside the basic boundaries, but people will
22 go where they can get away and get set up, so it's a
23 concern.

24 CHAIR WILLARD: Thank you. We'll close the
25 public comment, and we can discuss this issue

1 ourselves.

2 It looks like this is the same thing that
3 happened with Clear Creek where there's a 90-day public
4 comment period, but it just doesn't really work out too
5 well with our meeting schedule because our next meeting
6 is the end of July. Personally, I would like to have a
7 lot more time to get into the issue and understand it
8 and get staff's input and see if we want to provide
9 comments. It sounds like something we might want to
10 do, but, again, I don't have enough information at this
11 point to make a decision of moving forward with the
12 comments, but I'd like to hear what my colleagues have
13 to say.

14 COMMISSIONER LUEDER: I would agree with your
15 position on that. I think we do need some additional
16 time, since this is kind of the first we've had a
17 chance to talk about it.

18 CHAIR WILLARD: Perhaps I can ask BLM; Mike, if
19 you want to, or Neil was up here before. In the past
20 BLM has allowed the Commission to submit comments post
21 comment period. Would that be something that might be
22 acceptable in this situation?

23 NEIL HAMADA: I think we would have to talk to
24 our supervisors and run that through the chain of
25 command and get back to you on that.

1 CHAIR WILLARD: That's what I figured.

2 COMMISSIONER SLAVIK: So what's the back-up
3 plan.

4 CHAIR WILLARD: Thank you for that. I guess the
5 back-up plan would be for Division's input on this.

6 DEPT. DIRECTOR GREENE: Two things, and this
7 would certainly be up to you. I know that we've just
8 heard some concern, and my apologies to everyone that
9 we didn't have a working bulb in the projector. If, in
10 fact, the Commissioners do want to show those up on the
11 screen, that is certainly an option now that those
12 bulbs are working.

13 One of the concerns that we would have is the
14 timing of this. I know, Neil, you had mentioned that
15 many people had indicated that they wanted to hear, get
16 input via the Internet. My concern is that you're
17 looking for public comments during a time frame where
18 it's over 100 degrees in the desert. You're not going
19 to have people be able to go out on the ground and get
20 an understanding of what that perimeter looks like,
21 what the closure area looks like. So that would be one
22 of the concerns that we would have is to make sure that
23 all members of the public have an opportunity to look
24 at what you're proposing directly on the ground. I
25 think it is problematic at best.

1 I understand the Commission saying is there a
2 way that BLM could make an exception. I think we have
3 to be careful doing that because BLM has got to take
4 public comments from everybody. If we start making too
5 many exceptions, that puts them in a difficult
6 position. So perhaps a better question would be, would
7 BLM consider an extension of public comment period for
8 both the Commission and interested members of the
9 community.

10 NEIL HAMADA: We'll definitely take it forward
11 and get back with you on that.

12 COMMISSIONER SLAVIK: I have another question.
13 Are these alternatives set in stone at this point or
14 can you mix and match?

15 NEIL HAMADA: What we're going to do is address
16 the comments that we receive. I'm sure ASA is going to
17 be supplying substantial written comments, as well as
18 the rest of the public, and we will be addressing those
19 comments in our final. That could change the outcome
20 of the preferred alternative. It could incorporate
21 some of the other alternatives' proposals or it may
22 not, but we'll have to wait and see what kind of
23 comments we receive.

24 KARLA NORRIS: Karla Norris, BLM. If you want
25 an extension on the time period, just write a letter to

1 Mr. Abbott and formally request that. That would
2 probably be the proper way to do that.

3 CHAIR WILLARD: Deputy Director, was Division
4 going to be submitting comments?

5 DEPT. DIRECTOR GREENE: The Division will be
6 submitting comments.

7 Another option, if the Commission so chooses,
8 would be to have a meeting. We could have a meeting by
9 phone. So if you wanted to try to do something within
10 the time frame, you could. It's a bit more challenging
11 technically, as we're looking at summer coming on, to
12 get everybody together, but it's an option.

13 COMMISSIONER FRANKLIN: I would like to have
14 these up on the screen now that the projector is
15 working just so everybody can see it, maybe run through
16 it real quick. You don't have to go through the whole
17 program, but just kind of an overview very quickly so
18 that the public can see what we're talking about here,
19 and then that might spur some more comment.

20 NEIL HAMADA: While we're waiting for that, I'll
21 address one of the questions that was asked by Jim on
22 the renewable energy development and what we have in
23 there for Alternative 8 and why we address that in the
24 plan. Basically, number one, we are a multiple-use
25 agency, and we have to address multiple uses of public

1 lands. And, number two, there is an Executive Order by
2 President Obama that says we need to address it in the
3 plan, so that's why it's in there.

4 COMMISSIONER SLAVIK: And how come it wasn't in
5 other alternatives?

6 NEIL HAMADA: I think it's in all of the
7 alternatives. It's just there are varied alternatives
8 for the --

9 COMMISSIONER SLAVIK: It is, okay.

10 NEIL HAMADA: I brought my book. There is about
11 an inch thick book of maps, and it has all of the
12 alternatives for alternative energy.

13 Also, while we're waiting, there was one step in
14 the process for planning on this plan that's a little
15 bit different than other plans. And that's after the
16 Record of Decision, this plan goes to court, back to
17 Susan Illston, for her review, and so that's an
18 additional process that we'll be going through once the
19 Record of Decision is signed.

20 CHAIR WILLARD: Explain that again.

21 NEIL HAMADA: We don't have it in our plan.
22 It's something we should probably add. We got a
23 comment on that. The process that spurred this was the
24 initial lawsuits, and so one of the requirements is
25 once we finish the complete plan and have a Record of

1 Decision, we have to submit that back to the court for
2 the judge's review.

3 CHAIR WILLARD: So everything you do is subject
4 to the judge's approval?

5 NEIL HAMADA: Yes.

6 CHAIR WILLARD: And the judge can change things?

7 NEIL HAMADA: I don't know what the judge would
8 do. I don't speak for the court.

9 DEPT. DIRECTOR GREENE: Neil, could you find
10 yourself in a position that where the judge were to
11 rule one way or another, it would force you to go back
12 and reopen the entire planning process again?

13 NEIL HAMADA: That's a possibility.

14 COMMISSIONER SLAVIK: Just in your assessment,
15 if it gets to court -- and you're saying it will go to
16 court -- the judge can say pretty much yes or no,
17 either accept the plan or throw the plan out and have
18 to go back. The judge can't actually articulate
19 changes in the plan themselves from the judicial bench;
20 is that correct?

21 NEIL HAMADA: I believe you're correct.

22 KARLA NORRIS: Karla Norris, BLM, again. They
23 cannot do that. They can't say, no, you can't pick
24 Alternative 8, you have to pick Alternative 7.

25 What they can do, though, is decide whether or

1 not to accept parts of the plan or throw out parts of
2 the plan. So, for example, we're in some other
3 litigation on the West Mojave Plan, the judge has said,
4 okay, these parts are probably pretty good but we don't
5 like these things, and they may ask us to go back and
6 look at those parts again. Does that make sense?

7 COMMISSIONER SLAVIK: It does, but it seems like
8 it throws the whole public process, the whole NEPA
9 process on its ear when one or two individuals make
10 decisions. Arbitrary and capricious comes to mind.

11 KARLA NORRIS: I'm not saying arbitrary and
12 capricious. I'm just saying it's our system of checks
13 and balances.

14 CHAIR WILLARD: Okay. Do you want to walk us
15 through the PowerPoint presentation quickly?

16 (Projected PowerPoint presentation made by BLM.)

17 CHAIR WILLARD: Commissioners, any questions?
18 Thank you.

19 Deputy Director, you had mentioned setting up a
20 special meeting or call to deal with comments prior to
21 the June 23rd date. How would that work?

22 DEPT. DIRECTOR GREENE: We would identify a date
23 between now and June 23rd. We would give a 10-day
24 public notice and then identify locations around the
25 state where the public could go to, so any of your

1 offices or respective residences or State Park
2 facilities where you would be, as well as members of
3 the public, and then we would be able to conference via
4 phone and have the dialogue and hold the Commission
5 meeting that way. It's a little staff intensive, but
6 it could be done. But, again, maybe, as Karla had
7 noted, perhaps if we could also write a letter to Jim
8 Abbott, the State Director, that might also be a
9 possibility, that you can consider asking for an
10 extension.

11 COMMISSIONER LUEDER: I'd like to make a motion
12 to write a letter to BLM requesting a 90-day extension
13 for comments for the public and also the Commission.

14 COMMISSIONER SILVERBERG: Second.

15 CHAIR WILLARD: Ninety days. I'm sure BLM wants
16 to get on with their program here. When is our meeting
17 in July?

18 DEPT. DIRECTOR GREENE: I think it's July 28 and
19 29.

20 CHAIR WILLARD: Forty-five day extension request
21 would give us the room we need personally, would give
22 the public more room. I'm afraid if we ask for a
23 doubling of the period, we're just going to not get
24 anywhere with it. So I think I'd just like to maybe be
25 a little bit more realistic on the time frame. Does

1 anyone have any other thoughts on that?

2 COMMISSIONER SILVERBERG: That sounds good.

3 COMMISSIONER LUEDER: I'll amend my motion then
4 to request a 45-day extension.

5 CHAIR WILLARD: Any other discussion on that
6 motion? Call for the vote. All those in favor?

7 (Commissioners simultaneously voted.)

8 CHAIR WILLARD: So moved.

9 There's always the possibility -- it's a coin
10 toss probably whether we get an extension or not. So
11 what if we don't, June 23rd comes and goes and we
12 haven't been able to submit comments, so do we want to
13 have a Plan B? Do we want to take the Deputy Director
14 up on the offer of having a phone conversation, phone
15 meeting?

16 COMMISSIONER FRANKLIN: I think we should have
17 that contingency.

18 COMMISSIONER SLAVIK: The question, Deputy
19 Director, when you said staff intensive, you mean every
20 one of those sites that you talked about, you would
21 have to have one of your people there?

22 DEPT. DIRECTOR GREENE: Yes, just one. But we
23 need to be able to make sure that we don't run into
24 issues like we ran into today in terms of technological
25 problems.

1 COMMISSIONER SLAVIK: Are we fulfilling the
2 requirements of the law by doing that or can we do it
3 with less?

4 DEPT. DIRECTOR GREENE: We would just limit the
5 number of locations, so we would make locations
6 available, perhaps one in Southern California,
7 somewhere in central California, and somewhere here in
8 Sacramento, as well.

9 CHIEF JENKINS: The key on that is that any
10 place where you were located, the public would need to
11 be able to join you. So if there was a place in
12 Southern California, perhaps at one of our State Parks
13 or just a public meeting room we put in a local county,
14 government facilities, and two or three of you were
15 close enough to go there, then we would set up a
16 conference line there, and then the public could join
17 you there. So each place where one of the
18 commissioners were on the phone line we would need to
19 provide access to the public to join you there.

20 CHAIR WILLARD: I'll throw this out. I think
21 potentially, underscore the word potential.
22 Potentially there is another way of accomplishing the
23 goal of the Commission getting comments in, but I'd
24 like to hear Counsel's and Deputy Director's comments
25 and, of course, my colleagues on this one, is that the

1 Commission could direct the Chair to work with Deputy
2 Director to submit comments prior to the date. But the
3 problem with that is the Commission then doesn't really
4 have the opportunity to review the comments. But that
5 is potentially I think something that might be doable.
6 I'd like to hear from staff on that.

7 Counselor, is that something you think that we
8 could do? I know we talked about that before.

9 ATTORNEY LA FRANCHI: Yes, that's something you
10 could do. The Commission as a whole would probably
11 need to at least provide some general direction to the
12 Chair in terms of the things that the Commission
13 policy-wise might be thinking of so the Chair has some
14 idea of how to do that.

15 The other option, of course, is the committee
16 approach, as well. But, again, the committee approach,
17 in order to deal with the feedback loop question so the
18 whole Commission basically blesses whatever is sent,
19 would still need to have some basic policy direction in
20 terms of what the Commission as a whole is thinking
21 about, concerns it might be having based on the
22 presentation or any other reviews.

23 COMMISSIONER SLAVIK: My concern is that we, as
24 a Commission, are not all that familiar with his hugely
25 complex problem and even your staff probably has

1 limitations, as well. The people seem, the experts
2 maybe aren't in this room, some of them are,
3 Jim Bramham, and people in ASA, people in San Diego
4 that have been going there for years and years and
5 understand this issue. I think we need to figure out
6 some way of including the people in San Diego, at least
7 Southern California, extremely heavily into this
8 process to get their input. I mean I don't see how
9 we're going to be able to really do a real good job of
10 making comments without their input.

11 DEPT. DIRECTOR GREENE: Well, I think, as we did
12 hear from BLM, is they have had three public meetings.
13 One was in San Diego I believe on April 13th; another
14 one was in El Centro; and the other one was in Phoenix,
15 Arizona. So I think the people have been attending.
16 Again, the only point that I would raise is looking out
17 on the ground and being able to really understand it,
18 but that may be a moot point if what you're saying is
19 the public already knows.

20 COMMISSIONER SLAVIK: How many people do we get
21 to these meetings?

22 NEIL HAMADA: In San Diego, we had about 160.
23 In El Centro we had about 40 or 50. And in Phoenix, we
24 had about 100 people. And ASA helped us out by sending
25 out mass e-mails for people to attend. We put it on

1 our website. It was on a news release. It was in
2 newspapers, so forth, Internet.

3 KARLA NORRIS: And don't forget that at the
4 beginning of this process, there was a public scoping
5 process to say what are your thoughts and what
6 direction should we go.

7 I have a suggestion that we discussed, Phil and
8 I, very briefly. It is an option of an agency to ask
9 and request to be a cooperating agency. And it's not
10 too late in the process to do that. What this would do
11 for you is it would allow you to be in some of the
12 meetings where we're looking at the comments as they
13 come in from the ASA, from the public meetings and that
14 type of thing. And you would be able to be in there
15 while we're talking about it and represent your agency
16 officially. It might help you with this feedback loop
17 issue in that some of the comments that you're
18 concerned about compiling are probably going to come
19 from other sources. So you would be there when we're
20 looking at those comments and discussing them and
21 trying to come up with the final alternative. Anyway,
22 it's just a thought. We're certainly open to that.

23 CHAIR WILLARD: That sounds like it might be
24 helpful. So, Deputy Director, could you make that
25 request?

1 DEPT. DIRECTOR GREENE: Yes, we could do that on
2 behalf of the Division and the Commission. We could do
3 that if the Commission is amenable.

4 CHAIR WILLARD: Do we need a motion to do that
5 or is that something you could do? We're happy to make
6 one.

7 DEPT. DIRECTOR GREENE: I don't think we need
8 one, no.

9 CHAIR WILLARD: Okay. Well, any other thoughts?
10 Does anyone have any clear direction here because I
11 don't. I would love to be able to get comments in.
12 Personally, I'm just not up to speed on this, just
13 getting this the other day and not really having the
14 time to get into it and probably a lot more background
15 information that I'd like to review. And the concept
16 of the Chair working with the Division to make
17 comments, I mean I don't even know if we know enough to
18 give the Chair direction on what is important and
19 what's not because we don't really have that. So
20 that's probably not workable.

21 DEPT. DIRECTOR GREENE: So perhaps we can just
22 keep you in the loop and provide you updates and let
23 you know if there are other meetings, how many people
24 attended, what some of the feedback was.

25 CHAIR WILLARD: That's what I'm thinking. The

1 thought of having a special meeting, that's just a real
2 burden. I think I'm more inclined now to rely on
3 Division getting comments in that I'm sure would be
4 well thought out and appropriate. And we'd like to
5 just be kept in the loop. Does anyone have any other
6 thoughts than that? Very good. Thank you.

7 (Break taken from 12:00 to 1:08 p.m.)

8 //

9 **AGENDA ITEM - 1:00 PUBLIC COMMENT PERIOD**

10 CHAIR WILLARD: This is the afternoon session of
11 the Off-Highway Motor Vehicle Recreation meeting.
12 We're going to start with the 1:00 p.m. public comment
13 period. So if you haven't filled out the blue form,
14 please do so and hand it in over here, and you can get
15 your turn at the mike.

16 JAMES BRAMHAM: Thank you. I had a CD that I'd
17 like to turn on see if we can get. In the Imperial
18 Sand Dunes, it is cut in half in the lower section by
19 Interstate 8 that runs from Yuma to San Diego. And
20 also through that same valley runs the canal, the All
21 American Canal that brings Colorado River water into
22 the Imperial Valley. And when I was on the Commission,
23 and for ten years during that period of time, there was
24 a question about access from one side of this freeway
25 and canal to the other. And people would camp in the

1 Buttercup area, which in this picture, is the dunes on
2 the south side. On the other side of those dunes,
3 pretty much about a mile beyond those is Mexico. The
4 large power line is actually on the south side of the
5 freeway. To the north in part of the dunes lies the
6 All American Canal, north of the freeway and the other
7 portion is south.

8 But it created a barrier of travel for people
9 who wanted to camp in the Buttercup area and recreate
10 in Dune Buggy Flats or Gordon's Well area or
11 vice-versa. So the Commission in the grants process
12 granted over a million dollars to build a bridge that
13 would cross this canal. And the concern was that at
14 that particular time the IID, who owns the canal,
15 Imperial Irrigation District, said we are going to
16 realign that canal. We're going to realign it or do
17 something with it in the future, and we're not sure
18 that we can continue that access.

19 Well, in the last couple of years, there's been
20 a push to line that canal. It had historically been
21 dug through the sand and lined with a natural lining
22 material, bentonite material, and then water flowed
23 through that. Much of that water seeped through it,
24 got into the local ground water, was lost to
25 agricultural uses. The folks in San Diego said we'd

1 really like to have that water. So San Diego agreed to
2 pay the majority of the cost of lining this canal
3 through the dunes, cement lining it so that the water
4 percolation would stop, and therefore they could at the
5 far end of the canal system pump that water for
6 domestic uses into San Diego.

7 Well, the realignment of that canal was going to
8 miss the bridge that OHV had paid for and therefore
9 create another island situation where you could not
10 have that access. And so I'm going to see what jump
11 picture we have here. So these are pictures of this
12 actual construction of this new canal, gives you an
13 idea of how deep and the sand condition. They're
14 actually digging this canal right through the dunes.
15 You can see the sand in the foreground there, using
16 Caterpillar equipment, double things and just
17 excavating.

18 Now, one of the major problems with the canal
19 project was they also had to continue to supply water
20 the entire time they were doing this canal project.
21 All throughout the canal, they dug new sections and
22 then flooded those or abandoned the old or as in this
23 section, they actually drove piles right down the
24 middle of the old canal and kept the canal water on one
25 side, built the canal on this side, and then

1 subsequently flooded this side and realigned the other,
2 an enormous project. Each one of those pipes you see
3 in the picture is a separate water pump to alleviate
4 the hydraulic pressures from behind that concrete and
5 just lines of these generators running to power that.
6 And, again, there's a section of the canal where they
7 have diverted the water to half and do the opposite and
8 go the other way.

9 This picture taken from the top of Test Hill,
10 which is the most southern portion of the Dunes north
11 of Interstate 8, and so this is a place that's enjoyed
12 by the folks who camp in both the Olgiby area and
13 Gordon's Well area. You're looking down the hill at
14 Test Hill. I think my next picture has OHV at the
15 bottom climbing up the Test Hill; the new alignment of
16 the canal going around the corner. You can see
17 Interstate 8, and to the left just out of that picture
18 is the Buttercup area, which is all open OHV. The
19 smoke you see in the background is Mexico's
20 contribution to the PM-10 problem in Imperial County.
21 That's dump burning in Mexico. That's how close we are
22 to Mexico. Pretty much the high line, the power line
23 in the background is running right down the border.

24 So this is a view of camping and the canal
25 construction that's looking toward the Cargo Muchacho

1 Mountains. The BLM worked with the contractors, worked
2 with IID to make sure this bridge would be replaced.
3 It cost us \$1.2 million to build the first bridge.
4 Because of the abandoned canal situation, they were
5 going to have to replace that. It certainly didn't
6 cost the contract that kind of money because they were
7 already in the area doing the work. But they have
8 completed that bridge. They allowed access the entire
9 time during construction, and so still to this day. We
10 really appreciate the Bureau's effort.

11 This is what ASA wanted to point out today, that
12 the Bureau had worked diligently hard to not only
13 continue to provide that access but to provide it while
14 the construction was going on, and it does lead right
15 to the Mexican border.

16 You go right across that bridge, and you're
17 right on the Mexican border, which now has a fence line
18 which runs all the way down. And then you can go over
19 to the Buttercup area and recreate. But just to know
20 that \$1.2 million that was spent in that area that was
21 in jeopardy of being lost bridging over a dry canal,
22 now has a bridge that connects, and opportunity still
23 exists. And then that connects to one of the few
24 shared-use right of ways across an interstate anywhere
25 in California because as you come across that bridge,

1 then you're on the bridge that actually goes across
2 Interstate 8, as well. So you're on a shared-use dual
3 system bridge when you get across that. We're good,
4 unless there are any questions. Thank you.

5 NELL LANGFORD: Dr. Nell Langford, thank you
6 again. Do the gentleman who thinks that we're saying
7 to him, didn't we make it hard enough for you yet, to
8 you off-roaders out there, well, you make it awfully
9 hard for us. We're getting a lot of harassment.
10 Before I go into that, just let me tell you some of the
11 other ways you're making it hard for us. \$6 million a
12 year skimmed off the fuel tax that would go to counties
13 and cities that are really hurting, and it makes me pay
14 more tax; the noise around the clock; you've heard
15 about the dust that's health threatening, it's unsafe
16 for kids to play in Oceano Beach. You're digging out a
17 ramp, and you're plowing down the foredunes. This is
18 all making it really rough for us.

19 In terms of your EIR for this property in the
20 south county land, you cannot do that EIR because the
21 Public Resources Code says you can't do anything if
22 it's in litigation, and it is in litigation. The
23 Friends of Oceano Dunes had a lawsuit, but they chose
24 to drop it because the judge was about to rule that the
25 area that is owned by the County of San Luis Obispo is

1 a buffer area. It goes all the way to Pier Avenue, and
2 the judge would not change that situation whatsoever.

3 In terms of the harassment, a member of Friends
4 of Oceano Dunes who is trying to steal our name, Save
5 Beach Now, what an insult; identity theft. You give
6 them money. You actually grant them money; goes to my
7 beach house and have my tenants write letters to the
8 county about substandard conditions; and even your
9 ranger in uniform comes to my customers and says is
10 there anything wrong with your house. And my customers
11 are so intimidated, asked for their money back, and
12 they can't stay because the ranger further said to
13 them, and I have an affidavit, we are watching this
14 house, and we are looking for any infraction.

15 Not only is this intimidating, I also would like
16 to ask you, under the Public Resources Code, to give me
17 back that money because your agency is responsible for
18 turning away my customer. And this harassment is all
19 the way up and all the way down and it's because I have
20 a show on public access television, and you can see it
21 at SaveBeachandDunes.org. And I will not stop my show,
22 and I will not allow you to deprive me of my free
23 speech no matter how much harassment you give me.

24 Thank you.

25 KATRINA DOLINSKY: Good afternoon,

1 Commissioners, again. The issue I'm talking about
2 right now has to do with an issue that came up today.
3 The San Luis Obispo County Tribune, a newspaper, has
4 now distinguished San Luis Obispo County as the ninth
5 most polluted county in the state. Now, ozone is a
6 major contributor, factor, but also is mentioned Nipomo
7 Mesa particulate matter. Some of it can be resolved
8 with your help.

9 The problem we have is that you have already
10 invited -- OHV has invited thousands of people through
11 the Internet to come to three major events this spring
12 and summer on the Oceano Dunes State Vehicle
13 Recreational Area without county permission. Now, the
14 county has 40 percent of the land that is used for OHV
15 activity. And they use this for access into the OHV
16 SVRA area, but there is an agreement that's done month
17 to month since the original operation agreement has
18 ended in 2008, 45-year agreement, but I have not seen
19 any documentation of written permission, prior
20 permission that's supposed to be given to the local
21 agency, which is the county, to have any of these
22 sponsored events. And this is in our operational
23 agreement. You can go up and look at it. It's a bad
24 copy that I have. It does state that this agreement:
25 Shall not nor shall any interest therein or thereunder

1 be assigned, mortgaged, authenticated, or transferred
2 either by state or operation of law; nor shall state
3 let or sublet or grant, any licenses or permits with
4 respect to the use and occupancy of said property or
5 any portion thereof without the written consent of the
6 local agency first had and obtained.

7 This is a legal document that you can actually
8 have and find out about, and it's something that I
9 believe should be limited in scope as far as the OHV
10 activity, especially when it impacts the Nipomo Mesa
11 residents. Thank you.

12 AMY GRANAT: Good afternoon. Amy Granat, on
13 behalf of my new coalition, Disabled Outdoor Recreation
14 Coalition. And you're all receiving a handout, which I
15 won't read the entire thing because you are all capable
16 of doing so yourself. But I will begin the statement
17 as I believe there is a form of discrimination that has
18 heretofore been unrecognized, and that is the
19 discrimination against disabled people for the lack of
20 motorized access, and all disabled people lose their
21 rights of access completely when it comes to closing
22 vast areas of land to motorized access. Congressional
23 Wilderness designations, Inventoried Roadless Areas,
24 Wilderness Study Areas, or rules such as the Travel
25 Management Rule, particularly Subpart A, represent land

1 management plans that exclude the needs of a
2 significant section of the population. The
3 ever-increasing restrictions against motorized access
4 by land management agencies constitutes a practice of
5 discrimination that has heretofore been unrecognized.
6 And discrimination, I do recognize, is a very strong
7 term, but limiting access only to those that are the
8 fittest and most able is a very real problem that has
9 not only been allowed to persist, but it's been allowed
10 to flourish. What we have created in our society is an
11 elitist level in our society. For example, the very
12 nice woman who came up this morning and declared she
13 was a rider on two wheels, but under her own power,
14 that is an opportunity to me that I will never have for
15 the rest of my life. I recognize and applaud her
16 ability to do so, but to limit my motorized access
17 because I am unable to do so is a very real form of
18 discrimination, and there are a lot of other people. I
19 may be here before you, but the people who benefit from
20 motorized recreation number in the thousands or
21 millions in our state. We have motorized recreation
22 groups that have formed for disabled veterans, for
23 example. And yet none of this when it comes to
24 Wilderness Designation and Inventoried Roadless,
25 et cetera, has ever been recognized. This is a very

1 real need that they have.

2 I do recognize, and many others, that there are
3 special areas of the country that deserve some form of
4 protection from development but not protection from the
5 very people that actually own the land, every member of
6 American society. And as long as the disabled are
7 excluded, and we are not considered in the form of
8 allowing motorized access, then we are not including
9 them in the plans.

10 A very really pet peeve for me is the seemingly
11 insistence on what is called quiet recreation. I don't
12 really understand what that term means because I've
13 never seen it defined in a dictionary, but it has come
14 to take a place of preference on top of other forms of
15 recreation. For example, we can't have a trail because
16 it might interfere with someone else's quiet
17 recreation. The thousands and thousands of acres of
18 wilderness designated currently in the state are
19 nothing but quiet recreation. They are prohibited to
20 me. There are very, very few roads that admit us. And
21 why it was classified originally, designated as
22 wilderness, and yet my trails are getting taken away,
23 the only ones that I can use, because someone has said
24 that quiet recreation does not include a motor. My
25 jeep happens to be extremely quiet, and Chairman

1 Willard has talked today about the electric
2 motorcycles. There are other options, and there is no
3 need to castigate one form of recreation underneath
4 seemingly that isn't as good as another.

5 I recognize that it is not enough to just
6 complain. You have to do something and form a
7 solution, and so I've created something called
8 Motorized Mobility, and I'll let you guys read it on
9 your own. It's a way of designating areas and making
10 sure there is a parity of opportunity, and I use that
11 word parity quite importantly. We need equality. We
12 need to recognize this is a very real function of our
13 recreation.

14 COMMISSIONER SLAVIK: Amy, have you ever applied
15 the ADA law to what you're talking about?

16 AMY GRANAT: Yes, I have. I've actually done
17 quite a bit of research and talked with some attorneys
18 about it. And ADA really applies to built
19 environments, and there is a Section 504, which the ADA
20 rules were taken from, that applies to federal
21 agencies. And the problem that we have is that it
22 doesn't recognize -- it talks about recreation but not
23 specifically trail-based recreation. So, for example,
24 there are white water rafting programs, and there is a
25 parity of opportunity for disabled people in white

1 water rafting, but it has not gone over to motorized
2 recreation. I don't know why. I've talked to a few
3 people about it. They don't seem to know why. It
4 could be that nobody has ever asked. Built
5 environments and campgrounds, I was told recently that
6 we might want to apply in the wilderness areas if there
7 is a camping area that may not be fully developed that
8 I don't have access to. That may be a way to get
9 access to it.

10 MICHAEL DAMASO: Good afternoon, I'm Michael
11 Damaso, a member of Merced Four-By-Four Motion. I'm
12 hear to talk about the trail management plans and
13 what's happening with the seasonal closures. It not
14 only affects my off-road recreation, it affects my
15 hunting. I lost six weeks of quail season. I lost all
16 but one week of turkey season. Friends of mine with
17 hounds have lost two months of the three months of fox
18 and bobcat season. So it's affecting a lot of people
19 that don't even know about it. The Hounds Club didn't
20 know about anything, any of this stuff was not brought
21 out to hunters as to what was going on.

22 This is what's really upsetting is even in the
23 areas on one area, there are several forests that use
24 the wet weather closer. They have closed it on the
25 Stanislaus. They've took a -- put a wet weather to

1 close it in the middle of the summer, not during the
2 winter when the wet weather closure was supposed to be,
3 so when everybody disagreed with it. That's why I say
4 that the purpose and needs, statements for these
5 projects limit the scope so much that they've already
6 got outcome determined before we even go to the public
7 process, and that's my comment today. Thank you.

8 KATHLEEN MICK: Good afternoon, Kathleen Mick,
9 U.S. Forest Service. After last meeting, Keaton came
10 back to the office, and we heard a lot of comments
11 about attendance at the meeting and different things.
12 And so I guess what I'd offer to say is that if folks
13 and any of the public have an issue with the Forest
14 Service, they can pick up the phone and give us a call
15 at any time.

16 The other thing I want to do is share a little
17 story. And how the story goes is that two people are
18 sitting at a table and there's an orange in the middle,
19 and they both really want this orange. So they start
20 arguing over the orange: I want the orange; no, I want
21 the orange; no, I really want the orange; no, I want
22 the orange more. And so they decide that the best
23 thing that they can do is come to an agreement that
24 they cut the orange in half, and they can each have
25 half of the orange, and that was their best solution.

1 So then the next day they run into each other
2 again, and the one person says to the other, man, why
3 did you really want that orange so bad, and the one
4 person said, well, I wanted the orange because I wanted
5 to squeeze it and make juice. And the other person
6 said, wow, if I had only known. The only reason I
7 wanted the orange is because I wanted the rind so I
8 could make marmalade. Thank you.

9 DAVE PICKETT: Dave Pickett, District 36,
10 Motorcycle Sports Committee. Couple of things, the
11 Forest Service planning rule that was held earlier this
12 month, the meeting in Sacramento, was very well
13 attended. We did breakout groups, but one of the
14 things came across on the plan was a lack of
15 identification for recreation. And through this
16 process, that got elevated and talking to the senior
17 member there, it was a huge issue that they were going
18 to take back and add it back into it, at least that's
19 what I was told.

20 I also wanted to say something again as a
21 reminder, Deer Creek Hills, where the prior Deputy
22 Director made a proposal, Dave Weidel, for funding to
23 the Commission in which there were funds that were
24 allocated, that's getting to be over five years old
25 now. So I want to keep it upfront that we'd like our

1 monies back one of these days.

2 Also, Carnegie and that particular lawsuit, I,
3 as a member of the public, would really like to know
4 how much money of our Trust Fund dollars went for
5 fighting that battle and continuing on. I think the
6 public has a right to know what the Attorney General's
7 Office is charging the Division. And when and if this
8 comes to an end, that the Division and the Commission
9 can go after restitution on legal fees on this
10 particular situation. I don't think it's fair to the
11 OHV community to have to front the bill for yet another
12 suit filed to shut down this wonderful form of
13 recreation. Thank you very much.

14 JERRY FOUTS: Good afternoon, Commissioners,
15 Chairman. My name is Jerry Fouts. I'm the AMA
16 congressman from Northern California, Northern Nevada,
17 essentially District 36, and I'm here to talk to you
18 about the culture of off-highway vehicle recreation and
19 how that particular culture interfaces with the places
20 that we ride. The places that we ride are just simply
21 not sustainable to that current culture anymore. And
22 for me that culture is that thin thread of
23 accountability, responsibility, doing the right thing
24 that runs from administrative processes to law
25 enforcement to resource management, through volunteer

1 organizations like CORVA, District 36, and end up with
2 the end user, who is just a guy that goes riding that
3 day. And when that guy goes riding that day, he
4 doesn't have the information, he doesn't have the
5 education, he doesn't have a lot of the tools that's
6 necessary to have a good off-highway vehicle experience
7 that's going to be good for the places that we ride.

8 There is a way to solve these issues. The
9 issues have to start at the top with the OHV Division.
10 There are law enforcement issues, a lot of gray issues
11 that cause negative things to happen in that culture.
12 They keep continue to get carried on. We need to have
13 ranger contacts that instead of confrontation, they
14 need to be contacts of information and learning points,
15 and we can do that. We need to change the culture of
16 motorcycle, that culture, to something that everybody
17 can ride and understand what the rules are and know how
18 to recreate properly. I really believe that, and I
19 think it can be done. But we have to put together a
20 Commission, a group, some kind of working group to
21 discover what the priorities are and start turning that
22 aircraft carrier of that negative culture now;
23 otherwise, it's not going to be around for us in
24 20 years.

25 The second thing is the strategic plan. I was

1 really impressed with the strategic plan that the
2 Division put together, and I would suggest this. I
3 gave each one of you a document. I would suggest that
4 you let people know what a good job you are doing. The
5 only people that know about the strategic plan and the
6 Off-Highway Vehicle Commission and the Division are
7 people in this room.

8 On May the 20th, you have a really good
9 opportunity on the steps of the Capitol with the big
10 giant rigs from all the factories at Hangtown to come
11 up with an idea of a way to tell them what you're
12 doing. And I'm a little hesitant to tell you how to do
13 business, but I put together a draft resolution of how
14 you could do that business, and how you could tell the
15 world that you're doing a good job. And I would really
16 hope that you would consider doing that. And a couple
17 of days later, what you could do is tell the people in
18 Hangtown. Those are the people that you've got to
19 start changing the culture. We need to ask for their
20 help. They want to help, but it's got to start with
21 the top. The State has to help them do their help, and
22 I think they will. So I hope you consider that
23 resolution.

24 And the last thing I'll say is in this time of
25 sedentary lifestyles and kids that can't fix their own

1 bicycles, the off-highway experience is a shining
2 example of problem solving and personal health. Thank
3 you.

4 TOM TAMMONE: Tom Tammone, trying to make this
5 quick, obviously. First of all, as far as the
6 accusations that I heard today about harassment, well,
7 as an activist, I go by the old Air Force saying: If
8 you're not taking flak, you're not over the target. So
9 I really hope those accusations are false because for
10 me, that just means I'm winning whenever I'm involved
11 with the issue. I just don't let them bother me.

12 But as far as the Trust Fund, I'm not happy
13 about it either. And I've ridden on the doors pretty
14 hard and been making a lot of noise about it. Glad to
15 hear Dave Pickett came up here with District 36 and at
16 least mentioned it. I believe there was \$50 million
17 taken out under some sort of settlement I wasn't
18 involved in; half of it got back. The State doesn't
19 have a really good payback schedule. So I don't think
20 you can really call that a loan. As a private citizen,
21 I'm going to declare the State as default on this loan.
22 So far they haven't provided us with any way they're
23 going to pay it back. And it needs to be paid back
24 before SB 742 sunsets. I'm not going to want to see
25 any money going to this program if we don't see all of

1 our money getting back by the time this program
2 sunsets. Flat out, if you're not going to spend the
3 money the way you're supposed to, don't take it, don't
4 tax it. Sorry, that's the way I feel about it as a
5 taxpayer. I just paid a very large tax bill.

6 I've been beating on you guys pretty hard about
7 the public speaking time because I haven't felt
8 represented by some of our core organizations. I'm
9 glad to hear you're concerned about the RAMP process,
10 and I want to see more public comment for that. I hope
11 that you apply that to your own house.

12 Other than that, I don't really got much to say.
13 But I'm telling you, I really wish you guys were paid
14 because I could beat on you a little harder as far as
15 the Commission giving us more time to speak. Maybe we
16 need to take a look at how the appointments are made,
17 including the Deputy Director, everyone, maybe even
18 things out a little bit more. Thank you.

19 FRED WILEY: Good afternoon, thank you for the
20 opportunity to speak. I'm Fred Wiley, and at this time
21 I'm representing the California Nevada Snowmobile
22 Association and the American Council of Snowmobile
23 Associations. You're being handed an information book
24 that was developed by these groups so that we could
25 tell the truth and present the facts about the

1 snowmobile industry, its people, and things that go on.
2 The book was developed because we were continuously
3 running into organizations that wanted to spread things
4 that were not true about what we do. So we decided it
5 was important to develop this, present the scientific
6 data and the facts behind it, so when it comes time for
7 you to make a decision, you can refer back to this book
8 and get the real data around this industry.

9 The second thing I'd like to speak about, is
10 last Monday, the OHV community under the group of the
11 California League of Off-Road Voters had a lobby day in
12 the Capitol. There were over 90 people that showed up
13 for that day, including two Commissioners, which I
14 would like to thank personally for making it. There
15 were moms, grandchildren, grandpas and all different
16 kinds of folks that took that day off out of their work
17 life and their other lives to go and walk the halls of
18 the Capitol and explain to the legislators who we are
19 and what we do. This event has been going on for quite
20 some time, I understand 15 to 18 years. I've only been
21 involved for just a few of those years, but it's been
22 very, very successful.

23 Again, next year we'll offer the invitation to
24 the Commissioners, as I did at the last meeting, for
25 you to attend and walk with the OHV community into your

1 own legislator's office, talk the talk, and walk the
2 walk and see how you can really accomplish a great
3 deal. Again, thank you for the opportunity, and we
4 will talk to you later.

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

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8 **AGENDA ITEM V(A) PROPOSED 2010 DESERT PROTECTION ACT**

9 CHAIR WILLARD: I'd like to move on to Business
10 Item 5(A), which is a briefing from Mr. James Peterson,
11 Deputy State Director, regarding the proposed
12 California Desert Protection Act of 2010, Senate Bill
13 2921.

14 Mr. Peterson, welcome.

15 DEPUTY STATE DIR. PETERSON: Thank you for
16 having me. Let me start by saying this bill took over
17 three years to develop, and that's a little bit more
18 time than I think I'm allotted today, so I will move
19 quickly and try to highlight some of the key issues.

20 What I'd like to start with is a very brief
21 overview of the bill. Like I mentioned, we worked on
22 this for over three years. A fair number of people in
23 this room contributed some really excellent ideas to
24 the legislation. Overall, the bill attempts to do
25 three things. It identifies conservation areas in the

1 California desert. It identifies recreation areas to
2 be preserved in the desert, and also deals with some of
3 the renewable energy challenges that we've been facing
4 over the last year or so as we have seen a number of
5 wind and solar project applications come in and seek to
6 be developed.

7 The bill tries to create a delicate balance of
8 these varying interests. They are all important, and
9 the Senator's view on these is that there is an
10 appropriate place for each one of them, and each one of
11 these is a valid use of the desert. We just need to
12 figure out exactly where those places are.

13 What our bill does is establishes two national
14 monuments. The first one is the Mojave Trails National
15 Monument. The purpose behind this monument in
16 particular was that there was a number of parcels of
17 land, overall about 600,000 acres of former railroad
18 lands in the California desert, that were acquired
19 predominantly with project donor dollars and handed
20 over to the public, to the federal government. These
21 600,000 acres were handed over with the intent of
22 preserving them in perpetuity and not to be developed
23 on. They would not have been handed over by private
24 donors had that not been the case. There were also
25 some additional federal dollars that were used to

1 purchase these lands with a fund called the Water and
2 Land Conservation Fund, so the intent of even the use
3 of those dollars was conservation.

4 Unfortunately, there was not any statutory
5 restriction on the BLM that would have limited the
6 development of any kind of facility on these lands.
7 This doesn't come to light until relatively recently
8 that there were applications in on these lands, and
9 there was no statutory right within the BLM to deny the
10 applications from being processed. So what we saw is a
11 number of these acres, predominantly between Barstow
12 and Needles along Route 66, where renewable energy
13 applications for projects ranging in size from two to
14 three thousand acres up to close to 20,000 acres, a lot
15 of them covering pieces of land that were purchased for
16 conservation, there were applications that were
17 proceeding.

18 Senator Feinstein was pretty alarmed by this,
19 especially because she was one of the ones that put
20 together this deal to conserve these lands. She has
21 worked with various interests over the last year in
22 particular, including the Renewable Energy Industry
23 Association to find out ways that we can both keep
24 these projects moving forward, not necessarily on these
25 particular pieces of land.

1 So we came up with a monument that originally
2 was 2.4 million acres in size. It's been scaled back
3 now to 941,000 acres. Of those acres, 266,000 acres
4 are former Catelles, former railroad lands that were
5 acquired and donated to the federal government.
6 Because it's in a checkerboard pattern, the 266,000
7 acres we're talking about actually represent a large
8 view shed that's well over half a million acres.
9 Still, amongst the rest of 941,000 acres, you have a
10 number of areas of critical environmental concern.

11 So the actual footprints of land that were
12 intended for potential renewable energy development is
13 nowhere near what the original outline for the monument
14 was. It's actually pretty small. We're looking at
15 potentially maybe 300,000 acres roughly of land that
16 might otherwise be considered for renewable energy
17 development that the monument would seek to protect for
18 conservation purposes.

19 The second monument, the Sand to Snow National
20 Monument, is located between Joshua Tree National Park
21 and San Bernardino National Forest. That's 134,000
22 acres, most of which, roughly 95 percent of which, is
23 in some conservation status, either in private hands
24 with private organizations or with the Forest Service
25 or BLM. The biggest piece of it is the Big Morongo

1 ACEC, which is a really interesting piece of land
2 because it's the convergence of three different
3 climates, essentially. You've got the high desert, the
4 low desert, and the coastal influence. So in that
5 space of land, you have one of the densest populations
6 of bird species in the entire United States. It's
7 estimated at 250 different bird species right there.
8 It goes from the desert floor near Palm Springs all the
9 way up to the highest peaks in Southern California,
10 Mount San Gorgonio. Pacific Crest Trail runs through
11 this area, and it's widely supported by a number of the
12 cities, various business groups, and different
13 interests around the Coachella Valley, as well as in
14 the Morongo Valley, Yucca Valley.

15 The management provisions for both the Mojave
16 Trails as well as the Sand to Snow are nearly
17 identical. The intent is to maintain the land as it
18 appears today. The existing designated route system
19 that traverses through these areas we aim to protect.
20 One of the purposes listed very specifically in the
21 charter, which are identified in the statute for these
22 new monuments, is that off-road recreation on
23 designated routes is one of the purposes of the
24 monuments. That's pretty unique. There aren't other
25 monuments that state off-road recreation vehicle use on

1 designated routes as a purpose. But that's something
2 that we felt was important so that users of those
3 trails can continue to use them just as they do today.

4 Also, in these monuments to be created, there
5 will be management plans that will be mandated. In the
6 mandate created in the legislation, there must be an
7 off-road recreation use in these areas. There's not
8 any discretion given to the management agencies whether
9 or not to permit that. Where there is some flexibility
10 allotted to the advisory commissions and to the BLM is
11 to determine exactly where those designated routes are
12 and should be.

13 One of the issues that came up was whether or
14 not we could go ahead and lock in every single trail as
15 is today. That was, in fact, the original draft of the
16 legislation. What we found, though, was that the
17 regulatory agencies were somewhat concerned about that
18 language, as well as various different user groups
19 because there might be trails that really aren't vital
20 today and might actually threaten resources, and other
21 trails that don't exist today and routes that don't
22 exist today that might be needed and could be
23 recommended through the management plan development.
24 So we didn't want to exclude the possibilities of even
25 potential new routes.

1 The other piece of the legislation that I think
2 is going to be of particular interest to the
3 recreational-use community is the creation of five
4 off-road recreation areas that will be statutorily
5 recognized. Those include approximately 344,000 acres
6 of land that are currently in BLM off-road areas that
7 have management recognition but don't have statutory
8 recognition. And the goal behind that is that we
9 wanted to create some parity between wilderness areas
10 and off-road recreation areas. We felt that if there
11 were lands being set aside in perpetuity for permanent
12 conservation, that the same kind of recognition should
13 be given to off-road recreation areas. Off-road
14 recreation obviously is not the only purpose behind
15 places like Johnson Valley, but it is one of the most
16 important uses there.

17 Another reason why we felt like the creation of
18 these off-road recreation areas was important, the
19 statutory recognition, was that we are all aware of the
20 situation at Johnson Valley and the potential threats
21 there that there may be an expansion of the Twentynine
22 Palms Base. It's an issue that Senator Feinstein has
23 taken very seriously and has met on numerous occasions
24 with the Department of Defense on.

25 We recognize, as do many other members of

1 Congress, there are definitely military training needs
2 that the Marines have, and Johnson Valley may be part
3 of the equation there. What we ultimately agree with
4 the military to do is that they agree to study
5 additional alternatives beyond the alternatives that
6 they identified, whereby a portion of Johnson Valley
7 would stay in recreational use in perpetuity as one of
8 these statutorily recognized off-road areas. A portion
9 would go to the Marines for their exclusive use and a
10 third area would be a joint use.

11 Initially, the joint use area seemed to be
12 farfetched, but we learned from experience that in
13 Mexico there is a similar situation. And the reason
14 why it makes more sense that you can do something like
15 this is that what the Marines need Johnson Valley for
16 is only a limited number of days each year. I think
17 it's approximately 12 days a year that are active
18 training, moving from point A to point B through the
19 base and potentially onto Johnson Valley. So there is
20 not a need to close the entire area off for 365 days a
21 year.

22 What they will be studying is whether or not
23 they can use dud producing ordnance so there is no
24 public safety threat, whether they can remove any
25 potential hazards caused by those 12 days of training

1 each year, and allow the rest of the area to remain
2 open for recreational uses for those days when they're
3 not training. They would need some time to set up and
4 break down the equipment and the various training
5 facilities, but we still think that that's going to
6 allow for approximately ten to eleven months a year
7 that the Johnson Valley portion of it could be used for
8 recreational users. They are also interested in
9 providing some additional rangers to help supplant the
10 resources that the BLM has had. We know that BLM has
11 always struggled to have sufficient rangers in the
12 area. I think we had some DOD resources to help that
13 would definitely address some of the concerns that
14 we've had for the limited funding we've been able to
15 get for BLM.

16 That brings us next to the wilderness areas.
17 When we first began with this exercise, we were
18 approached by wilderness organizations who wanted to
19 take the wilderness study areas around Fort Irwin and
20 make them into permanent wilderness. The original
21 Desert Protection Act said that those areas should be
22 studied for ten years, from 1994 to 2004, and that BLM
23 should make a recommendation on whether or not they
24 should be a wilderness.

25 Ultimately what BLM did was to say that the area

1 should be wilderness if Congress thinks it should be
2 wilderness. We immediately wrote to the Department of
3 Defense, this is the very first thing we did as we
4 began exploring this all piece of legislation, and
5 asked them what their thoughts were about these areas
6 becoming wilderness. And this is the Katie Mountains,
7 Soda Mountains, Kingston, Avawatz, and Dove Springs
8 areas.

9 The DOD took quite awhile to get back to us.
10 Ultimately they said that the area north of the base
11 was of less a concern, but the Soda Mountains and
12 Katies need additional timelines. So after two years
13 from sending us a letter, we heard back from them that
14 those areas are not a concern. I think the original
15 thought was potentially look for opportunities to go
16 from Twentynine Palms to Fort Irwin. That doesn't seem
17 particularly feasible so their concerns about those
18 areas were abated.

19 We then are working with this idea of the
20 national monument, Mojave Trails National Monument,
21 which would include the Katie Mountains. What the
22 wilderness organizations agree to do was to draw their
23 suggestion up that Katie Mountain should become a
24 wilderness. It's a massive area I know that a lot of
25 people, especially in the Victorville and Barstow area,

1 would love to get access to.

2 We have in our legislation proposed withdrawing
3 the Katie Mountain WSA, but it would be part of the
4 monument. That would allow vehicular traffic through
5 the Katies, again on designated routes, they would
6 become part of the management plan. And whatever
7 routes are ultimately included, it will have to come
8 out of management plan, but the WSA will disappear.
9 Then on the Soda Mountains, the southern quarter of the
10 Sodas would disappear as well, about 30,000 acres we
11 would remove from that proposed wilderness. So there
12 is a reduction of existing WSA, but those four WSAs
13 would largely become wilderness. We've pushed in the
14 boundaries on Soda Mountain, as well, and carved out
15 some cherry stems that we felt were appropriate and
16 important. A lot of this we got from great suggestions
17 from the off-road community about where cherry stems
18 are needed.

19 There was a comment made earlier about
20 wilderness not allowing access to people who have a
21 challenge getting in by foot. And having gone out and
22 reviewed all of these areas myself for over three
23 years, I absolutely agree with that. We put a lot of
24 cherry stems into the legislation because these are
25 phenomenal places that people should have access to.

1 So we were fairly liberal in adding cherry stems where
2 we have good concrete evidence, GPS points. I want to
3 thank the off-road community that participated with us
4 in showing us where those routes are and should be
5 allowed in the legislation.

6 The bill goes on and has a large section on
7 energy. But what I'd like to do is ask you about
8 questions that you might have. Usually this
9 presentation and this discussion takes at least two
10 hours, and I know we don't have that. But with the
11 information you have thus far, I wanted to give you the
12 opportunity to ask questions.

13 And one last comment is that we would definitely
14 like to hear comments from both the Commission, as well
15 as the community in general because we want to know how
16 to make this bill better. It's been an amazing three
17 years working with some pretty diverse groups, folks
18 that you don't usually see agreeing on things. But we
19 have environmental groups, off-road groups, all kinds
20 of other recreation users, renewable energy companies,
21 just a really diverse group of folks that have given us
22 great suggestions and put together a really impressive
23 bill I think will help manage some of the problems
24 we've been seeing in the desert.

25 CHAIR WILLARD: I think we probably do have some

1 questions. I'd like to know the time frame from today
2 through to enactment, you know, how much time on the
3 steps, just a little bit on what's involved. And also
4 I'd like to know the definition of monument versus
5 wilderness versus say national forest.

6 DEPUTY STATE DIR. PETERSON: The timing question
7 is a bit of a mystery. What would have to happen first
8 is we need to have a hearing. The bill was introduced
9 in December. It was referred to the Energy and Natural
10 Resources Committee in the Senate, and the committee,
11 chaired by Senator Bingaman, has to set a hearing date.
12 We've asked him to set one. It's really tough to say
13 when he'll schedule it. They usually give us at least
14 a month's notice before they schedule a hearing. So it
15 could be as soon as a month from now. I think that's a
16 big question mark. Some bills never get a hearing. So
17 they can't move forward without a hearing, so we're in
18 a holding pattern waiting to find out when this might
19 get a hearing.

20 As far as enactments, there could be potentially
21 a House version of the bill. The bill, if it gets out
22 of committee, could get melded into other bills that
23 move on the Senate floor. It gets a little iffy. The
24 first thing is that hearing with the Natural Resources
25 Committee. We'll be sure to let the Commission know as

1 soon as something like that gets scheduled.

2 CHAIR WILLARD: The difference between the
3 different designations, wilderness, monument, just
4 wanted to relate that to U.S. Forest designation as
5 general forest and national recreation areas.

6 DEPUTY STATE DIR. PETERSON: A monument is a
7 fairly unique type of designation. Monuments don't
8 follow a set formula. When you create a monument, you
9 write the rules for that specific monument in that
10 legislation. That's different than National Parks
11 Service land where you have legislation and also Forest
12 Service land that this is how Forest Service land or
13 Park Service land shall be managed. Anything that
14 applies to this monument is in this legislation, with
15 the exception of when we refer to things like NEPA and
16 Endangered Species Act and those other kinds of
17 statutes. But there isn't a national monument piece of
18 legislation that precedes this that stipulates how
19 these two monuments will work, so what's in the bill is
20 everything.

21 COMMISSIONER FRANKLIN: Good afternoon, I had a
22 colleague of yours come down recently and give a
23 similar presentation. And you just mentioned that
24 national monuments are unique and you write the rules
25 for that specific monument, and the rules are here

1 written for this national monument. The question that
2 came up yesterday on reflection last night, there was a
3 lot of talk about management of the national monument.
4 And that kind of alluded to that BLM would manage this
5 national monument. I can't find that in the summary,
6 in the bill. I can't find where it actually points to
7 that specific, back to your statement of it's written,
8 it's there. So that's just a little bit of a question.

9 And then obviously, this is a perfect example of
10 there's a little bit of give and take here. There is a
11 little bit of everything for everyone. But I think
12 that quite honestly, because you are dealing with such
13 a diverse group, each one of those diverse groups has
14 some hesitancy to buy in 100 percent until they can
15 actually see it concrete. So that's my observation.

16 DEPUTY STATE DIR. PETERSON: I should clarify
17 that for the Sand to Snow Monument, it would be jointly
18 managed by the BLM and by the Forest Service. They
19 both retain the land that they have now. No land is
20 being transferred amongst agencies. A very good
21 example for how Sand to Snow would work, and has some
22 very good parallels for Mojave as well, is that the
23 Santa Rosa San Jacinto National Monument on the south
24 and western side of Palm Springs, it's literally the
25 same staffers that will manage the new monument as

1 managed the existing San Jacinto National Monument.
2 And it just falls along the existing property
3 designations, to the Forest Service mostly to the west
4 and then to the BLM to the east.

5 COMMISSIONER SLAVIK: Jim, I want to thank you
6 and your staff for the work you've done on this. I was
7 around for the original Desert Protection Act and
8 witnessed a lot of blood on the ground. And I can see
9 in this one, reading what I have read, that you've
10 corrected a lot of the failings of the original
11 protection act, I think, in creating such wilderness
12 only and then all of the limitations that that has.

13 My question is national recreation area, and
14 some of this goes outside of the parameters of the
15 monument that you're talking about. The motorized
16 community obviously was left flatfooted when we
17 realized that Johnson Valley and Stoddard Valley, those
18 places were not really protected by statute. Can we
19 talk about a national recreation area where it is
20 statutorily mandated that motorized recreation is the
21 preferred recreation pursuit for that particular
22 landmass?

23 DEPUTY STATE DIR. PETERSON: Are you suggesting
24 that one of the monuments become a recreation area
25 instead of a monument?

1 COMMISSIONER SLAVIK: That's one question. We
2 have several of these around the state that are
3 susceptible, I think. If El Mirage and Johnson Valley
4 are going to be included, and two or three other ones,
5 that's fine, and you've done your homework there. But
6 what about the rest of the state? I guess that's my
7 question.

8 DEPUTY STATE DIR. PETERSON: Well, we had a lot
9 of discussion about recreation areas versus monuments,
10 as well as permanent designations for the off-road
11 areas. What we ultimately were hearing I believe from
12 the various stakeholders we were talking to was that
13 today places like Johnson Valley and Stoddard, what
14 people are thinking of are the off-road recreation
15 activities primarily, although there are all other
16 kinds of activities permitted, there was a feeling if
17 we rename them as recreation areas, you were somehow
18 devaluing the off-road recreation activities.

19 You can modify a recreation area to where it's
20 very similar to what we have in the legislation. You
21 can just craft it into legislation. But we wanted to
22 be clear that we want the off-road recreation areas to
23 stay working exactly as they are today. We thought if
24 we had changed the title, it would convey a different
25 kind of use than would exist there today. It's not

1 that we were opposed to any particular title, but we
2 did want to stress the off-road recreation is what we
3 believe that these are intended for and what we would
4 like to see preserved for in perpetuity.

5 COMMISSIONER LUEDER: Thank you for coming
6 today. I have a couple of questions on the
7 legislation. At the beginning when it talks about
8 establishing the monuments, specifically Mojave Trails
9 and the Sand to Snow, there is some discussion about
10 preserving the nationally significant biological,
11 cultural, recreational values. But then it goes on to
12 talk about securing the opportunity for present and
13 future generations to experience certain things, and it
14 leaves out recreation as a public resource. And so as
15 we're looking through this, it looks like you're trying
16 to work with all sides and recognize all of the values
17 that are present, so I think it would be helpful to
18 include recreation and recognize that as a public
19 resource.

20 DEPUTY STATE DIR. PETERSON: Do you have a
21 particular?

22 COMMISSIONER LUEDER: It's on page four, starts
23 at line 13, number two. That's one item.

24 When we start to talk about the management plans
25 as part of this legislation if it passes, it kind of

1 brings up some uncertainty about what those management
2 plans might end up looking like. And we've had some
3 experiences with management plans recently that weren't
4 necessarily favorable. Even though the intent at the
5 beginning seemed to be to protect recreation, it didn't
6 end up that way.

7 So I'm not sure how that would be set forth in
8 the legislation, but it's obviously a concern I think
9 to the recreational community to make sure that those
10 management plans continue what's occurring out there at
11 this point.

12 DEPUTY STATE DIR. PETERSON: One addition, and
13 it's not something that Senator has committed to just
14 yet, but it's something that I want to be discussing, I
15 think it was a real helpful recommendation, is that if
16 both monuments have an advisory council that will be
17 coming up with recommendations to make to the BLM for
18 the management plan, and one of the things that we did
19 was to include an OHV representative.

20 The suggestion had come to us that maybe what's
21 best is to have a representative of the Division, the
22 OHV Division of State Parks, representing the State's
23 interest on that. That way we're getting sort of a
24 broad view. So that's one suggestion that I think was
25 real helpful. I can't commit that those would be in

1 there. I think it was an excellent suggestion. That's
2 one way to help make sure that the management plan
3 comes out in a way that reflects all of the interests
4 and concerns that the OHV community would have. There
5 are various points, and what I can do is send you sort
6 of a highlighted red-line version of the bill where I
7 can highlight all of the OHV points that we make.

8 But we're adamant that OHV use on designated
9 routes is part of the purpose of the monument. So it's
10 not possible to have a management plan that contradicts
11 the purpose of the monument because the purpose is
12 defined in the statute. The management plan is a
13 management tool. It's regulation, so it cannot defy
14 what the actual statute says.

15 With that, I should also mention it's going to
16 be a hot issue with the committee because this has
17 never been done before. And one thing that we received
18 a lot of challenges on is when you're trying to create
19 a new precedence. And there are all kinds of new
20 precedences that we're creating in this legislation
21 specifically for the benefit of off-road recreation
22 use, both in the creation of the monuments and
23 especially in the creation of statutorily designated
24 off-road areas.

25 I'm sure you're all familiar with some previous

1 legislation that dealt with some BLM issues in Northern
2 California, and that was a difficult thing to overcome
3 because there's pretty strongly held opinions on the
4 issue, and there's a lot of groups in Washington that
5 would lobby against something like that. And I believe
6 that we have the right delicate balance between the
7 various interests on this bill, people that are kind of
8 holding their breath on some issues that they don't
9 particularly care for that are included in the bill,
10 because the overall big picture is that everybody wins.

11 There will be challenges to the off-road areas,
12 I'm certain of it. But Senator Feinstein feels very
13 committed to keeping that same balance that we have
14 today in the bill. We wouldn't have the support that
15 we do, the long list of diverse endorsements, if we
16 hadn't tried to strike the exact right balance. If
17 there are ways to improve this to give you greater
18 assurances that this is how the monuments are going to
19 be managed, we are definitely open to hearing those
20 suggestions.

21 COMMISSIONER SLAVIK: Mitigation zones, the bill
22 talks about these mitigation zones, does that include
23 corridors, cherry stem corridors through mitigation
24 zones?

25 DEPUTY STATE DIR. PETERSON: The Secretary has

1 to come up with potential mitigation zones. I've heard
2 some concern about these. What I wouldn't want anyone
3 to think is that the Secretary is going to create a map
4 that says we're essentially blocking off these areas.
5 These are just potential mitigation zones. It really
6 parallels what's happened at the state level with the
7 habitat conservation plan that's being developed by the
8 state.

9 I expect that areas of the state defined as
10 conservation areas, mitigation areas, it's going to be
11 very similar to what the feds come up with, as well.
12 They're working hand in hand on the DSRHVP right now,
13 so I don't expect there to be very much difference
14 between the two. And in our legislation, they are just
15 potential zones at this point, and it's at the
16 Secretary's discretion because the zones have to
17 actually serve the benefit of addressing endangered
18 species. It doesn't mean that 200,000 acres are going
19 to disappear from the desert for recreational use.

20 COMMISSIONER SLAVIK: So saying if you have a
21 mitigation zone, you can still have a designated route
22 through that mitigation zone?

23 DEPUTY STATE DIR. PETERSON: That hasn't been
24 defined in the legislation. If there are suggestions
25 on how we can craft the mitigation zones or give

1 suggestions or even requirements to the Secretary on
2 how to identify the zones, we're open to those
3 suggestions.

4 COMMISSIONER SLAVIK: You may be familiar with
5 Rattlesnake Wash, the backside of San Bernardino
6 Mountains. It was one of these typical areas where
7 there's mountains and there's wash that run for
8 15 miles through there or something like that. It was
9 a corridor, and it was the only way to get from point A
10 to point B. That could easily have been turned into
11 wilderness, which I don't remember, some people here
12 may know that, I got away from that, but those are the
13 kind of things that I think need to be addressed.
14 Reality is the off-road recreationists are not wanting
15 to go all over everywhere. We basically want to get
16 from one point to another.

17 DEPUTY STATE DIR. PETERSON: Right. Another
18 thing to highlight is that the creation of these
19 potential mitigation zones, the Secretary's requirement
20 to put it out to the public for public comment. And
21 specifically we need to seek input from the counties,
22 there is a list in the bill, the various interests that
23 need to be consulted on where those zones are. So it's
24 not the Secretary on his own deciding where they should
25 be. There is absolutely a public component, as well as

1 a consultation component. That would be the perfect
2 way to identify places like Rattlesnake.

3 COMMISSIONER SILVERBERG: Thank you for being
4 here today, Mr. Peterson. It's refreshing to see
5 mandated legislation to enable OHV to continue to
6 recreate out there.

7 And you talk about the advisory committee to
8 help make decisions about management plan, and I see
9 you call out for OHV representation, but you don't
10 necessarily call out for specific representation maybe
11 from the Division, who we'd like to think is probably
12 the premier expert in the state. So it would be great
13 to see something that actually not only calls out for
14 OHV representation, but also includes somebody at least
15 representing the Division to add their input, as well.

16 DEPUTY STATE DIR. PETERSON: We've received that
17 recommendation from a few folks. And since
18 December basically we've been going out and meeting
19 with all kinds of groups and getting suggestions. What
20 we will be doing is sitting down with the Senator and
21 going over a long list of suggestions. That's one of
22 the ones I've heard frequently. And she'll be hearing
23 that, as well. I think it's an excellent suggestion.
24 Ultimately she gets to make the decision on whether or
25 not we do make that change. I do think it's a good

1 suggestion.

2 COMMISSIONER SILVERBERG: Understood.

3 Also, there is verbiage in here about after
4 three years of this bill being in place that there's
5 going to be a complete review, and that's what seems
6 like such a gray area. You don't know after that three
7 years if there's going to be OHV opportunity lost or
8 the terms of the mitigation if OHV opportunity is lost,
9 is it going to be replaced, and how it's all going to
10 work. Is that something that's just going to stay a
11 gray area or is there going to be more definitive
12 language in there?

13 DEPUTY STATE DIR. PETERSON: Which section are
14 you looking at? Because we require various parts of
15 the bill that there be two- or three-year periods for
16 recommendations to be made on route designation in some
17 areas, expansion of OHV areas and other parts of the
18 desert.

19 COMMISSIONER SILVERBERG: Well, on page nine,
20 line two is the first time it's called out.

21 DEPUTY STATE DIR. PETERSON: That's the
22 requirement that a management plan for the Mojave
23 Trails be completed within three years.

24 COMMISSIONER SILVERBERG: On page 37, line one.

25 DEPUTY STATE DIR. PETERSON: That would be the

1 management plan for the Sand to Snow. The title for
2 Sand to Snow and the Mojave Monument are nearly
3 identical. So what you're seeing is that the Mojave
4 has to have its management plan done in three years,
5 and on page 37 Sand to Snow has to have its management
6 plan done as well in three years.

7 COMMISSIONER SILVERBERG: I guess the underlying
8 question is, are the existing routes going to be upheld
9 or is it really gray, you don't know the outcome of
10 that? Is there going to be any language that specifies
11 that the routes will continue to be open in some
12 manner, or the new management plan could really change
13 things around quite a bit? That's my concern.

14 DEPUTY STATE DIR. PETERSON: The management plan
15 has to abide by the statute. And the statute says the
16 designated routes within the monuments must remain
17 open. What we didn't want to do was to say that what
18 exists on the ground as today's legal routes should be
19 the be all, end all. Because we found from working in
20 Imperial County, that there are routes that were
21 designated that really aren't used, and those are
22 routes that are highly prized and are not designated
23 routes and cannot be used legally. We didn't want to
24 basically assume that everything that's a designated
25 route today in the monument is a perfect route. I

1 think that most people here would probably say that the
2 route designation system could use some improvements in
3 these areas. So we didn't want to lock in things that
4 you may not even like today.

5 COMMISSIONER SILVERBERG: Sure, maybe that's not
6 the right way to look at it, to say that every route
7 that's here today needs to stay; however, if there is
8 2,000 miles of trail logged in, that if for some reason
9 some of that trail needs to be abated and changed
10 around, it still continues to be at that level, so
11 that's my point.

12 DEPUTY STATE DIR. PETERSON: Okay. I think we
13 have a common goal. But maybe we could work on trying
14 to figure out if there is some language that expresses
15 that to take to the Senator to ask her to consider to
16 put in the bill. The intent is actually to keep it
17 working the way it is today. We don't want to remove
18 one trail at all if that trail or that route is
19 something that's prized and needed. We also don't want
20 to preclude you from other routes that might be better.
21 So if we could keep a dialogue going on that.

22 CHAIR WILLARD: I think the concept is no net
23 loss of recreation opportunity. That would be a great
24 goal to have incorporated into this.

25 COMMISSIONER SLAVIK: Mr. Peterson, I was

1 involved some years ago in the project that was between
2 Stoddard Valley and Johnson Valley called Ord Mountain
3 Route and Designation Process. Mr. Ahrens behind you
4 there now works for the BLM. Before he was a
5 government employee, we worked in a group for maybe
6 almost three years, and we worked very hard to try to
7 figure out how to tie in routes that were dead end
8 routes. There would be old miner trails that would go
9 up into a canyon and there would be another one on the
10 backside of that canyon, but they never tied in. What
11 we got was a lot of people driving around in circles.
12 The end result of this whole thing was the BLM
13 designated basically utility corridors in this 25-mile
14 section between these two open areas. That's the thing
15 we're talking about. We don't want to see those
16 things. They were never any good in the first place.
17 We would like to see some proactive discussion and
18 planning around making routes that are really suitable
19 to the recreation community.

20 DEPUTY STATE DIR. PETERSON: I think that maybe
21 what we could do is have another discussion, something
22 off-line, and try to figure out what is the language
23 that we need that expresses that point and then we can
24 finish this.

25 COMMISSIONER SLAVIK: I would be happy to

1 participate with you, if you'd like.

2 CHAIR WILLARD: I'm thinking maybe where this
3 might be heading is a Commission subcommittee that
4 might be able to interface with you. So we may want to
5 take that up. I want to hear public comment before we
6 get into that, but that might be something that might
7 be helpful.

8 DEPUTY STATE DIR. PETERSON: Definitely.

9 COMMISSIONER LUEDER: When we're talking about
10 the wilderness areas that are going to be on
11 designated, you talk about the cherry stems. Within
12 those designated areas, are there any currently
13 existing routes that are through routes that basically
14 go all the way through the wilderness that might be
15 basically cut off and cherry stemmed so that you can
16 only go so far and you turn around and have to go back?

17 DEPUTY STATE DIR. PETERSON: There are no
18 designated routes that are usable today that are being
19 closed as we go to convert from WSA to wilderness.

20 Part of the reason why we chopped off the lower
21 half of the Sodas was because there is a route from
22 Crown east side Lake going towards the base, and both
23 recreational users and the Department of Defense had
24 some concerns about that. So basically we made the
25 road, Crony Dry Lake Road, as the southernmost border,

1 and everything south of that that is currently WSA, we
2 dropped the WSA status. That was probably the most
3 significant through route that was changed.

4 I should also mention that when we began working
5 on this, we went to the environmental groups and said
6 if you're going to have other suggestions you've got to
7 tell us now. If there are other wilderness areas,
8 we've got to take time to go explore them. We had
9 roughly 35 different areas that were suggested to us,
10 and we ended up with five, and those fives are all
11 existing WSAs. We really went as tight as we possibly
12 could. Nothing was expanded. Everything that we
13 looked at, if it changed at all, it was contracted.

14 COMMISSIONER FRANKLIN: I wish you had the map.
15 That would be helpful. I want to ask some specific
16 questions related to Johnson Valley. You tossed around
17 some numbers, but I'm not going to hold you firm to
18 these, just rough numbers. Five areas for motorized
19 recreation, I think you said 345,000 acres.

20 Specifically, Johnson Valley, it's going to be
21 basically divided up into three potential areas
22 off-road recreation --

23 DEPUTY STATE DIR. PETERSON: It's an alternative
24 that will be studied.

25 COMMISSIONER FRANKLIN: That's true, option six

1 I believe it is. So my question is:

2 In option six, these three potential areas, and
3 obviously we have a fairly large area to recreate in
4 currently. I have nothing against the Marines. The
5 Marines need to do what they do, and they have an
6 important job, and they need the area. I understand
7 that, and we have to work it out.

8 The way I understand it is basically we're going
9 to take this section about like this, and this is going
10 to be the recreation area in option six, and then we
11 have this little area down here that's going to be,
12 we'll call it, seasonal use, and then the balance in
13 between here is going to be permanently off limits; is
14 that about right?

15 DEPUTY STATE DIR. PETERSON: Roughly. If you
16 combine the acres, and this is all very tentative, the
17 NEPA document will come up with all kinds of different
18 numbers, so the way that it breaks down is roughly of
19 the 180,000 acres, 87,000 acres for Johnson Valley.

20 COMMISSIONER FRANKLIN: This is 187,000 acres?

21 DEPUTY STATE DIR. PETERSON: Yes, roughly 90,000
22 would go to Twentynine Palms, and the remainder would
23 be split up either between permanent OHV area or joint
24 use area, roughly speaking.

25 COMMISSIONER FRANKLIN: So basically half of

1 it's going right out of the middle right off the bat,
2 if this option is preferred, and then 45 for
3 recreational use year round, and then the potential of
4 this other being used for the majority of the year?

5 DEPUTY STATE DIR. PETERSON: Right. The Hammers
6 was really the thing that we heard the most about that
7 we wanted to protect. And that is all definitely
8 something that the DOD knows that it's something that
9 we would think it would be very important to include a
10 joint use area, not the exclusive community area.

11 COMMISSIONER FRANKLIN: Is there any language
12 though about some area to mitigate the loss?

13 DEPUTY STATE DIR. PETERSON: There is a
14 provision in the bill that requires the Secretary of
15 Interior to explore the possibility of expansion of
16 existing OHV areas. I think there is a two-year
17 requirement, I can't recall if it's two or three years,
18 to look to expand these areas.

19 When I visited some of these areas, Spangler in
20 particular, there were areas outside the OHV-designated
21 area that clearly to me there would be no great loss if
22 they were included in the OHV area. It's those kinds
23 of opportunities that we'd like to have the Secretary
24 take a look at and see if we can make up some of that
25 lost acreage. But the DOD had very specific concerns,

1 they did not want an acre for acre loss made up. That
2 would engender their opposition.

3 COMMISSIONER FRANKLIN: Thank you very much for
4 coming and doing this. It's been quite enlightening.

5 COMMISSIONER SLAVIK: Now we have the map up
6 there, the area I was talking about was just to the
7 west of the Johnson Valley. This area right here is
8 the Ord Mountain area, and there is about 25 miles
9 between these two open areas. That would be what I
10 would consider, and a lot of other people, would be an
11 excellent place to be looking at expanding OHV. We can
12 give away this in here if we had to if we got this. I
13 don't think you would get a lot of people complaining
14 about that. That's a historical riding area that goes
15 back to probably the '50s or '60s, easily the '50s
16 or '60s.

17 DEPUTY STATE DIR. PETERSON: One of the things
18 that we looked at was having the Secretary do a study
19 to see if there were any opportunities between Stoddard
20 and Johnson Valleys. It's a race that used to exist, I
21 understand, and we wanted to see if there was some way
22 to do that. It was met with unbelievable hostility
23 from the environmental community. And my sense from
24 the discussions with the BLM, it would be very, very
25 difficult to do. It's not necessarily impossible, but

1 they made a great point in that if off-road users,
2 particularly motorcycle users, wanted to create a race,
3 there is nothing to prohibit them from applying to do
4 that today. It doesn't need to be in the statute that
5 the Secretary do a study for a potential race through.

6 We felt that we needed to take that out of one
7 of the earlier drafts of the bills, and we did it
8 because we knew that groups could apply to the BLM
9 today to try to do that and it would accomplish the
10 same exact thing as us requesting a study from the
11 secretary.

12 COMMISSIONER SLAVIK: Funny you said that about
13 a race because there was a race attempted there. The
14 race was limited to 25 miles an hour. It was basically
15 so slow that most of the racers would fall over when
16 they got to sand if they were doing their job. The
17 reason we're so nervous about this is we've been really
18 up against the wall for half a century basically about
19 fighting this issue. We used to have this whole desert
20 to recreate in, and we basically got stuck with the two
21 worst areas in the desert. And now they're cutting
22 that out.

23 DEPUTY STATE DIR. PETERSON: That's why we felt
24 it pretty important to include this. There is not a
25 lot of wilderness bills or national park bills that

1 propose to have off-road designated areas, and we
2 certainly have heard a lot from our environmental
3 friends about it, but it's a balance, and we hope we've
4 done it well.

5 COMMISSIONER LUEDER: Further in the legislation
6 there's discussion about habitat mitigation zones and
7 establishing 200,000 acres of land as potential
8 mitigation for energy projects. And there would be an
9 advisory council that would be set up, but it doesn't
10 include, that I could find, any OHV interests, and I
11 think it would be helpful to have recreation
12 represented on that council.

13 DEPUTY STATE DIR. PETERSON: We heard that
14 suggestion, as well. That's another thing on the list
15 of items that we're going to be discussing with the
16 Senator.

17 COMMISSIONER SILVERBERG: Mr. Peterson, just on
18 a specific item, if you could turn to page 81, line 14.
19 Just curious, in the statement, the purpose of
20 designation of OHV areas is to preserve and enhance the
21 recreation opportunities within the conservation area.
22 The way it's in context there of being in parentheses,
23 is there a reason it's in parentheses versus really
24 being part of the substance of that? I know it's a
25 little finite, but, again, just trying to understand

1 this and make sure I'm not missing something with that.

2 DEPUTY STATE DIR. PETERSON: I am not a lawyer,
3 and I wrote most of this bill. Our lawyers suggested
4 that be in parentheses, if I'm recalling correctly. I
5 don't think it has any significance legally one way or
6 another. Again, three years of working on this,
7 difficult to remember all of the points, but my memory
8 on this is that we wanted to point out specifically
9 that off-road recreation varied dramatically and is one
10 of the purposes of the area.

11 COMMISSIONER SILVERBERG: Trying to make sure
12 it's not the opposite of that, the way it's laid out
13 there, plus there's a lawyer involved.

14 DEPUTY STATE DIR. PETERSON: I know what our
15 intent was. I think that accomplishes the intent, but
16 if there are other opinions on a better way to say
17 that, I'm all ears.

18 COMMISSIONER SILVERBERG: Just getting back to
19 the management plans, knowing that our agencies, right
20 now the BLM and the state are -- you know, with the
21 current budget crisis all the way around, there's
22 nothing called out in there for these management plans
23 in terms of how they're going to be paid for. Did you
24 envision that the fed or the state is going to be
25 covering that? What did you have in mind there?

1 DEPUTY STATE DIR. PETERSON: For the management
2 plans, there is language in the bill that calls out as
3 the funding shall be as is necessary or as needed.
4 There's not a specific underline for how much. The
5 bill doesn't have, like I said, appropriation or
6 authorization that we include. We don't have that
7 specifically called out.

8 COMMISSIONER SILVERBERG: I notice that there's
9 some things called out in there from the renewable
10 energy, and because that's going to be playing a part
11 out there, is that even reasonable to think that that
12 could play a part in that management?

13 DEPUTY STATE DIR. PETERSON: That the energy
14 dollars could pay for the first title of the bill, that
15 sort of recreation and conservation portion of the
16 bill? Those dollars are pretty highly prized, pretty
17 sought out. We already are expecting that we are going
18 to have some concerns by the Interior about how those
19 funds are used. But I would suspect we would also get
20 stronger comments back from the state or the counties,
21 who are going to receive 50 percent of those funds, if
22 we started directing them to other purposes.

23 When we provide those funds from the energy
24 leases, there's no strings attached to them. The
25 counties can use them how they see fit. So if they

1 need to participate in various activities, there's
2 funding there for them to do that from the 50 percent
3 that's coming back to the state and county.

4 COMMISSIONER SILVERBERG: I guess my line of
5 thinking was any opportunity that is being taken away,
6 you could figure out a percentage, and then maybe the
7 idea is we're taking that small percentage back in the
8 way of funds to help manage what's left. That would be
9 the way I would have thought of approaching it.

10 DEPUTY STATE DIR. PETERSON: What I would
11 suggest, if the Commission sets up a subcommittee, that
12 we maybe explore that as one of the topics. I think
13 that might be the best way to explore that idea.

14 DEPT. DIRECTOR GREENE: Jim, again, thank you
15 very much for being here. I think everybody
16 appreciates it. In terms of terminology, the
17 conservation area is the entire area that would be in
18 the proposed bill, correct?

19 DEPUTY STATE DIR. PETERSON: When we refer to
20 conservation area in the bill, we're referring to the
21 CDCA, the California Desert Conservation Area overall.

22 DEPT. DIRECTOR GREENE: So if you could just
23 perhaps expand a little bit on the climate change in
24 wildlife corridors and how that may affect existing
25 recreation in the future, that would be helpful.

1 DEPUTY STATE DIR. PETERSON: There's nothing in
2 statute today that requires the Department of Interior
3 to examine the impacts of large-scale projects that
4 consume thousands and thousands of acres, what the
5 cumulative impacts those might have on species'
6 migration as climate change progresses. So there is no
7 conclusion, there is no specific result that comes from
8 Interior looking at that. There is no action that's
9 mandated. We just want to make sure that Interior is
10 contemplating what the impacts might be on, say, Joshua
11 Tree National Park if you were to authorize large-scale
12 renewable energy projects in a line that prohibits
13 migration of species say from Joshua Tree to the Mojave
14 Reserve over time.

15 How they evaluate that information, how they use
16 it, we don't put any stipulations on it. We just want
17 to make sure we're taking a look at it.

18 DEPT. DIRECTOR GREENE: Would this then have the
19 same impact when you're looking at the management plans
20 in the monuments and in the OHV area? You would still
21 need to consider the impact of climate change when
22 you're going to be designating those management plans
23 with the monuments in the OHV area.

24 DEPUTY STATE DIR. PETERSON: Right. What we
25 have in mind more is that if there are large renewable

1 projects that are proposed that might somehow inhibit
2 species migration, we want Interior to be aware of the
3 impact that that project might have, and what projects
4 cumulatively might have not just one-off analysis that
5 they might suggest that a species could migrate around
6 a particular project. They want to look at the big
7 picture and see what is our desert going to look like
8 in 20, 30, 50 years, a result of project
9 authorizations.

10 DEPT. DIRECTOR GREENE: I think part of the
11 concerns that I've heard from various members of the
12 communities would be that as you're looking at the
13 management plans, that might be used as a tool to
14 reduce OHV trails that exist in the monument because
15 you would be looking at the climate change issues. So
16 while the Senator may have the vision of renewable
17 energy, some people are concerned that perhaps this is
18 a tool that would be used to reduce the number of
19 trails that currently exist.

20 DEPUTY STATE DIR. PETERSON: That's the first
21 I've heard that suggestion. If we could include that
22 in the discussion with the group if there is some need
23 to tweak the language there, that's something we can
24 take to the Senator.

25 CHAIR WILLARD: We're going to be taking a

1 break, but before we do that, we've got a lot of public
2 comment. Will you be able to stay? There may be some
3 specific questions, and it would be great to have you
4 here. But before we break, I want to thank you, and
5 please thank the Senator, for what appears to be making
6 a real substantial effort at a balanced approach. It's
7 refreshing. I apologize for a little bit of skepticism
8 that you might sense in our questions, but I certainly
9 am optimistic, cautiously optimistic that this, at the
10 end of the day, is going to be a great balanced bill
11 that's good for all of the variety of competing users
12 that want to enjoy this part of our state. So please
13 thank her, and I think probably what we will do is
14 discuss it and take a vote, and it seems like create a
15 subcommittee to interface more directly, and then take
16 this up again maybe at our next hearing in July and
17 come up with some more concrete, definitive, here are
18 our comments. That's probably what we will be taking
19 up a little bit later.

20 DEPUTY STATE DIR. PETERSON: Great. The bill
21 only gets better with your input.

22 (Break taken from 2:42 to 2:58 p.m.)

23 CHAIR WILLARD: Public comment on the last item
24 which was California Desert Protection Act 2010.

25 TOM TAMMONE: Tom Tammone. I guess you can call

1 me a skeptic as far as the bill is concerned for part
2 of the reasons that I discussed earlier. We tend to go
3 through a process, we sit around discuss the half that
4 we didn't give away the last time we discussed the
5 process. Of course, we're a little apprehensive about
6 this. One of the concerns I have about this as far as
7 Johnson Valley is designating Johnson Valley a certain
8 designation, but it also does other things. It locks
9 up stuff to the east and to the south, such as the Sand
10 to Snow and monuments and so forth. Kind of feels like
11 we've got the Marines in the same situation that
12 they're presently in, they're in a box, and the fog
13 line is when it comes down to war, they're going to go
14 on an action down the road from this one. They're
15 going to go east and go west. I get the feeling we're
16 still going to lose that argument despite this
17 legislation. That's been my concern about that.

18 The other concern I have is the Desert
19 Protection Act, and it designates actually three wild
20 and scenic rivers if you include White Water in the
21 San Bernardino National Forest. White Water is
22 wilderness. It doesn't affect the OHV that much. But
23 the Holcombe Creek and Deer Creek are going to be
24 designated as well as scenic rivers. I was told that
25 the existing crossing will get protection. But the

1 problem is the way the land plan provision is written
2 at present, we can move the crossing, not add, but we
3 can move if need be if we find there are issues that we
4 have to do reroutes. What I'm afraid of is this is
5 going to box us in and we're going to lose that
6 capability. And afterwards we'll find things on the
7 trail, and I'm a little concerned we're going to still
8 have protection. Thank you.

9 DANA NICKEL: Hello, my name is Dana Nickel,
10 with Pete Conaty and Associates. We represent the
11 American Motorcycle Association, District 37 Dual
12 Support. Dual sport would first like to thank Senator
13 Feinstein and her staff for working with us on this
14 issue. Amendments made to the draft language, which
15 would contribute to allow dual sport events to occur in
16 national monuments are greatly appreciated. S 2921
17 strikes a good balance between conservation,
18 recreation, and renewable energy development. This act
19 would designate 344,480 acres in El Mirage, Johnson
20 Valley, Rasor, Spangler Hills, and Stoddard Valley OHV
21 areas. AMA District 37 Dual Support is in support of
22 this bill and wanted to bring this to the attention of
23 the Commission. I will submit a copy of a support
24 letter to your staff for your records.

25 AMY GRANAT: Hi Commissioners, first I want to

1 thank you for the presentation and thank you,
2 Mr. Peterson, for coming. It actually was very
3 enlightening. My name is Amy Granat, and I think at
4 this point, since others are going to represent Cal 4,
5 I'm representing the California Trail Users Coalition,
6 of which I am a member of the board of directors. And
7 Mr. Waldheim couldn't be here today, generally speaks
8 on behalf of CTUC. I find it very interesting he's
9 been involved in desert issues for more years and has
10 done more work, as was recognized earlier by the Deputy
11 Director of his work and dedication to Jawbone and
12 El Mirage, he is adamantly opposed to the bill, which
13 raises some question to me. When a person with that
14 much experience is opposed to the bill, there has to be
15 a reason.

16 One of the reasons of concern to me specifically
17 is Surprise Canyon. And for those that don't know,
18 Surprise Canyon was a prized four-wheel drive trail
19 that was actually cherry stemmed into the original
20 Desert Protection Act, and suddenly it has become -- it
21 was a road leading to a city, and now it's a wild and
22 scenic river. I'm not sure how it got from road to
23 wild and scenic river, but it was my first trail that I
24 found closed and I can no longer go there anymore. It
25 happens to be beautiful. And I look at the gate every

1 time I go near there and wonder, all of these promises
2 that are made when that has happened and that was
3 cherry stemmed leads me to wonder how many of these
4 other cherry stems will exist ten years from now. That
5 was a promise made in the original desert bill.

6 Also of interest to me was a signing of the
7 Carrizo Plain National Monument a couple of weeks ago.
8 I went to the Central California RAC meeting, was
9 speaking to a gentleman there who had grazing in that
10 national monument. The plan as well allowed for all
11 existing uses to continue until they got up to the
12 management plan, and the management plan cut down
13 grazing to be a management tool, and basically
14 disallowed the majority of grazing use. This gentleman
15 was a rancher and lost quite a bit of grazing land that
16 he and his family had enjoyed for many, many years. So
17 it's just a warning to mention that all promises, while
18 they sound great, they don't always withstand the test
19 of time.

20 And I would also encourage, there are many of us
21 who don't ride, but we drive. And there's an
22 interesting distinction between what may benefit some
23 in the OHV community may not benefit the others in the
24 OHV community. So we should all be careful to
25 encompass the entire spectrum of the OHV community,

1 including those who use OHV as a means to many, many
2 activities.

3 JERRY GRABOW: Thanks for this opportunity and
4 thanks to the Senator's staff for working with us.
5 I've worked on this bill for over two years personally.
6 Jerry Grabow with AMA District 37 Off-Road, President.
7 Anyway, what I started to say, we've worked on this
8 bill for over two years. We've asked for input. We've
9 been encouraged to ask for different things, have been
10 encouraged to include more. I think over the last
11 16 years, if you look at the desert landscape, we've
12 had a lot more land then than we do today. Unless we
13 get some protection for the lands that we currently
14 have in the open areas, we're not going to have them
15 15 years from now for whatever reason, renewable energy
16 or whatever.

17 District 37 Off-Road is one of the largest users
18 of the open areas outside of the general public. So we
19 put on the competition events in these open areas, and
20 that's the areas that we have to run our events. We
21 can't run them in limited use areas. We can't do them
22 on cherry stem trails. But I will say that the
23 Senator's staff, I'm very impressed that they have
24 asked for input from all of the OHV community. And in
25 the areas where it may not be a designated trail that

1 are legal today, but they've shown that it is a use,
2 they've included it. I applaud them for doing that.
3 And so District 37 Off-Road and the District 37,
4 Incorporated is giving them the support on the bill as
5 it's written today. Thanks.

6 NICHOLAS HARIS: Good afternoon, Commissioners.
7 Nick Haris, AMA Western States rep. I heard a lot of
8 great comments to you guys. We have given our
9 conditional support to this bill as introduced. I
10 provided a copy to Daphne. I gave Brad a printed copy
11 of it. If you need a copy, electronic, I can e-mail it
12 or maybe you can get it from Division.

13 The three main things we brought up in our
14 letter. We did support the bill as written. We're
15 very happy with the efforts made by Senator Feinstein's
16 staff and office to include District 37, in particular,
17 who is our largest district that would be affected by
18 this issue. We're concerned about mitigation for any
19 lost recreation. I think the questions today were
20 right on the mark on that.

21 We're concerned about energy, not only
22 development in riding areas, but adjacent energy
23 projects that may either affect -- because we heard
24 earlier PM 10 concerns or transmission lines, you have
25 to look at future transmission lines potentially

1 running through an area.

2 The other thing I did find troubling, and I
3 didn't really call it out in my letter, was the study
4 to expand areas. We talked earlier about potentially
5 looking at adjacent lands, and you'll see that that
6 language is included in monument, wilderness, and OHV
7 recreation areas, but in particular the OHV recreations
8 are limited. I understand why certain people wanted
9 that language in there. We did call that out as
10 something we were not happy to see or we asked for the
11 same limits to be placed on other areas that were being
12 placed on other uses. Thank you very much.

13 JIM BRAMHAM: Jim Bramham. The first thing I'd
14 like to speak to is that the question came up about
15 national recreation areas that are managed with a large
16 component of OHV recreation, and my first point would
17 be the Oregon Sand Dunes, second would be the dunes on
18 Cape Cod, out at the north tip of Cape Cod, both of
19 those have an OHV recreation element in them. 1979 I
20 believe the Oregon Dunes was created into a national
21 recreation area. Siuslaw Forest, I believe that's how
22 you pronounce it, manages that area. And the areas
23 that were divided into equestrian remained equestrian.
24 Those that were divided into multiple use non-motorized
25 remained that way. The motorized ones have remained

1 primarily motorized through several iterations of
2 planning, although certainly you can find acres that
3 were lost, but most of that is subject to endangered
4 species withdrawal rather than just the desire of
5 management. So it was codified into law that that was
6 what the primary uses of those lands would be. They
7 continue to this day to be that way.

8 The two questions I have specifically on the
9 bill as it's presented, you have these wildlife
10 mitigation desires for the mitigation. Is this new
11 land you're looking for? We did WMAs and so on with
12 the desert recently as part of the Mojave planning.
13 We're not making new land. It doesn't roll off the
14 assembly line, so the question was is this -- are you
15 looking to expand into other lands other than WMAs and
16 wilderness areas and so on that's already been
17 identified as wildlife habitats or will those suffice
18 as part of those planning mitigation?

19 DEPUTY STATE DIR. PETERSON: First off, the
20 mitigation areas, what we do in the bill is we create
21 two scenarios by which mitigation can be accomplished.
22 The first one is by creating a fund whereby companies
23 that are developing say, for example, a 3,000 acre
24 solar field, need to mitigate for that. They can
25 contribute to a fund to provide more resources to the

1 BLM to better manage or more intensively manage
2 existing BLM lands. That's one option.

3 The existing option that everyone has now, you
4 buy line and donate it to the BLM.

5 The third option are these mitigation zones, and
6 again it's potential mitigation zones. It could
7 possibly include the DWMAs, but it has to translate
8 into a specific area that's being managed according to
9 the Endangered Species Act as mitigation, as an offset
10 for the project. So under the section seven
11 consultation, they would have to identify whatever DWMA
12 land or graze land that satisfies that need.

13 But it's not written in concrete in the
14 legislation because the advisory council is going to
15 help come up with the areas where the mitigation will
16 occur. And so it will be part of the debate when they
17 come up with their potential mitigation zones. But
18 it's likely going to be the same kinds of lands that
19 you're seeing identified for mitigation by the state
20 and the RSCP.

21 JIM BRAMHAM: The concern is are the new acres
22 that you're going to have or acres that's already being
23 managed as DWMAs, as wilderness, as ACECs? Or are you
24 looking for additional lands that would be removed from
25 general use or limited lands?

1 DEPUTY STATE DIR. PETERSON: The legislation
2 doesn't say specifically how that's to be interpreted,
3 but we do say that you have to abide by the ESA. And
4 so I need to follow up with my colleague who wrote that
5 particular portion of the bill to make sure that we've
6 got it right. We've worked with the U.S. Fish and
7 Wildlife Service to develop that language. Let me
8 double check on that and get your contact information,
9 and check on that.

10 JIM BRAMHAM: And the second concern while
11 you're here --

12 CHAIR WILLARD: Jim, you've had a lot of time.
13 Maybe you guys can follow up off-line. Thank you.

14 MICHAEL DAMASO: Michael Damaso, Merced Dirt
15 Riders and Four-By-Four Motion. We've got a couple of
16 questions and some concerns basically dealing with loss
17 of opportunity since the '70s, when we lost our OHV
18 trail from Clarks Fork to Highland Lakes when Carson
19 Iceberg Wilderness got put in. The lost opportunity
20 and the increase in OHV use is what's really the prime
21 concern. A lot of these areas that are being left
22 open, the ones that are being closed. So much has been
23 closed, the ones that are left open are being overused.
24 What I've got, the question is, under this bill,
25 is it like, are you proposing a no net loss

1 opportunity? Will these areas remain open while pine
2 crosses is going on? I've got concerns because usually
3 most of these bills go back to Washington, and they end
4 up with amendments that change everything completely.
5 That's one of the other concerns I've got.

6 One other concern is actually on the
7 environmental side, covering all of this ground with
8 solar panels, et cetera, I think we need to look at
9 doing what Cal Expo has over here, the solar panels
10 over their parking lots. You've got the solar panels
11 close to where the use is. You've got the shade from
12 the solar panels that shade the vehicles underneath and
13 shade the asphalt so that you don't have the heat
14 effect from asphalt. And I think there's a lot of
15 companies, Wal-Mart, Kmart, and all of these other
16 parking lots that could be used for solar panels
17 instead of the desert and covering up the desert
18 ground. Thank you.

19 HELEN BAKER: Helen Baker representing the
20 Foundation for the Preservation of Historic Roads and
21 Corridors. I do have a question about the bill. It's
22 in the Mojave Trails National Monument section. It's
23 on my page five, line ten, incorporation in monument.
24 After action by the Secretary of Defense and Congress
25 regarding the withdrawal under sub-paragraph A, any

1 land within the study area that is not withdrawn shall
2 be incorporated into the monument.

3 The question that I have is because this is
4 speaking to the monument, the monument is primarily all
5 east of the base. The monument is right now scheduled
6 to be 941,000 acres. Does this paragraph mean that if
7 the Marines do not choose to go east, the area that
8 they're currently studying, which is another couple
9 hundred thousand acres I believe to the east of the
10 base, does this paragraph mean that those 200,000 or
11 whatever amount of acres would be included in the
12 monument, over and above the 941,000 acres?

13 DEPUTY STATE DIR. PETERSON: No. The reason for
14 that particular clause was that you have acres that are
15 formally part of the NEPA process for the expansion of
16 Twentynine Palms. And the Department of Defense
17 requested of us that we include language that there is
18 no conflict, that we can go forward and complete their
19 NEPA work without any suggestions to the other members
20 of Congress in the legislation that there is a conflict
21 between the monument creation and DOD expansion. There
22 is not. If there are areas that the DOD wants,
23 whatever is left over, that's still part of our
24 boundary, would become part of the monument. But the
25 DOD has been exploring those areas, and I'm not sure

1 that's ultimately the direction they're going to go.

2 HELEN BAKER: That explanation actually sounds
3 as if that area, if it's not taken by the Marines,
4 would be included in the monument; did I misunderstand?

5 DEPUTY STATE DIR. PETERSON: Can you put the map
6 up of the monument, the zoomed in version?

7 HELEN BAKER: While that's coming up, my other
8 comment is this is an extremely complex bill, and I
9 would urge all of the Commissioners to read it
10 thoroughly and please put into your thoughts that OHV
11 does not operate in a vacuum, that this bill impacts
12 much more than just OHV, and OHV is much more than just
13 a few riders or drivers out there. It's the entire
14 community that uses these recreational lands. Thank
15 you.

16 DEPUTY STATE DIR. PETERSON: Will you show me
17 what land?

18 HELEN BAKER: The area to the east, the study
19 area is not shown on here, the study area to the east
20 basically is here and up around the Sheep Hole and some
21 area in there and, of course, up this high. So this is
22 the area I'm talking about because this is the study
23 area. But this right now is the boundary for the
24 monument, the closed monument.

25 DEPUTY STATE DIR. PETERSON: The reason for the

1 language is basically very small pieces of land right
2 around here. It's nothing about this. There are small
3 pieces, a couple of thousand acres right here, that are
4 both inside our boundary as well as the study area for
5 the DOD. What our bill says is if the DOD doesn't need
6 those areas, then these couple of little pieces stay
7 inside the monument. If they do, our boundary changes
8 just slightly right around here.

9 HELEN BAKER: So it's not talking about the
10 entire study area, just the part that's currently
11 covered by the monument?

12 DEPUTY STATE DIR. PETERSON: Exactly.

13 HELEN BAKER: Perhaps that wording could be a
14 little more clear. Thank you.

15 JIM WOODS: My name is Jim Woods. I'm the
16 President of CORVA, California Off-Road Vehicles
17 Association. We represent approximately 5,000 family
18 members. We recreate with motorcycles, OHVs, UTVs,
19 jeeps, you bring it, we'll play with it. I'd like to
20 first thank you as the Commission, Daphne, Phil for
21 having this meeting. You're great. The fact that you
22 have areas for us to recreate in that are second to
23 none, we appreciate it very much. I'd also like to
24 thank Senator Feinstein's office and staff. This is
25 the first time we've seen staff work with us, and my

1 hats off to them.

2 But that doesn't mean we all support the bill at
3 this time or as it stands. Further down the road as we
4 read and we can see more language that is more precise,
5 that could change. But at this time, we feel it's
6 important for OHV areas to retain what we already have,
7 gains very little, and the environmentalists to gain
8 massive amounts of land, and big business to gain and
9 to destroy parts of our beautiful desert that we
10 recreate in, that we drive by, and personally as a
11 citizen of California, taxpayer, I see no benefit to
12 the public in the case of us being able to increase our
13 opportunities of occupation and work in our cities. We
14 are handing to big business huge chunks of land to
15 scrape, destroy, mitigate. But how about solar panels
16 where we have power grids? We're going to be looking
17 at a power area here, where you need a corridor there,
18 there starts the lawsuits. So it's another analyst
19 game. If we brought 50 percent of these solar panels
20 to our cities, we would increase our employment, which
21 we all know what the real unemployment rate is in
22 California, well above 12 percent. We would bring
23 power to where the grids already exist. That's common
24 sense government. I would love to see her office to
25 look at that. And with that, I think a lot more people

1 could support this.

2 The management plans, why did we change? We
3 have great ones in place. We've worked for many years
4 to develop the Wemo plan. It's being sued upon change.
5 Why do we need to have more management plans? And when
6 we have these advisory councils in OHV areas, and we
7 have one representative only from OHV, we have two from
8 environmental concerns, we have two from renewable
9 energy concerns. How about fair footing for the OHV,
10 so we, as the people of the great State of California
11 that recreate there, have the word to say and to stand
12 up for what we want.

13 Again, Wemo plan, what are we going to lose.
14 Johnson Valley, sorry guys, we get 40,000 acres. If
15 we're lucky, we'll manage that with the DOD. There's a
16 lot of big questions in that. The first time little
17 Johnnie picks up a bullet and throws it in the campfire
18 that they missed, we are out of those areas. The
19 Hammers are gone. Clear Creek, frivolous lawsuit;
20 Oceano Dunes, frivolous lawsuit; Carnegie, frivolous
21 lawsuits. We're losing all of the land we have. And
22 what will happen from that is the same thing that
23 happened this weekend out in the Jawbone area, more
24 destruction, more vandalism of fences.

25 We also don't have the manpower to manage these

1 areas. I do not see any plans in this bill to increase
2 the budget for the Bureau of Land Management. When I
3 sat in the last Wemo meeting, the biggest complaint was
4 how many acres does 25 guys and 12 cars, that's all we
5 have left how, can we manage more areas without more
6 funding to manage those areas?

7 I hope that we -- even though at this time CORVA
8 and other organizations are not supporting, but not
9 damning the bill. Again, I congratulate them and
10 really have my hats off to the work they've done. But
11 continue to invite all of us, all of the OHV community,
12 to the meetings in the future so the input of all of
13 California can be put into this bill so we can have the
14 best possible bill for OHV. Thank you.

15 FRED WILEY: Thank you, Commission and Division.
16 Fred Wiley from the Off-Road Business Association. I
17 have had a letter circulated that was created by
18 several groups from the OHV communities that have sent
19 this letter to the Honorable Senator Feinstein's office
20 thanking her for the work that has been done on this
21 project. You're getting the letter now. As you can
22 see by the number of groups and the diversity of the
23 groups that have signed on to this, I think this is an
24 important first step towards doing things in the same
25 way in the future.

1 I've listened to several people talk about their
2 concerns within the bill. Simply because the bill has
3 been introduced in December, as we all know it's got to
4 go through committee to get anywhere, and we can't step
5 away from it at this point. Many of us have concerns
6 about the language, all of you have talked about here
7 today. I think it's important for the Division and
8 Commission to be involved in this process, even through
9 the committee process, so that your concerns are heard
10 and you represent the constituents that are out here.

11 The last thing I would like to say is that I
12 furnished a letter of support at the Off-Road Business
13 Association at the least meeting, and you have seen
14 other letters of support that are telling you that they
15 are supporting the bill. I would like to see the
16 Commission, through a subcommittee, look at supporting
17 the bill, and making sure that in that support that
18 they register their concerns so that they can be seen
19 and heard in a written comment form. Thank you.

20 HARRY BAKER: My name is up there as a speaker.
21 It was on a slip I spoke to before. It was also listed
22 as A. My name is Harry Baker. I'm vice-president of
23 the California Association of 4-Wheel Drive Clubs.

24 The California Association of 4-Wheel Drive
25 Clubs is opposed to S 2921 in its present form. We do

1 not support the language in the bill as written. We
2 oppose legislation that restricts public access to
3 public lands. We oppose the creation of new wilderness
4 areas that would draw land from public access and close
5 existing routes. We oppose the creation of new
6 wilderness areas that do not meet the standards of the
7 Wilderness Act in 1964, which established the national
8 wilderness preservation system. We also oppose
9 legislation that attempts to indiscriminately close any
10 area or route travel without verification of economic
11 impact in the area. And we oppose the use of public
12 land for the mitigation of solar energy plants or
13 alternative energy on private lands.

14 We have a statement in the bill there, it says
15 that they will set aside 200,000 acres for mitigation
16 for the establishment of alternative energy on private
17 land, but that land will be in public lands. We lose
18 that again. We lose 250,000 acres to wilderness just
19 in the California BLM desert. We lose 90,000 to Death
20 Valley, and we lose 49,000 that could be possibly lost
21 in the Vitager Wash area in the Imperial County area.

22 Parts of bill -- it's been stressed earlier that
23 everyone should read the bill, all 174 pages of it.
24 Read everything in there. There is a lot of
25 information in there, good and bad. I do thank Senator

1 Feinstein's office and James in particular for working
2 with us. I have been at those meetings. I've given
3 good input. He's taken some of it. He hasn't taken
4 some of it. That's the way it goes.

5 We still are not satisfied with the language in
6 the bill. There are lot of nebulous types of comments
7 in there. For example, in the monuments, we will be
8 able to use existing roads and trails on designated
9 routes. What are the designated routes? What is the
10 Wemo and the NEPA lawsuit going to do with those
11 designated routes? And who on designated those routes?
12 Is it one route, two routes, ten routes?

13 We're very concerned about the management plans.
14 We know what has happened in the Grego Pines area. We
15 know what's happened along the Utah. Those existing
16 uses that were in place at the time the bill was passed
17 are now nonexistent. It is just the way that things
18 go. Same way with Surprise Canyon, Senator Feinstein
19 gave us that cherry stem. This bill takes that cherry
20 stem away. Something that I think is just terrible.
21 We were told no more wilderness by Senator Feinstein.
22 We see new wilderness in this bill. The monuments by
23 themselves may not be that detrimental to OHV use, but
24 the devil is in the details. Thank you.

25 CHAIR WILLARD: That concludes the public

1 comment, and I think, Commissioners, we should probably
2 discuss this and see if there is an action we want to
3 take.

4 COMMISSIONER SILVERBERG: I think we should form
5 a committee to look into this and make comment.

6 CHAIR WILLARD: I think the goal would be to
7 come back to our next meeting and have the subcommittee
8 make a report. In the meantime, the subcommittee could
9 work with the Senator's office and with Jim on learning
10 more about it. But as far as actual comments that
11 would come from the Commission, that would be after we
12 have been able to hear it at the next meeting of July.
13 So do I have any volunteers for a subcommittee? So
14 Commissioner Silverberg and Commissioner Franklin will
15 comprise the Desert Protection Act 2010 subcommittee,
16 spend the time between now and our July meeting to
17 investigate and learn more about it, and come back with
18 some recommendations. And perhaps at that time we can
19 take a position of support or concern.

20 DEPT. DIRECTOR GREENE: If I may just to James,
21 a follow-up question because I've gotten a lot of
22 questions about these particular areas, the
23 high-conflict area and the priority land designations
24 within the bill, and perhaps we can talk about them
25 off-line, but the consistent theme has been the lack of

1 recreation identified within those two areas. So that
2 specifically is within the renewable section.

3 CHAIR WILLARD: Anyone else have any other
4 comments, discussion on this? I think that's it. Do
5 we need a motion for forming a subcommittee? Good, I
6 think we're done with that business item.

7 //

8 **AGENDA ITEM V(B) BUSINESS ITEMS - CLEAR CREEK**

9 CHAIR WILLARD: And we can move right on to
10 discussion of Clear Creek. So the draft environmental
11 impact statement comment period has officially ended;
12 however, BLM had given the Commission the right to
13 submit comments at a later date, and we definitely want
14 to do that, but I don't think we're yet prepared to
15 make comments. And I think we probably need to put
16 that off until the next meeting.

17 A couple of things, I did receive a letter from
18 the Department of Toxic Substance Control, and it
19 brought some issues, concerns, I guess to my mind, and
20 I think we just need to do some more homework on this
21 subject. But more than happy to entertain any other
22 desires or wishes from Commissioners. Any comments on
23 Clear Creek, questions?

24 COMMISSIONER VAN VELSOR: We had talked about
25 the possibility of having the Environmental Protection

1 Agency come to the meeting today to give us a little
2 bit more overview, to provide more in-depth discussion
3 on their study. But because I haven't had a lot of
4 time to delve into the issue either, I'm interested in
5 delaying this until our next meeting as well and have
6 the Environmental Protection Agency representative come
7 then.

8 CHAIR WILLARD: Thank you for reminding me about
9 the EPA. They had scheduled tentatively to come today.
10 Then reflecting on how up to speed we were on the
11 topic, we decided it was best to have them come in
12 July. So they are definitely scheduled to give us a
13 more complete debriefing on their study of Clear Creek
14 at our next meeting. So they told me they will be
15 coming. Any other comments on this one?

16 COMMISSIONER SLAVIK: How much time do we have?

17 CHAIR WILLARD: Mr. Keeler, perhaps if you can
18 answer a question for us regarding the remaining time
19 frames on Clear Creek. We know that the comment period
20 has ended, but BLM has said that the Commission can
21 submit comments later. But how much later can we go?
22 What is the remaining time frame?

23 JIM KEELER: I can make a phone call right now
24 and get back to you a little later in the meeting.

25 CHAIR WILLARD: It's my understanding that

1 September is sort of the time frame that we're looking
2 at, so we're meeting in July.

3 OHMVR STAFF LONG: Kelly Long with the Division.
4 I wanted to point out that Mr. Cooper in the Hollister
5 Field Office had indicated that even with the extended
6 comment period, they extended it by 45 days. They will
7 still anticipate getting their final draft or their
8 final EIS and Resource Management Plan in September and
9 pursue their Record of Decision in January.

10 CHAIR WILLARD: I think that answered the
11 question. No need to follow up. Having something done
12 at our next meeting in July should work.

13 ///

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15 **AGENDA ITEM V(E) BUSINESS ITEMS - DRAFT 2011 REPORT**

16 CHAIR WILLARD: Just a little background on the
17 draft 2011 Report while the staff gets set up to give
18 us a report.

19 SB 742 was legislation passed last year that
20 made certain legislative requirements of the
21 Commission, and one of those was a report to the
22 Governor and the Legislature every three years. And
23 the first report is due January 1st, 2011, which is
24 approaching very fast from my perspective as being on
25 the subcommittee that's been working on the draft. So

1 Commissioner Slavik and myself have been going back and
2 forth with staff and moving forward with the draft
3 document that we have before us. We're going to be
4 discussing it today, and again at the next meeting in
5 July we'll also take it up, as well.

6 After we get the staff input on this, perhaps we
7 could get some public comment. I would be interested
8 to hear what the public has to say about it. For the
9 public, I want you to keep in mind that the purpose of
10 the report is to meet the requirements of the
11 legislation, which is very specific on asking the
12 report to address certain specific areas. And so we
13 took the meaning of that on its face value, and that's
14 really what the report has been drafted to do is to
15 meet the obligation.

16 OHV STAFF LATHAM: Good afternoon, Commissioners
17 and public and other members of the Division. I know
18 it's been a long day. I'm very happy and welcome the
19 opportunity to be with you today to discuss the first
20 draft of the Off-Highway Motor Vehicle Recreation
21 Commission program report. Commissioner Willard has
22 touched base on a little bit of my introduction here in
23 giving you a little bit of a background. I will say
24 this report is near and dear to my heart; spent a lot
25 of time on it; but this without a doubt has been a team

1 effort. There's been a lot of folks that have stepped
2 in.

3 As Commissioner Willard referred to, I wanted to
4 remind everyone that this report is mandated in the
5 Legislature to go to the Governor and the Legislature
6 itself. And there's very specific report requirements
7 that we have touched base on. Also, I want to
8 recognize and welcome that we'll have comments from the
9 public; however, this is the first draft. This is the
10 starting point of a working document, acknowledging and
11 mentioning also that we recognize there will be
12 additional changes before the next draft.

13 The development of this report has been quite a
14 balancing act. I realize that there is probably more
15 or less information in this report than the Commission
16 may have wanted. The Division has a lot of information
17 and there's been a lot of discussion and a lot of
18 meetings in determining what to put in this report.
19 We've kind of taken it from the standpoint of making it
20 an overview and answering the mandated report
21 requirements.

22 During past discussions and meetings, our goal
23 was to try to keep this report to 50, 60 pages. As you
24 can see in this draft right now, we've exceeded that
25 quite a bit. There's no executive summary in this

1 draft, and there is no message from the Chair, as well.
2 Those will be included obviously in the next draft and
3 the final document. And for those of you in the public
4 who are not aware, per statute there will be two or
5 more opportunities for public comment. So, again, this
6 is the starting point. This is the first draft. So
7 the Division looks forward to hearing comments from the
8 Commission as well as the public as we move forward in
9 this process.

10 If I may, there are various ways we can kind of
11 take comment and discuss our approach to the report
12 requirements. I might recommend maybe going down the
13 line here. Maybe first kind of giving an overview to
14 folks who may not be aware of what the requirements are
15 in this report. As required by the Public Resources
16 Code 5090.24, as Commissioner Willard referred to
17 earlier, this falls under the responsibility of the
18 Commission. They are to prepare and submit a program
19 report to the Governor, the Assembly Water, Parks and
20 Wildlife Committee, the Senate Committee on Natural
21 Resources and Water, and the Committee on
22 Appropriations in each house on or before January 1st,
23 2011, and every three years thereafter. In the past,
24 there has been a biennial report. It is now a
25 triennial report. The report should be adopted by the

1 Commission after presenting it to the public after two
2 or more public meetings of which this is the first.
3 The report shall address the status of the program,
4 Off-Highway Motor Vehicle Recreation, including six
5 specific questions that we need to address.

6 CHIEF JENKINS: I just wanted to put one comment
7 in as we move forward. Part of the reasons we've
8 struggled with writing the report so much is that we
9 recognize that this is your report. So the way we want
10 you to look at what we've provided so far is this was
11 our opening presentation of what we thought you might
12 want to include in the report, but we recognize that
13 you may want to change the flavor of some of this, you
14 might want to give more or less detail. And so it's
15 presented in that spirit, that we did the best staff
16 work we could for you to this point. That's what we
17 want to hear back today specifically as we look at
18 these six specific items that Connie is about to go
19 through. And then as we look at the report as it
20 stands right now, the draft as it stands right now, we
21 really need that direction back from the Commission
22 about how you would like us to fine tune it or make
23 complete rewrites of sections, whatever it is that you
24 all want with this. We're just in this case your
25 ghostwriters, if you will.

1 CHAIR WILLARD: Thank you for that
2 clarification. That's right. This is the Commission's
3 report card on Division's management of the program, so
4 that's the way I see it, too. And we'll have comments
5 that will be along those lines.

6 OHV STAFF LATHAM: Thank you very much. So if I
7 may suggest that we go down the reports requirements
8 one at a time, that pretty much is the way the report
9 is outlined. And if we start with report requirement
10 number one is the result of the strategic planning
11 process pursuant to subdivision one of Section 5090.32
12 of the Public Resources Code.

13 The way we approached this report requirement
14 was a goal of collecting data and coming up with
15 informed decision making. We kept this section brief,
16 if you will. The main approach was to develop a shared
17 vision with the Commission, yourselves, based on
18 strategic themes and principles and thus came the six
19 goals and objectives for implementing those goals in
20 particular. And those are outlined pretty well on
21 here. Also, I think what is important is the current
22 strategic plan leaves out specific objectives to be
23 implemented to achieve those goals with time frames. I
24 think that was important. That would be page nine is
25 where requirement one starts.

1 COMMISSIONER SLAVIK: Connie, are we going to
2 talk about as we go along comments to this, or do you
3 want to wait until the end?

4 OHV STAFF LATHAM: I would recommend as we go
5 along, Mr. Slavik, I think that would be easier, but
6 I'm agreeable to whatever you want. I just was going
7 to ask that question, actually.

8 CHAIR WILLARD: Okay. We can do that. Let's
9 break it up into parts. Maybe if we could start with
10 just some general comments on the whole document, and
11 then we can get into going through the questions one
12 through six.

13 I guess I can kick it off by a couple of
14 comments, these are general comments that are just for
15 the public's benefit. This document is a draft
16 document. There will be a table of contents, an
17 executive summary, and a conclusion. It may get a
18 little bit lengthy in some areas and a little bit
19 condensed in others, but it's sort of a starting place.
20 Don't beat us up too bad. It's sort of a work in
21 progress. We'll have another hearing where you can
22 provide more comments on a more refined draft at that
23 point.

24 On that, I do have a lot of things here and
25 there, but they are typos or words or questions. I

1 think I'll wait and do that off-line with you. I don't
2 want to take the Commission's and public's time to get
3 into wordsmithing. If we can all look at it that way,
4 more concepts, pictures, questions would be great.

5 This is a report card from the Commission on the
6 Division's work, and I think while the Division, in my
7 opinion, is doing an outstanding job managing the
8 program, I know there are some areas where improvement
9 can be made. And so I think I'd like to see some more
10 comments on areas that perhaps the program can be
11 improved or there were some deficiencies or there were
12 some problems. There is some of that in here, but,
13 again, the Division has been doing an excellent job,
14 but at the same time no organization is perfect and
15 there is always room for improvement. So I think as a
16 report from the Commission on Division, I'd like to see
17 some more constructive criticism or suggestions for
18 improvement areas that can be touched on. And I think
19 that the resulting document is more balanced when we
20 have those types of items addressed.

21 CHIEF JENKINS: Excuse me, but I beg to differ
22 slightly. So the way I have always looked at the
23 legislation there, digesting what you just said, but
24 the language specifically says it's a report on the
25 status of the program. The Division is part of the

1 program, but I'm looking at it as a holistic approach.
2 It's in some sense a self criticism of the entirety of
3 the program, in other words, does the legislation
4 that's running the program meet all of the needs of the
5 program. So it's looking at the vehicle, the large
6 vehicle that is the OHV program in California.

7 We implement the program, but I just want to
8 make that distinction, the Division is not the program.
9 The Division is responsible for carrying out the
10 program. So in that sense, yes, this is partly to
11 evaluate or to report on are we doing that effectively,
12 but I think it's more than that, is what I want to get
13 at. It also establishes the program in its entirety,
14 so that would include the things that are going on like
15 the Feinstein bill that we just looked at, how is that
16 going to affect the program in California, what are the
17 pressures that that's going to put on the overall
18 program. I just don't want it to be this is the
19 critique of the Division. That's a component of it,
20 but I look at this report as a larger report on the
21 status of the entire program, the OHV program, and all
22 of the things that that includes in California.

23 CHAIR WILLARD: Thank you for the clarification.
24 That's an excellent point, and that's the way I see it,
25 too. I didn't mean to drill down into the Division

1 because the Division is the implementer of the program,
2 but I think this is a great opportunity for us to talk
3 about some of the issues that are confronting the
4 program in general, yes.

5 Any other Commissioners have any other just
6 general large document questions? Commissioner Lueder.

7 COMMISSIONER LUEDER: As I was reading the first
8 few pages, I noted that the Commission and its duties
9 was pulled straight out of SB 742; however, the
10 Division and its duties didn't look like that was done
11 that way. So I would suggest that the Division's
12 responsibilities are pulled out of 742 just for
13 consistency and clarification.

14 OHV STAFF LATHAM: Thank you. You're not the
15 first person to point that out to me.

16 COMMISSIONER SLAVIK: I understand where we're
17 going here, but I think if I would have done this,
18 Connie, myself, it would look much differently. If it
19 was us having to write, if we had the ability
20 internally to create a report without maybe just asking
21 for some data from you folks but actually doing the
22 writing ourself, it would look much differently than it
23 is. To me it looks pretty bureaucratic. I guess the
24 harder thing to look at from the perspective -- you
25 know, it's going to go to bureaucrats so maybe that's

1 fine. But for the average person in the audience to
2 read this thing, this is a lot of stuff to digest.

3 Some of my comments were to make things more
4 visual. I would say a summary at the beginning, a
5 summary at the beginning of each of the specific
6 questions, and then have an appendices to go back
7 through all of the minutia. And then maybe this is a
8 place where those pictures like over there of Imperial
9 Sand Dunes to me was the idea that I would have in my
10 mind of what would be in the front of each of the SVRA
11 sections. So there would be a where it is in the
12 state, what it looks like on the ground, and the
13 information about the visitorship, the budget, and some
14 of those other particular items that are specific to
15 those SVRA themselves. So somebody could look and get
16 an overview real quick before they ever go any further.

17 OHV STAFF LATHAM: More along the line of adding
18 more of the recreational component?

19 COMMISSIONER SLAVIK: Reading this, pretty much
20 there is no recreational component to this. It's all
21 environmental.

22 CHIEF JENKINS: Keep in mind, we were
23 specifically answering those six components. The six
24 components are all bent pretty much that way. I hear
25 what you are saying, but we have to go into a certain

1 amount of detail in order to answer those six
2 questions.

3 COMMISSIONER SLAVIK: Right. But number two
4 gives us flexibility, seems to me, unless I'm reading
5 it wrong, question number two.

6 CHAIR WILLARD: Trying to put myself in the
7 shoes of a reader of this report, you know, they're
8 going to start reading it. They may not have the
9 background or any background on the program. So I
10 think it would just make the document more user
11 friendly if there would be maybe a page or a half page
12 on each SVRA, because a lot of this stuff delves into
13 the SVRAs. And just simple information like naming the
14 SVRA, number of acreage, topography type, where it's
15 located, what county, maybe we have a little map, maybe
16 that's too much, I don't know. But just a way for the
17 uneducated reader, whether it's a legislator or his
18 staff, picks this up and starts reading through it, and
19 he can get a better sense of what we're talking about.
20 I think we're well versed in this topic so we kind of
21 know it all, we have the background information, but I
22 think you have to keep in mind that others might not.

23 OHV STAFF LATHAM: Certainly.

24 COMMISSIONER VAN VELSOR: In following up, first
25 I would like to thank Connie for the work you have done

1 on it and the rest of the OHV staff and Commissioners
2 Willard and Slavik for working on this.

3 At this point I think it's an excellent
4 document. I think there is still some work obviously
5 we have to do on it, but I certainly appreciate
6 everybody's work on it up to this point.

7 From the standpoint of the document itself,
8 initially the goal was to keep it to 50 pages. I'm not
9 sure that that's necessary. In other words, I think
10 it's necessary to get the information in that we want
11 to get in, and if it takes more space than that, fine.

12 I think a way to present it so that you can
13 provide the necessary information is to just add
14 attachments of documents.

15 And I think that many times when you refer to
16 monitoring plans, for example, other documents, that it
17 would be advisable to reference and attach those, or at
18 least give the address online where they can be
19 accessed. That way if a person wants to read further
20 about a particular topic and get more information,
21 we'll have that available, ready at their fingertips.
22 Especially presenting to the Governor and the
23 legislators, I think it's important to have that
24 information available because they may want to dig
25 deeper, and so attachments would be a good way to do

1 that.

2 I also think it's valuable in developing public
3 documents like this to cite the source of the
4 information. Again, that gives the reader the
5 opportunity to go into more detail, but I think it
6 gives much more credibility to the document.

7 So, for example, there was a discussion about
8 the impacts from the motorized recreation on Plover
9 breeding habitats, and there was a discussion about the
10 particular management techniques that might be used in
11 order to address that. I think it would be helpful to
12 document those management techniques with research or
13 studies that you have gone to to find that, in fact,
14 those are techniques that are going to work.

15 And there are several places in the document
16 where statements are made that without documentation of
17 some kind of research or study to back it up, it kind
18 of leaves me thinking, well, is this true and how do I
19 know that's true without a source.

20 I think it provides much more credibility to the
21 document if there is a good documentation of the
22 sources of information that you're using to develop
23 some of the ideas and management techniques and whatnot
24 that you've identified in the report.

25 OHV STAFF LATHAM: We can certainly do that.

1 CHAIR WILLARD: Any other general comments from
2 the Commissioners before we delve into these items?

3 OHV STAFF LATHAM: Did we have any comment on
4 report requirement one, the strategic planning process?

5 COMMISSIONER SLAVIK: I guess the question
6 actually is the interpretation of the word "results".
7 Are we saying that we're going to basically just type
8 out the strategic plan verbatim or are we going to say
9 what resulted from the strategic plan? Because what I
10 can read here is just a strategic plan.

11 OHV STAFF LATHAM: Correct, the results of the
12 strategic planning process, which we have given a
13 general overview of what that process was.

14 COMMISSIONER SLAVIK: But what's the result?
15 Did we hire more people? There are several things in
16 the plan. Have they been carried out?

17 OHV STAFF LATHAM: Yes, we're in a process of
18 working out an implementation plan for the strategic
19 plan. The goal was to identify objectives, identify
20 what timelines, yes. So now we're working on
21 implementing those objectives, meeting those timelines.

22 DEPT. DIRECTOR GREENE: If I may, Commissioner
23 Slavik, keep in mind we didn't receive approval for
24 that document until the end of the year.

25 COMMISSIONER SLAVIK: But my question was, are

1 we going to continue on with this or is it just going
2 to be verbatim the strategic plan. If you have a goal
3 here, are you going to tell us did you reach that goal?

4 CHIEF JENKINS: In other words, I think what
5 you're asking is something that would be further down
6 the line. So the results of the strategic planning
7 process at this point are that we have specific goals
8 that are set and that we have the action plans that are
9 being developed. So when you look at the actual plan,
10 which according to Commissioner van Velsor might be a
11 good attachment to have the whole plan attached to
12 this, you might be able to go, okay, the results of the
13 planning process was... now, you have these very
14 measurable goals to begin to try to achieve and a
15 timeline for providing a plan to achieve those. How
16 you would answer this is to say here is the timeline of
17 goals that we are going to be shooting for, and we can
18 then measure ourselves against that timeline as we go
19 forward.

20 OHV STAFF LATHAM: I'm sure by the next report
21 2014 we'll have all of this down.

22 COMMISSIONER VAN VELSOR: A question, is there a
23 Word document available that we can comment on using
24 track changes? That would make it real easy.

25 OHV STAFF LATHAM: Yes, there is, absolutely.

1 COMMISSIONER SLAVIK: Can we do that legally?

2 OHV STAFF LATHAM: Yes.

3 COMMISSIONER SLAVIK: That's why we have the
4 subcommittee, right?

5 ATTORNEY LA FRANCHI: We would have to figure
6 out the logistics of making all of that available for
7 the public so it's completely transparent and open.
8 And then it would be reconsidered maybe back at your
9 next meeting in July, the next time you're going to
10 hear this. So as long as we can figure out the
11 logistics of making all of that available, we can do
12 that.

13 COMMISSIONER VAN VELSOR: So what do you mean?
14 So we would make comments through track changes, and
15 then those changes would be made available at our next
16 Commission meeting or our track changes would be made
17 available to the public?

18 ATTORNEY LA FRANCHI: That's the piece we would
19 have to think about. We would have to think about how
20 to do that, whether to make it available realtime or
21 have a revised document at the July meeting, and then a
22 reference back to each of your individual red lined
23 track change documents so that people can identify who
24 said what, where the changes came from. That's what I
25 would be wanting to figure out, how we would

1 logistically have them do that, how the staff would do
2 that, how you all would do that.

3 DEPT. DIRECTOR GREENE: Another option that we
4 may have, Commissioner, is that we did something
5 similar when we had the strategic plan. We came out
6 with the first draft, and we took public comments. We
7 heard many good comments that came to us via letters,
8 suggestions, ideas. We could perhaps consider
9 something similar where the public could provide
10 comments back to the subcommittee and Division, and
11 then working with the subcommittee, we could consider
12 those comments and how the Commission would want to
13 consider those. So that's another option.

14 OHV STAFF LATHAM: On page 12 is report
15 requirement two, and we've kind of looked at this in
16 two parts. First, the condition of natural and
17 cultural resources of areas of trails received in state
18 Off-Highway Motor Vehicle funds. And the second part,
19 the resolution of conflicts of use in those areas and
20 trails.

21 The way in which we approached the first part is
22 by giving an overview of the current conditions, what
23 they look like on the ground, what the project areas
24 look like as we try and balance recreation with
25 resource protection. We broke that down by the eight

1 SVRAs and then also by our federal partners, as well.

2 And then the second half, which deals with the
3 conflicts of use of those areas, we approached that by
4 addressing some of the challenges the Division faces
5 and then showing how the Division has reached out to
6 resolve some of those conflicts.

7 Then we mentioned some of the ways in which the
8 Division has helped to facilitate groups, stakeholders,
9 users in different areas of the state, bringing them
10 together to resolve conflict.

11 CHAIR WILLARD: Any comments on report
12 requirement number two?

13 COMMISSIONER VAN VELSOR: The way I interpret
14 the reporting requirement as it relates to condition,
15 when working in a natural resource management capacity,
16 which I believe we are here, condition is a measurement
17 of the actual health of a given ecosystem based on some
18 desired outcome or condition of an ecosystem. What I
19 think you have done in the report up to this point is
20 to describe the particular habitats where the riding
21 opportunities exist, but you haven't compared that to a
22 desired condition.

23 So from the standpoint of doing a condition
24 assessment, what I would like to see is an evaluation
25 of the current condition of the particular areas that

1 we're considering relative to what we would determine
2 to be the desired best condition of these particular
3 areas, like riparian areas, for example, that trails
4 run through. So you would do a condition assessment
5 and say based on what we're currently looking at,
6 considering these different criteria, the condition is
7 good or the condition is fair or the condition is poor.

8 So there's some relative assessment of what we
9 have accomplished based on our goals over time, and so
10 we can look at that now and say this is the condition
11 now, it's fair. We want the condition to be good, and
12 so in the future we will make modifications using our
13 monitoring information so that we are moving towards a
14 good condition.

15 If we don't have that information, and I don't
16 know that we do, but if we don't have that information,
17 now I think we need to state that we don't currently
18 have a status condition or an assessment of the current
19 condition of these areas, but we are taking these steps
20 in order to implement a program so we can get
21 condition.

22 OHV STAFF LATHAM: Okay.

23 COMMISSIONER LUEDER: I'm fairly confused about
24 the intent of that report requirement. Can staff maybe
25 enlighten us to what the original intent was of that

1 specific requirement?

2 CHIEF JENKINS: We debated this one extensively
3 as we got ready to write the report. Keep in mind that
4 language was put in the statute well before 742. All
5 that 742 did to this language for the requirements was
6 to change it from the biennial report to a triennial
7 report, number one. And then if you go back and
8 compare the old language to the new language, it's
9 identical except that it used to be written in a
10 paragraph. And during 742, it got broken out into
11 bullet points so you could look at it, more
12 specifically into these six bullet points.

13 As we began to look over how do we address these
14 particular points, it was daunting because, to
15 Commissioner van Velsor's point, if we were to start
16 down a list of all of the areas that have received OHV
17 Trust funds and then try to document in some sort of a
18 format that everybody would agree on what we felt what
19 the condition was of all of those, we would end up with
20 the yellow pages of California, you know, a document
21 that would be hundreds and hundreds of pages long.

22 That's why we tried to find some other approach
23 where we can go through and describe the system that's
24 in place to ensure that when an area begins to go into
25 a poor condition, how is that addressed, how does the

1 system react to it.

2 And, quite frankly, we're very open to
3 suggestions from you all about what you think should be
4 in there because, as I say, you can go all the way from
5 the first draft that somebody from the Division wrote
6 named Phil that was really vague, because I was
7 struggling with it. So I tried to write a little
8 section that was here's what we're doing. And all of
9 my colleagues looked at me and said, you're crazy, we
10 need more detail.

11 So then we wrote a lot of detail about stuff,
12 but we can go into a lot of detail about a few areas,
13 but you can't go into that much detail about all of the
14 areas, so how do you choose which areas you're going to
15 review. We tried to kind of meld the concepts and come
16 into something that was more or less middle ground, and
17 that's what we see before us. As I say, we're very
18 open to suggestions here.

19 CHAIR WILLARD: I appreciate the challenge of
20 trying to be as comprehensive as Commissioner van
21 Velsor might want to be, but at the same time dealing
22 with limited resources, time, and the number of pages,
23 a reader's attention span, maybe there is a happy
24 medium or compromise where areas that we feel need to
25 be brought forth, then those can be brought forth

1 because they're areas that demand attention. I don't
2 know.

3 DEPT. DIRECTOR GREENE: Then we even went back
4 further to some of the Division staff who are now
5 retired, but we reached out to them to say when the
6 legislation was originally written, what was the
7 thought? And it was a completely different thought.
8 It was the thought that, well, you take the 30,000-foot
9 level approach, and in the past two years, in this case
10 now three years, how has the condition of California
11 changed. Have you had wildfires? Have you had
12 drought? Have you had impacts now in urban
13 encroachment? So all of a sudden we were looking
14 thinking, oh my goodness, here is a whole another
15 approach. I don't think that's necessarily the
16 approach, obviously that's not the approach that we
17 took, but I think it sheds some light on some of the
18 confusion as you try and zero down.

19 ATTORNEY LA FRANCHI: I can maybe add a little
20 bit. It's not perfect, but having done a fairly
21 thorough assessment of the legislative history of the
22 program going back to 1972 as a part of some pending
23 litigation, I think, just off the top of my head, this
24 arose out of legislation that then Assembly Member
25 Garamendi sponsored at the request of the Sierra Club

1 and some other groups in either '87 or '97 when the
2 soil standards and the wildlife protection standards
3 were built into the OHMVR Act.

4 And at that time, if you look at some of the
5 history and some of the legislative analysis, the
6 concern was that the program didn't have a rigorous way
7 of addressing the kinds of things that the program is
8 designed to do, which is manage the program in a way
9 that sustained the lands and arrive at some sort of
10 ethical balance.

11 So the standards that were developed for the
12 soil standards and the wildlife protection plans would
13 be that, if you will, as realistic an end goal of what
14 you're trying to achieve with the program as the land
15 managers could come up with. And then as you move
16 forward, you would look at how well the program was
17 responding to those end goals or those standards.

18 So I have to kind of agree from that perspective
19 with Commissioner van Velsor's assessment that because
20 this language I think evolved out of that history, and
21 it was a how is the program doing with regard to the
22 condition of natural and cultural resources, is it
23 protecting them, and how do you measure those
24 protections. So what were the standards and evaluating
25 the existing condition back against those standards is

1 what that history seems to suggest from all of my
2 review of that legislation.

3 COMMISSIONER SLAVIK: I think I would agree with
4 Stan, also, what you're saying. I think the direction
5 I would like to see is more what's going on out there,
6 not necessarily a description of the site. It could be
7 a summary, but you need to know is it good or bad.

8 And to add to it, I would like to see something
9 about the amount of visitor-use days, carrying
10 capacity, whatever the measurement is. But if Carnegie
11 reaches carrying capacity seven days a week for the
12 whole summer, obviously there is so much more impacts
13 that have to be dealt with there than some place that
14 barely gets a track on it. Then we should say that,
15 this place is overrun seven days a week, and this is
16 what it looks like. This is the best we can do.

17 COMMISSIONER SILVERBERG: I would just like to
18 follow up and say that the Forest Service and BLM uses
19 condition ratings, and I suspect that they have some of
20 that information at least on some of the areas that
21 they are developing recreational opportunities with the
22 grant funds. And while it is a tremendous amount of
23 information, and it would require a fair amount of time
24 to gather that data if we don't have it now, but I
25 think we need to start moving in that direction and

1 start identifying the criteria and so forth that we
2 would use to establish the particular standards and
3 desired condition.

4 But from the standpoint of providing it in the
5 report, at this point I think you can do it again in an
6 appendix or table form where you just have a table
7 listing the different areas, ecosystems associated with
8 particular trails that are being funded and have a
9 condition report, good, bad, fair.

10 And so you're not taking up any space to any
11 large degree, you just have a table that folks can
12 refer to to get a sense of what does this particular
13 area look like from the standpoint of what we would
14 like to acquire.

15 OHV STAFF LATHAM: Any other comments on the
16 second half of this, the conflict of use?

17 Moving on to page 39, which is the report
18 requirement three, status and accomplishments of funds
19 appropriated for restoration pursuant to paragraphs of
20 Subdivision B of Section 5090.50. And just as a
21 reminder to folks, 5090.50 speaks to the Grants and
22 Cooperative Agreement Program only. So in this
23 section, we give an overview of the legislative changes
24 to the Division of Grants and Cooperative Agreements
25 program, and we give an overview of some of the

1 examples of restoration projects that are taking place
2 or are ongoing right now. As the Chief mentioned
3 earlier, to list all 550-plus projects that have taken
4 place since '04 and all 250 recipients, it would be,
5 again, a telephone book. So we kind of spoke to some
6 examples.

7 COMMISSIONER SLAVIK: And that can all be
8 referenced on the web through OLGA?

9 OHV STAFF LATHAM: Yes.

10 CHAIR WILLARD: How do you think people are
11 going to view this, as an electronic version on the
12 computer or pick up a hard copy? What do you think is
13 going to be the most common way it's used?

14 DEPT. DIRECTOR GREENE: You mean in terms of
15 number of staff? Because I think it's like our
16 strategic plan. I don't see a lot of members grabbing
17 it. And that's why I think, coming back to
18 Commissioner van Velsor's comment, is there a specific
19 thing that says 50 pages. No, I think it's common
20 sense that you want people to read your document. So
21 how are you going to do that? Is it daunting? Is it
22 one of those books that you look at or do you try to
23 keep it interesting and if you want additional
24 information that's referenced in the back.

25 So I think that in this particular case, it's

1 going to be a hard copy. It comes in, you look at it,
2 they'll skim it, something will catch their eye.
3 That's the reason that we need to make it look user
4 friendly and available. And then it will go to a
5 shelf. And I hate to say that.

6 And my hope is that we can make it work because
7 I think that's important, to get that message out.
8 We've heard that today about the importance of what it
9 is that we're doing, and I think in particular what
10 needs to be done in the future. And so that that
11 report card coming in 2014 will be able to identify
12 those areas where, Commissioner van Velsor, I think you
13 indicated that were somewhat weak, we can show whether
14 we've gotten stronger.

15 And so I think that electronically perhaps, but
16 I think more importantly hard copy. I don't mean to be
17 that fun sucker, so I apologize if I did just then. I
18 think as we look at unemployment rates of 12-and-a-half
19 million and budget deficits, it's trying to be
20 realistic of what the Legislature really has time to
21 focus on.

22 COMMISSIONER SLAVIK: But if we're going to do
23 this, the report will probably go beyond the scope of
24 California, too. I can see national organizations take
25 a look at this seeing what's going on here. We're the

1 leaders, obviously, even though we don't have any
2 money.

3 DEPT. DIRECTOR GREENE: And I would agree with
4 you on one hand. I think what is more about leadership
5 is the culmination of the report that we did together
6 through the strategic plan. That's about a vision for
7 the future. That's about what I believe people are
8 willing to look at. We have to be able to do those
9 references where we need to improve and where we've
10 made mistakes, or where we doing something very, very
11 well in balancing that recreation.

12 COMMISSIONER VAN VELSOR: I think we're talking
13 about two different products here.

14 This report I think is a report that the
15 Legislature has required us to write to establish an
16 overview of what we've accomplished. And this report
17 is going to the Governor and the Legislature, so I
18 think it's written in a certain way.

19 If we want a report to go to the public that we
20 want to market in a way differently than that, then we
21 use information from this report and create another
22 report, another document. I don't think we can do both
23 with this report.

24 OHV STAFF LATHAM: Thank you, Commissioner. I
25 would agree myself. I believe that's correct. That's

1 the way we've approached it.

2 COMMISSIONER VAN VELSOR: On page 40, to address
3 the issue of how do you include all of the information
4 from the standpoint of the number of grants and
5 restoration projects and so forth that we have done,
6 and I think what you have done here is provide a couple
7 of examples.

8 But, for example, on the bottom of page 40 on
9 line 1081, U.S. Forest Service and BLM have achieved
10 significant results in repairing and restoring lands.
11 That's quite a statement, and I think there needs to be
12 some documentation right there to say, okay, what are
13 the significant results that we have accomplished.

14 So right there I would list several of the
15 significance results, and then maybe go in more detail,
16 like you have done, and give more of a story for some
17 of the particular examples. But I think it's important
18 to have a number of significant results outlined right
19 there where you said we have some significant results
20 to show.

21 OHV STAFF LATHAM: Aside from the couple that we
22 already have here, you would like to see more to the
23 list?

24 COMMISSIONER VAN VELSOR: Yes, I think we need
25 more than a couple. I think we need many.

1 Again, you can do it in a table format without
2 taking up a lot of space, and people will have that to
3 see.

4 CHAIR WILLARD: Perhaps an appendix and you can
5 put a chart or table in an appendix so that it's not
6 cluttering up the actual narrative of the topic at
7 hand. Maybe start using an appendix for things like
8 that to refer to an appendix?

9 OHV STAFF LATHAM: Certainly.

10 CHAIR WILLARD: Any other comments on this
11 section?

12 OHV STAFF LATHAM: On page 47, report
13 requirement four, a summary of resource monitoring data
14 compiled and restoration work completed. Again, we've
15 approached this section by giving an overview of the
16 monitoring activities taking place in the SVRAs and
17 within the federal agencies. Also, we mention and talk
18 about our peer review of our wildlife habitat
19 protection plan, kind of what we're calling the second
20 generation. Questions in this section?

21 COMMISSIONER VAN VELSOR: I think this is an
22 area again where I'd like to see more data. I think
23 there's value in a data rich report in this case. And
24 what you have provided in the current text is a
25 description of the monitoring activities, but there's

1 not a lot of information about the results.

2 So I think it would be helpful to not
3 necessarily give the results of all of the monitoring
4 data but provide again several areas where you describe
5 the actual method of the monitoring that was done and
6 you discuss the results of that monitoring so that
7 you've got some good sound data to give people an
8 understanding of how you're monitoring and what are the
9 results of that monitoring.

10 I notice you identified several questions in the
11 beginning about what the monitoring could answer. But
12 there was no place in the text where you discuss some
13 possible answers to those questions as a result of the
14 monitoring. So I think it would be really helpful to
15 provide a fair amount of data in there to support the
16 management that is taking place, and the monitoring
17 will demonstrate how that management is working to
18 accomplish our particular goals in a given area.

19 OHV STAFF LATHAM: Thank you.

20 Any other questions?

21 CHAIR WILLARD: I think we need to take a short
22 break.

23 (Break taken from 4:26 to 4:32 p.m.)

24 OHV STAFF LATHAM: If there are no more
25 questions on report requirement four, we can move on to

1 number five, which should be on page 62.

2 CHAIR WILLARD: Commissioners, any comments on
3 this section?

4 OHV STAFF LATHAM: I can give --

5 COMMISSIONER FRANKLIN: No offense, I can talk
6 to you just about any time and Commissioner Slavik on
7 this. I would really like to know if the public has
8 any comments on the general overview of this. The only
9 reason I say that is because our room is quickly
10 thinning, and I think that that's key, to get at least
11 them engaged in this, too. I hate to kind of interrupt
12 this midstream, but I think it's kind of important.

13 CHAIR WILLARD: That's a good point. Obviously
14 we were going to take public comment once we were done
15 with this. If everyone was leaving, it doesn't do much
16 good to have public comment if the public isn't here to
17 comment. Commissioners, what's your pleasure? Do you
18 want to continue as you are? Let me ask this: Does
19 anyone have any real important comments with the
20 remainder of the document?

21 Let's go into public comment, and then after
22 that we can come back and discuss the situation amongst
23 ourselves.

24 BRUCE BRAZIL: Good afternoon, Bruce Brazil,
25 California Enduro Riders' Association. First, I want

1 to make a few comments on some specifics within the
2 document as it has been drafted. That's starting on
3 page seven, there's an OHV Trust Fund income history
4 bar chart. That's the number that I got off the web
5 for the page. It's showing 2008/2009 income of
6 approximately \$121 million. That's a large jump from
7 the previous years. And then on the next page on
8 projected income we've got a pie chart for fiscal year
9 of 2010/2011, and it's only a little over \$83 million.
10 That's about a \$38 million difference between those two
11 figures. I'm just wondering about the accuracy of the
12 \$121 million.

13 Next comment, there's been a couple of
14 references to SB 742. At the end of that, our
15 registration fees were \$50. I didn't catch anything in
16 there showing the additional two dollars that's been
17 jacked up. I think that should be noted.

18 And part of that also goes in with the law
19 enforcement section. It would be nice to mention that
20 \$6 now of the registration fee goes to the CHP and
21 that's irrelevant of the law enforcement grants.

22 Page eight, it does mention the loans to the
23 General Fund, but I think being that it's near the
24 front part of the whole report, it would be nice to
25 mention the amounts of the loans. Those are addressed

1 further on in the report. But before the reader falls
2 asleep, I think it would be important for them to catch
3 that.

4 And somewhere in the report, especially for the
5 SVRAs, maybe some sort of discussion as to the
6 difficulties in locating properties for the new SVRAs
7 and also referencing back to the couple that they've
8 tried to acquire and what happened with those. I think
9 that's an actual report card as to what's happened.
10 Those are the comments in specific.

11 And then in general, where Commissioner von
12 Velsor was mentioning about adding a lot of line items,
13 I think as a general reader they won't want to see that
14 much information but maybe the number of projects, 38
15 projects were completed improving restoration habitat,
16 et cetera. I think that would sum it up a little bit.
17 But the data would be there, not specifics. Someone
18 wants more information, they can come to Division and
19 request it. I think that same concept could be
20 followed through in other sections of this report so it
21 doesn't get too lengthy and just end up being a space
22 on the shelf. Thank you.

23 KEATON NORQUIST: Keaton Norquist, I'm with the
24 Forest Service. I just had a brief comment. We've
25 worked close with Connie in the past couple of months

1 with this, and we've been definitely happy to help to
2 supply information. Kathy wanted me to mention that we
3 were hoping to be able to see a copy of this before it
4 was released to the public. And, Connie -- I know
5 she's been under tremendous time pressure -- we weren't
6 able to see it, don't hold us to anything in there yet.
7 We'll have a chance to look at it and work with her on
8 that in the coming weeks.

9 Also, Commissioner van Velsor, your suggestion
10 about condition surveys, the Forest Service and BLM do
11 keep those and more than happy to share those. The one
12 thing I would suggest, give us some leeway time. I
13 know when we do data calls to all of the forests, it
14 generally takes at least a month for them to get us
15 back the data. Takes a long time. That's my one
16 suggestion. Thank you.

17 TOM TAMMONE: Tom Tammone. Yes, if Ed Waldheim
18 was here today, I would know he would say where is the
19 spreadsheet. We got a nice pie chart spreadsheet of
20 where the money comes from. I'd like to see a little
21 more of a breakdown of where the money goes.

22 Especially on the acquisition projects, I notice
23 on the grants, and I guess this is becoming a dead
24 issue, we had one acquisition project applied for this
25 year. Is there any way the Commission could put

1 together a committee to discuss what are we going to do
2 about these acquisitions? There is no future if we
3 have no acquisitions, plain and simple.

4 Other than that, talking to some of the
5 applicants like in San Bernardino's grant, I put in a
6 request that they add about \$200,000 to train ten of
7 our volunteers to do sound monitoring, get certified
8 through Chris Grail at DPS. They responded that due to
9 Division comments, they want us to cut back, we were
10 spending too much on paid staff. I said this isn't for
11 paid staff. This is for volunteers to do their job in
12 the field. There is a difference.

13 I kind of get this feeling through the process
14 the Division is getting a little abusive with these
15 comments to the applicants because talking to the
16 applicants I think they're getting led around by the
17 nose by these comments from Division, who's essentially
18 doing the scoring. So my suggestion to the board would
19 be the Commission put the comments on the grants. That
20 was meant for the applicant, and they're supposed to go
21 to Division. But I'm kind of wondering where all these
22 comments are coming into Division because they're
23 making a lot of factual statements like this isn't
24 covered, this isn't an OHV opportunity, and where they
25 should be even making comments more along the line of,

1 the applicant should explain why they need an electric
2 wheelchair or why you need a motorcycle for a
3 restoration project. I can understand these kinds of
4 questions. But when they're saying this, this, this
5 and that is not a covered expense without asking for
6 some sort of justification is not right. Thanks.

7 CHAIR WILLARD: That's it on the public comment.
8 So let's discuss where we're at. Does anyone have any
9 comments, Commissioners?

10 COMMISSIONER LUEDER: I'd like to see a pie
11 chart for all of the loans that have been taken out
12 from the Trust funds over the years, the amounts and
13 what fiscal year it occurred. That always comes up out
14 in the OHV community, and I think it's important for
15 the Legislators to know we've contributed all of this
16 money to the General Fund, when is it coming back kind
17 of thing.

18 CHAIR WILLARD: Where would we put that, in the
19 program overview in the beginning?

20 COMMISSIONER LUEDER: Yes.

21 CHAIR WILLARD: I've got, I think, more of a
22 question to staff. While I appreciate Commissioner van
23 Velsor's well-intentioned comments on having a data
24 rich report, I want to make sure that we're not
25 overburdening staff and that this is something that we

1 can accomplish and I guess more importantly is it
2 really needed.

3 And I think I would rely on Division's opinion
4 as to what the end user needs or was looking for, or is
5 there some way to have somewhat of a happy medium where
6 we are not trying to seek out every data point on every
7 trail in every inch of the SVRAs and also on the
8 partners' lands because to me that just seems an
9 unrealistically huge undertaking.

10 CHIEF JENKINS: It's kind of back to where we
11 were discussing, for instance, if we were looking at
12 reporting on the condition of all of the areas where we
13 did restoration projects, by definition we restored
14 those areas. Where we actually got the grant or the
15 SVRA, the Division restored those areas. So going
16 through with the detailed listing of all of those
17 restoration projects and the result of the restoration,
18 that's almost kind of just a circular reasoning. Well,
19 did you restore it? If the grant was successful and
20 they actually were distributed the funds, did they
21 accomplish the goals of the grant so that that area was
22 restored. Similarly the question on the trails that we
23 maintain, specifically on the questions status and
24 condition of the trails and areas that we fund. So the
25 assumption would be that we're funding them for trail

1 maintenance, and so by definition they've been
2 maintained.

3 It's a little difficult to go back and say we
4 had a trail that we funded five years ago, and we
5 haven't funded it since then, so what's the condition
6 of it now because the people that come to us for
7 grants, will come to us for an area that has some issue
8 that needs to be addressed. And then we will fund a
9 project there, be it a conservation or restoration type
10 project, and address those problems. And with the
11 scarcity of funds, they generally will address another
12 area, so we fund another area.

13 So when we say all of the areas that we funded,
14 again, are we talking about what's the condition today
15 of a project that we funded many years ago, I don't
16 know. That's not in any of our data that they're
17 reporting on because they report at the end of the
18 project, and then a lot of times we don't hear about
19 that area again.

20 So unless we were to ask the Forest Service to
21 give us essentially this global, what's going on with
22 your entire system, because we've touched many, many
23 parts of the system over the years, and trying to sort
24 out exactly where and what parts of all of the forests,
25 the BLM areas we touched and worked on, and that's

1 before you get to the county land, the areas that the
2 sheriff patrol, all those other areas, you begin to see
3 the complexity of that discussion.

4 So to one of the speaker's comments here, if we
5 looked at here are some of the areas that we've been
6 able to do, this many acres have been restored with
7 restoration funds or this many miles of roads have been
8 obliterated with restoration projects, this many miles
9 of trails have been maintained, might be another way
10 you could approach that, what are the accomplishments
11 of that program. Because the failure of one of those
12 projects would be the exception rather than the norm.
13 Just in my mind, the reason I'm kind of stammering
14 here, is just trying to imagine how we would collect
15 that data into something that would be meaningful
16 enough that when look at it, the data mine, the data
17 doesn't just always produce the same result that, yes,
18 we spent money to fix it and we fixed it. How many
19 times do you prove that with data is a little bit of a
20 circular reasoning exercise.

21 CHAIR WILLARD: And I guess more importantly,
22 being users again, that question, is this the type of
23 information that the end user wants because it's not
24 specified in the legislation, yes, you need to provide
25 data to back up your conclusions. But is that the type

1 of information that you think is a requirement and you
2 haven't included them in this first draft. So I want
3 to address Commissioner van Velsor's concern, but at
4 the same time I don't want to create a document that's
5 overkill for the task at hand and then create a huge
6 burden, or we set ourselves up to try to do something
7 that we just can't accomplish. Does that make sense?

8 COMMISSIONER VAN VELSOR: It does. Let me
9 respond to it. Chief Jenkins, I interpret this a
10 little broader than you do. The statement is the
11 condition of natural and cultural resources of areas
12 and trails receiving State Highway funding. So we're
13 not just talking about the trail itself or the
14 maintenance project, we're talking about the natural
15 and cultural resources associated with that. Now, I'm
16 not sure what that means from the standpoint of
17 "associated", but we have an ecosystem that these
18 trails move through. And my interpretation is we're
19 talking about the natural and cultural resources
20 associated with the systems that the trails are
21 interacting with.

22 My sense is, based on the objectives that we
23 have outlined in this strategic plan, is the need to
24 maintain a sustainable system for off-road vehicle
25 recreation that also maintains the sustainability of

1 the natural resources that support that system. And I
2 think what the Legislature and the Governor is looking
3 for is are we accomplishing that. And I think that we
4 need to provide some data that demonstrates that we are
5 accomplishing that. And I think doing that, we do that
6 with some condition assessment or ratings, and it may
7 not necessarily have to be everything, but I think
8 there needs to be a significant attempt to demonstrate
9 how we're meeting those objectives of providing for the
10 sustainability of the natural and cultural resources
11 associated with our off-road vehicle recreation.

12 And we haven't done that here. We've just
13 described what we have, and I think we need to say what
14 we think the condition is, of some percentage possibly,
15 of these areas without going into a massive amount of
16 data gathering which we couldn't do in the timeframe at
17 this point, but we could look at how we would do that
18 over the next timeframe. If we wanted to gather more
19 information, we could set up a procedure to get that
20 condition data.

21 And the SVRAs, we certainly have more
22 information on the SVRAs because we manage them, and so
23 we should have a better sense of what the condition of
24 the SVRAs are. And I would think that would be the
25 place to start, and then we can pick up some of the BLM

1 and Forest Service data just as a percentage of the
2 trails and roads that we're funding, something like
3 that, as opposed to everything.

4 CHIEF JENKINS: You're very correct that we have
5 much more complete data on the SVRAs, of course,
6 because we are managing every aspect of the SVRAs.

7 Just going back to what they had in mind when
8 they wrote this, if I understand correctly, we used to
9 do a lot more trail maintenance grants or the types of
10 grants that would cover large areas of forest or BLM
11 areas. When we would did these, we were funding their
12 program to a large degree, where now we tend to have
13 people coming in for very specific grants. So instead
14 of maintaining the trails and a certain sector of a
15 forest, they'll come in for a bridge. They need to
16 bridge the creek, we're in a water spot. Or they need
17 to fix a section of trail that's been blown out, we
18 need to either fix it or close that trail and restore
19 it.

20 And so as a result, the documentation that we
21 used to get, if we have a project area where they're
22 maintaining the trail systems, they're doing trail maps
23 generally, maintaining the trail system, we would get
24 reports and they would report back to us, and the CEQA
25 and everything else would cover that entire area where

1 the trail system is in. Now, the project footprints
2 are much more narrowly defined.

3 And so perhaps a way to approach this, too, is
4 to look at why is that, why is that that people tend to
5 come in now for very tightly defined projects and not
6 so much for the systematic projects. I don't know the
7 answer to that, but that's in fact what we're seeing.
8 That's why we don't have that comprehensive data that
9 might have been expected back in the day that this was
10 written when we were doing very large landscapes,
11 projects, and then getting reports on the health of
12 that entire system.

13 COMMISSIONER VAN VELSOR: In the Forest Service
14 I know, and I suspect the BLM does as well, has to
15 monitor the implementation of projects through their
16 best management practices, they so implement and then
17 they monitor to determine the success of those projects
18 so they would have that data.

19 DEPT. DIRECTOR GREENE: I think what troubles me
20 or worries me is broadening the Division's
21 responsibility beyond the scope of the project area.
22 So I have some real concerns about expanding from a
23 project area to an entire forest. We can review our
24 documentation and if we don't have the information we
25 could then ask BLM and the Forest Service for their

1 help. But I'm not here to judge the Forest Service on
2 their BMPs. I think we might meet with some
3 resistance. I'm not sure, is that what you were
4 suggesting?

5 COMMISSIONER VAN VELSOR: No, I was suggesting
6 that they have the information to evaluate the success
7 of the project through their BMPs. Using the BMPs --

8 DEPT. DIRECTOR GREENE: I really do need to
9 understand this. So we have project A that occurred
10 three years ago, and therefore are you looking in this
11 document that we would say on forest X district here
12 they got trail maintenance money for this particular
13 project. Now three years later we're looking back to
14 see if they were successful. Are you suggesting that
15 we should still be collecting monitoring data for the
16 entire three years on one-year money.

17 That's where I'm getting a little confused. And
18 I think we all are trying to wrap our head around the
19 extent to which we're going back to look at this
20 particular project. We audited it. They have to
21 provide the deliverables. They had to do their soils.
22 They had to do their monitoring. They had to do the
23 things required in an audit. Above and beyond that, I
24 don't know what our jurisdiction is. That's why I'm
25 struggling a little bit.

1 COMMISSIONER VAN VELSOR: I don't either, but my
2 way of thinking is that we give them a grant to put in
3 a bridge, and at the end of the three-year period,
4 they're still providing -- they're still gathering data
5 to determine how the bridge is working, and they would
6 submit that information to us as part of our request to
7 determine how the money has been spent successfully or
8 not, from the standpoint of that particular project.

9 My understanding is that the information that
10 we're gathering over this three-year period is for the
11 impact of the monies we have given the Forest Service
12 and the BLM. It's not just for one year. It's for
13 three years, and so what happens to those projects over
14 that three-year period.

15 DEPT. DIRECTOR GREENE: But now you're expanding
16 the project, are you not? The project was for one-year
17 money of trail maintenance money, or one year of law
18 enforcement money. So what would that look like then?

19 COMMISSIONER VAN VELSOR: Well, there are
20 certain projects where it wouldn't apply. Law
21 enforcement wouldn't apply. But certainly putting in a
22 bridge would. And how is that bridge functioning now
23 after it was installed three years ago from the
24 standpoint of water quality.

25 DEPT. DIRECTOR GREENE: The law enforcement

1 maybe. I apologize for this dialogue, Chairman. On
2 the law enforcement, if under restoration law
3 enforcement got dollars to monitor that project --

4 COMMISSIONER VAN VELSOR: That's true, it would
5 apply.

6 DEPT. DIRECTOR GREENE: So therefore you're
7 saying that would be three-year money that you would be
8 able to perhaps capture some of that.

9 COMMISSIONER VAN VELSOR: True. It basically is
10 demonstrating the success of the monies that we have
11 spent from the standpoint of accomplishing our goals,
12 or our set of goals.

13 DEPT. DIRECTOR GREENE: Trying to figure this
14 out. Is that in a table? So we just need to mull that
15 over and try to figure out how best to capture that
16 data and demonstrate that.

17 COMMISSIONER VAN VELSOR: Obviously, we can't do
18 it all, but we can do some subset to demonstrate that
19 we're gathering that information and making it
20 available to show how we're working to achieve our
21 goals, how our monies are being used to achieve our
22 goals.

23 DEPT. DIRECTOR GREENE: I think the challenge is
24 expanding the scope from the project area to the entire
25 forest.

1 COMMISSIONER VAN VELSOR: I'm not thinking about
2 the entire forest, just the project areas.

3 CHAIR WILLARD: So is Division staff comfortable
4 with trying to implement Commissioner van Velsor's
5 suggestion? I want to make sure that we're not
6 overreaching and that we're not overtaxing our
7 resources. We've got to get this done. And the way I
8 initially heard Commissioner van Velsor's suggestion,
9 it seemed to me to be a huge expansion of the scope of
10 the report. Maybe I'm misreading what your desires are
11 and maybe I'm underestimating Division staff, I don't
12 know, so help me here. I just want to make sure we get
13 this done. That's all I'm interested in.

14 OHV STAFF LATHAM: My approach, and correct me
15 Chief and Deputy Director if I'm wrong, we will
16 definitely go back with the comments that are being
17 written for me right now, the suggestions and so forth,
18 get together as a group, discuss these amongst
19 ourselves, and see what is the best approach in the
20 timeframe that we have to get the information that all
21 of the commissioners here have asked for.

22 CHAIR WILLARD: So we can have sort of a
23 best-efforts approach to meet Commissioner van Velsor's
24 suggestion and all of the other comments that we've
25 heard. It would be a best efforts, and then we're

1 going to move forward with them because we definitely
2 have to have another draft at the next meeting, kick
3 that around and move it on from there because this has
4 to be done by the end of the year.

5 DEPT. DIRECTOR GREENE: It has to be done sooner
6 than that. The key on this one, quite frankly, Keaton,
7 I'll put you on the hot seat, and Mike a little bit,
8 which is Keaton just let us know it will be a month
9 request. So we're going to need to go back and then
10 figure out what exactly it is that we're looking for,
11 and then that request will be a month. We're due to
12 come back to you, so we are at mid July. So I just
13 want to keep an eye on the time frame and encourage the
14 cooperation of Forest Service and BLM, please, in
15 helping us gather some of the data that we may need to
16 capture.

17 CHAIR WILLARD: As long as we are clear that
18 Commission's direction to you is to do the best job we
19 can, but we've got to get it done. We're all on the
20 same page there? Any thoughts on that?

21 CHIEF JENKINS: Just one clarification from the
22 public comments. Mr. Brazil had asked about the
23 apparent disparity between the OHV Trust Fund's income
24 history and then the projected income, and the key
25 there is history versus projected. So if you look at

1 the Governor's budget that came out this year, they
2 always include three years in the budget. The third
3 year back is the only one that's real numbers. The
4 other two are projections. So what that is
5 demonstrating is that for fiscal year '08/'09, that's
6 the first year in the current Governor's budget that we
7 have actual numbers. And actual numbers for that year
8 are \$121 million that shows in the graph. The other
9 chart is a projected income for '10/'11, and that
10 projected income is much lower. They haven't really
11 adjusted based on, well, it looks like we're receiving
12 more money than they had projected and so the
13 projections haven't been changed yet. So that's that
14 disparity. One is an actual history. Those numbers
15 come out of the Governor's budgets, that's where we get
16 those disparities.

17 CHAIR WILLARD: Okay. Any other comments from
18 Division staff?

19 OHV STAFF LATHAM: Thank you very much for the
20 comments and for the input from the public.

21 CHAIR WILLARD: All right. Well, good, I think
22 we made it. Commissioners, if no one has any other
23 final comments, I'm going to call for a motion to
24 adjourn.

25 COMMISSIONER FRANKLIN: I do have a comment.

1 I would just respectfully request that we have
2 some consideration for possibly changing the dates for
3 the next meeting it. I'm amenable to either one, but
4 as stated, what, two or three meetings ago when we set
5 the schedule, that particular date was one I would not
6 be able to make. And with the limited fact that we're
7 down one commissioner, if we could make that work, it
8 would be great.

9 CHAIR WILLARD: Deputy Director, do you want to
10 handle that, do you want to try to handle that
11 off-line?

12 DEPT. DIRECTOR GREENE: I think we will need to
13 handle it off-line, only in the sense that I don't have
14 the calendars with me right now for July. Off-line, if
15 we could please.

16 CHAIR WILLARD: Commissioner Franklin, duly
17 noted.

18 COMMISSIONER SLAVIK: If we're talking about
19 that, I can't go earlier. I can go later.

20 DEPT. DIRECTOR GREENE: We'll coordinate with
21 all of you.

22 COMMISSIONER LUEDER: Motion to adjourn.

23 COMMISSIONER FRANKLIN: Second.

24 CHAIR WILLARD: All those in favor?

25 (Commissioners simultaneously voted.)

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(Meeting adjourned at 5:05 p.m.)