

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

4 JULY 16, 2009

5 Holiday Inn, Capitol Plaza
6 The El Dorado Room
7 300 J Street
8 Sacramento, California

9 IN ATTENDANCE:

10 **OHMVR COMMISSIONERS:**

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

18 **CALIFORNIA STATE PARKS OHMVR STAFF:**

19 Ruth Coleman, Director, California State Parks
20 Manuel Lopez, Deputy Director, Administrative Services
21 Daphne Greene, Deputy Director, OHMVR Division
22 Phil Jenkins, Chief, OHMVR Division
23 Tim La Franchi, Legal Counsel, OHMVR Division
24 Olivia Suber, OHMVR Division, Staff Services Manager III
25 Loren Rex, OHMVR Division, State Park Superintendent III
Dan Canfield, OHMVR Division, Grant Administrator
Kelly Long, OHMVR Division, Grant Administrator
Vicki Perez, OHMVR Division, Administrative Assistant I
Josephine Parra, OHMVR Division, Office Technician

AND REGISTERED VISITORS

AGENDA ITEM I. CALL TO ORDER

23 Chair Willard called the meeting to order at 9:33 a.m.
24 in the Holiday Inn, 300 J Street, Sacramento,
25 California.

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

2 Vice-Chair Silverberg led the meeting attendees in the
3 Pledge of Allegiance.

4 **AGENDA ITEM I(B). ROLL CALL**

5 Seven Commission Members were present.

6 CHAIR WILLARD: This is the Off-Highway Motor
7 Vehicle Recreation Commission meeting. I want to thank
8 everyone for attending. Well, as you've noticed, we
9 are back in Sacramento; certainly wasn't our plan. As
10 most of you are aware, the Commission had decided last
11 year to try to have our meetings throughout the state
12 to try to involve more people to see what the
13 Commission is doing and Division to take care of our
14 OHV program. Unfortunately, with the current state of
15 the State's finances, we really couldn't do that. As
16 I'm sure you're all aware, there's a lot of stress on
17 the state government which has not allowed us to really
18 have any travel or even to execute any contracts.

19 I also want to take a moment right now to ask
20 for the public's patience while we go through these
21 trying times, but I also want to point out the hardship
22 that this is really causing on the State employees. We
23 have some very dedicated people that work for the State
24 in our OHV program that really make this program what
25 it is and make it work. And, unfortunately, right now

1 they are really going through a very stressful time,
2 not only the current furloughs, but there's always this
3 threat of are they going to have a job, are they going
4 to have a pay cut, how many more furloughs, how long is
5 this going to go on. So I just want to acknowledge the
6 terrible times we understand that you're going through
7 and want to thank you for still putting in a great
8 effort. And, again, I want to ask the public to bear
9 with us. We'll get through this, I'm sure, but it's
10 going to be a rough patch here for probably the rest of
11 this year.

12 I'd like to ask for a motion to approve the
13 agenda. Before doing so, I'd like to note that we may
14 be having to move the items around. It may not go in
15 order. Director Coleman of Parks and Recreation is
16 going to come and give us an overview of the State
17 budget situation, so we want to have that business item
18 coincide with when she arrives.

19 So is there a motion to approve the agenda.

20 COMMISSIONER McMILLIN: So moved.

21 COMMISSIONER VAN VELSOR: I second.

22 CHAIR WILLARD: All those in favor, aye.

23 Opposed?

24 (Commissioners simultaneously voted.)

25 CHAIR WILLARD: Hearing none, the motion is

1 approved.

2 **AGENDA ITEM III. APPROVAL OF MINUTES, (May 9, 2009)**

3 CHAIR WILLARD: Approval of last meeting's
4 minutes, is there a motion to do so?

5 COMMISSIONER SLAVIK: I have some comments on --
6 I actually read the thing from front to back. There
7 were a couple of questions that seemed that were not
8 answered.

9 CHAIR WILLARD: Can we get a motion first? Then
10 we can discuss it.

11 COMMISSIONER McMILLIN: Motion for approval.

12 COMMISSIONER SLAVIK: Second it.

13 CHAIR WILLARD: Okay. Call for any discussion.
14 Commissioner Slavik.

15 COMMISSIONER SLAVIK: Mr. Waldheim read a letter
16 at the last Commission meeting, and in that letter, he
17 asked if there could be something done about hearing
18 the needs of the OHV public a little bit more clearly.
19 His actual statement was: Perhaps this is the time
20 that you, as the chair, dedicate an entire meeting to
21 listen to the issues of the multiple use public on
22 these issues.

23 I wonder if we can have some discussion about is
24 there some way we can get more input from the public on
25 a wider variety of issues? Maybe that's pretty

1 unwieldy. It might be more than we can deal with here
2 in a day-long meeting. Is there some format we could
3 possibly think about and make this happen?

4 CHAIR WILLARD: Well, I guess I can comment on
5 that. I actually had heard Ed loud and clear and had
6 thought about having that as a separate item for
7 discussion today. But with all of the other pressing
8 things that we have in front of us, I felt that that
9 was something that we'd have to postpone. So perhaps
10 at the next meeting it might be appropriate to do that.
11 If there's some interest in having some sort of a study
12 session, a work group -- I'm not sure if that's
13 possible -- I'm all for that. Any time we can have
14 more input from the public on how we, as a Commission,
15 can enhance the program, do a better job, I'm all for
16 it.

17 DEPT. DIRECTOR GREENE: Good morning,
18 Commissioners. Commissioner Willard, we certainly
19 could put together a workshop, a day-long workshop or
20 even a half day, whatever the Commission would like.
21 That would allow for a more free-flowing overall
22 discussion on a variety of topics. As long as we
23 noticed it as a workshop, that would get to
24 Commissioner Slavik's concerns.

25 COMMISSIONER SLAVIK: Thank you.

1 COMMISSIONER McMILLIN: So I have a question.
2 Does it have to be on as an agenda item for us to ask
3 you to set that up between now and the next meeting?

4 DEPT. DIRECTOR GREENE: That's correct.

5 COMMISSIONER McMILLIN: So if we don't adjust
6 the agenda to reflect that, then this will be set up
7 after the next meeting?

8 COUNSEL LA FRANCHI: No, basically what you can
9 request is an agenda item be added for the next
10 meeting.

11 Also, I would note there are two other items on
12 your agenda today. One is public input with regard to
13 the prior grants program. You can start that today,
14 and you can continue that over for subsequent meetings,
15 so that would be another proceeding. So you do have
16 something on the agenda that addresses that topic in a
17 way.

18 There is another agenda item about discussion
19 about how the Commission would like to set up its
20 procedure for future meetings and items on the agenda.
21 When you get to that item, that might be a place where
22 this could be discussed with how the Commission would
23 like to set up its procedure. So there are a number of
24 opportunities for discussing what you're trying to do.

25 CHAIR WILLARD: Thank you. Commissioners, any

1 other discussion on the minutes? Call for the vote.
2 All those in favor, aye? Any opposed?

3 (Commissioners simultaneously voted.)

4 CHAIR WILLARD: Hearing none, the minutes are
5 approved.

6 **AGENDA ITEM IV (A) . COMMISSIONERS' REPORTS**

7 CHAIR WILLARD: Moving on to reports,
8 Commissioner reports. Commissioner Franklin, can you
9 give us just a quick update on the lead issue?

10 COMMISSIONER FRANKLIN: CPSIA, as we discussed
11 in our last meeting, we've been granted a temporary
12 stay for two years. There has been very little
13 movement in long-term solutions for that stay. It's
14 still in effect. We have been told that the CPSC new
15 Chairman, Chairman Tannenbaum, has indicated that she
16 will issue final clarification on the subject, and the
17 term was shortly. So it could be a month; it could be
18 two weeks; it could be six months. Unfortunately,
19 that's all we know.

20 CHAIR WILLARD: Thank you. Commissioner Slavik,
21 you had a brief report on Johnson Valley?

22 COMMISSIONER SLAVIK: Yes, and I'd like to
23 comment on the lead issue also. I think one of the
24 concerns is how do we keep the pressure up on the CPSC
25 and the Legislature to turn this thing around. Do we

1 have any kind of plan that can continually keep the
2 public aware of what's going on?

3 COMMISSIONER FRANKLIN: Is that directed towards
4 me?

5 COMMISSIONER SLAVIK: No, it's more of a general
6 question and probably to staff.

7 DEPT. DIRECTOR GREENE: From the administration
8 point of view, we can't take a position. We share the
9 concerns for how this action impacts children's safety
10 and the training programs we operate.

11 I think what might be a good thing is to
12 continue to try and get the word out to the community.
13 And if the Commission chose to one more time write a
14 follow-up letter to the members, that would certainly
15 be something that could occur, as well.

16 COMMISSIONER SLAVIK: We can't have anything on
17 the website?

18 DEPT. DIRECTOR GREENE: No, that is problematic
19 because in this particular case then you're viewed as
20 lobbying one way or another, and that's not appropriate
21 for us to do.

22 CHAIR WILLARD: Okay.

23 COMMISSIONER SLAVIK: Johnson Valley, I attended
24 a meeting about a month ago. It was held by Friends of
25 Johnson Valley in regards to the Marine expansion. And

1 I just have to say I was pretty disappointed personally
2 at the meeting from the standpoint of collaboration
3 between the groups involved. And I think we need to
4 figure out a way to do something about that, if it
5 takes bringing people together in Southern California
6 and having some kind of a facilitation that gets people
7 to talk together and move toward the same unified goal.
8 It seemed that people were very fractured at this
9 meeting, which means we're going to lose a lot more
10 land probably than we would have if we were together.

11 COMMISSIONER VAN VELSOR: Commissioner Slavik,
12 were the Marines attending?

13 COMMISSIONER SLAVIK: There was one PR person
14 there from the Marines that did make a presentation,
15 yes.

16 COMMISSIONER VAN VELSOR: And did you get a
17 sense of where they are as far as moving forward with
18 this process?

19 COMMISSIONER SLAVIK: I got a sense that they
20 were listening to the public, and they are moving
21 forward, and there's a lot more going on behind the
22 scenes than is apparent, specifically with Senator
23 Feinstein's office in this Wilderness and Mother Road
24 Monument status that may impact the whole situation.
25 So there's a lot going on, a lot more than just the

1 expansion of the Marine base, per se, just from the
2 acreage.

3 CHAIR WILLARD: Okay. So the next report would
4 be on the alternative energy SVRA concept that I
5 presented at the last meeting. And Commissioner Lueder
6 and I are the subcommittee, and we've begun to have
7 conversations with some of the manufacturers. Indeed,
8 there is very strong interest. So we're probably going
9 to take it to the next level and try to solicit a
10 little bit more definitive input from them on what they
11 see and to determine if there is a market for this, and
12 just try to come to a better understanding if this
13 makes sense or not. So hopefully we'll have enough
14 information to perhaps even have it as an agenda item
15 at the next meeting.

16 Any other subcommittee Commission reports that I
17 might have missed?

18 COMMISSIONER McMILLIN: I just want to make note
19 that Jennifer Buckingham and Rick LeFlore made a trip
20 to Southern California as part of the Land Acquisition
21 Subcommittee that I'm on, and they actually visited a
22 couple of sites. I visited one of them with them, out
23 at Pala Indian Reservation, something being done
24 totally on the private side. Something I think we need
25 to look at as a model. It's a great project. So I

1 just want to note they made that trip, and I appreciate
2 that very much.

3 DEPT. DIRECTOR GREENE: Thank you, Commissioner
4 McMillin.

5 CHAIR WILLARD: Deputy Director Greene, could
6 you please give us Division's report?

7 **AGENDA ITEM IV(B). DEPUTY DIRECTOR'S REPORT**

8 DEPT. DIRECTOR GREENE: Thank you.
9 Commissioners, members of the public, welcome today.
10 It's nice to have everybody. And as Chairman Willard
11 said, my apologies for having to move the meeting from
12 Southern California. The San Bernardino National
13 Forest has a great program, and we were all looking
14 forward to being there, to hearing what they do.
15 Commissioner Slavik has a great history on that forest
16 as well. Our hope is that we will be able to go back
17 down there and get on the ground sometime soon if we
18 can move forward and try and get some clarity with the
19 budget and those looming issues.

20 I really do appreciate Commissioner Willard's
21 comments. As we know, the State of California is
22 facing a severe budget crisis and it impacts all state
23 government. Thank you on acknowledging the impacts
24 that it does have on staff. I appreciate that.

25 On a more celebratory note, I would like to

1 congratulate Commissioners Slavik, Steinberg, and
2 Franklin who, on June 15th, by a vote of 36 to nothing,
3 were confirmed by members of the Senate as members of
4 the OHV Commission. That was something new that was
5 put in with SB 742. Commissioners appointed by the
6 Governor would, in fact, need to have Senate
7 confirmation.

8 May 28 through 30th, we saw the 41st Annual
9 Hangtown Motocross Classic out at Prairie City SVRA.
10 This was the second event of the outdoor motocross
11 series. Great crowds, great weather, it was actually
12 televised live this year from Prairie City on Speed
13 Channel, so it was nice to have that national
14 recognition of this event. And everybody was in great
15 spirits. And I'd like to thank Bob Williamson and his
16 staff at Prairie City for an excellent job.

17 I also just wanted to acknowledge the 2011
18 Report, and it is part of the PRC 5090.24(h). This
19 report is due in January 2011. I simply wanted to let
20 you know that we have started working on this report.
21 Some would say, 2011, you have plenty of time. But as
22 we all know, these processes take some time. This is a
23 report that will be due to the Governor's Office, as
24 well as the Assembly Committee on Water, Parks and
25 Wildlife and the Senate Committee on National Resources

1 and Water.

2 It's a report that will provide an overview of
3 the status of the OHV program. I won't go into a lot
4 of detail on it today, because this is something that
5 we will be working on with Chairman Willard. Suffice
6 it to say, we're looking at preparing a draft for your
7 review in April of 2010. Part of the requirement of
8 the statute is this report will be reviewed at two
9 Commission meetings. So we anticipate April of 2010
10 and July of 2010, which will give us time to get the
11 document to the Resource Agency and the Governor's
12 Office for approval, and then be able to submit it to
13 the Legislature on time in January 2011.

14 Some of the items that we plan to highlight are
15 the results of the strategic planning process, the
16 condition of the natural and cultural resources, the
17 status and accomplishment of funds appropriated for
18 restoration, the summary of the resource monitoring
19 data compiled, and other program-related environmental
20 issues that have arisen. So it will be a comprehensive
21 document.

22 I would like to acknowledge -- if I could have
23 Connie Latham raise your hand in the audience -- Connie
24 is the lead on this project. We had a meeting with BLM
25 and the Forest Service, and with our SVRA staff, as

1 well. So we'll provide you updates as we go along to
2 make sure that we're presenting something and working
3 with you in conjunction to get what reflects the
4 Commission's document.

5 CHAIR WILLARD: Great, thank you. Yes, I'm
6 looking forward to working with you on that. It is an
7 important document that we're required by statute to
8 do, I think it's every three years, the first one being
9 due, as you said, January 1st, 2011, which is on its
10 way. So I'm really glad to hear that you guys have got
11 your sleeves rolled up and are working on it. Because
12 if you look at the requirements of that report, it's
13 quite a bit of work, so I'm looking forward to the
14 report coming before the Commission.

15 DEPT. DIRECTOR GREENE: Thank you.

16 Finally, before I turn it over to the Chief and
17 the grants team, there is also something that was
18 required as a result of SB 742, and that's found in the
19 Vehicle Code 38165(b). And that was a study that was
20 required of the Department of Motor Vehicles on issues
21 related to green and red stickers. The DMV was looking
22 at the possibility of how you would increase the size
23 of a green sticker; could you actually look at creating
24 a license plate instead.

25 The statute requires the DMV to examine the

1 benefits and challenges of multiple identification
2 stickers for each vehicle, large print identifying
3 numbers or letters, various identifying devices such as
4 license plates and stickers, requiring license plate or
5 other device alternatives for off-highway vehicles, and
6 a unique number for non-resident permits.

7 This study was required to be completed by
8 July 1st of this year. DMV did submit the study
9 through the Administration, and we hope at the next
10 meeting, DMV will join us and be able to provide an
11 overview of that document, and the results of that
12 study. Tom Bernardo -- Tom, if you could raise your
13 hand -- thank you for your work on this project. If
14 you have any follow-up questions, we'll try and answer
15 them. But really this is going to be a report that
16 will be provided by DMV at the September meeting.

17 COMMISSIONER McMILLIN: Back to that. What
18 kicked that up for the DMV requirement to do that?

19 DEPT. DIRECTOR GREENE: This was a concern that
20 was raised by various communities in the negotiations
21 around SB 742.

22 COMMISSIONER McMILLIN: So in SB 742, it was a
23 requirement?

24 DEPT. DIRECTOR GREENE: That is correct; found
25 under that specific statute in the Vehicle Code.

1 If I may, we have the grants program update on
2 the agenda item under the reports. Also, under
3 Business Items, we will be addressing the grants
4 program today, as part of the requirement in the
5 statute. If we could move that and just have that
6 report in the very beginning?

7 CHAIR WILLARD: Sure.

8 DEPT. DIRECTOR GREENE: On that note, I will
9 turn it over to the Chief of the Division, Phil
10 Jenkins, for a legislative update.

11 **AGENDA ITEM IV (B) (3) . LEGISLATIVE UPDATES**

12 CHIEF JENKINS: Good morning, Commissioners.

13 These are the same pieces of legislation that we
14 have been tracking and following all along. There is
15 nothing new added to our list.

16 Beginning with Assembly Bill 134 sponsored by
17 Blakeslee, as you may recall, this is the piece that
18 would require that parents or the responsible guardian
19 that brings a young person into a riding situation take
20 responsibility to ensure that the child can reach and
21 operate all controls. Currently if somebody couldn't
22 reach and operate all controls, the officers are faced
23 with having to issue a citation to potentially a
24 12-year old. So this change would make the guardian
25 responsible.

1 That bill is moving along. Of course, a lot of
2 legislation right now just isn't moving at all until
3 the budget situation is resolved, but this one is still
4 breathing, if you will.

5 Senate Bill 4 sponsored by Oropeza, that's the
6 one that deals with smoking in the State Parks system,
7 recently had some activity on it, as well. There had
8 been concerns raised by various entities that just a
9 flat smoking ban out on state beaches would be
10 difficult to enforce in some areas. They had
11 envisioned, I think when this was originally written,
12 your typical beach like Ventura where there are people
13 on the beach, and they didn't want people smoking
14 there. What they didn't take into account at the time
15 was a place like Oceano Dunes or some of the other
16 places in Northern California where you might have
17 camping at the beach. So what do you do in those
18 camping situations?

19 So there has been a number of amendments as this
20 bill has moved along. The most recent amendment that's
21 been offered is that in order for the bill to be in
22 effect in a State Park, the superintendent of that park
23 would have to issue a superintendent order and post
24 signs.

25 Senate Bill 435, this is the piece dealing with

1 the smog checks for motorcycles. That piece was last
2 in the Assembly Transportation Committee. There was a
3 hearing set for June 29th of '09. It was cancelled at
4 the request of the author, so unknown if that one will
5 come back to life or not.

6 And then, finally, Senate Bill 615, this is the
7 one sponsored by Ashburn and had to do with the local
8 authorities. So this is the one where a city of at
9 least 200 square miles could authorize green sticker
10 vehicles to be operated on a highway under certain
11 conditions, and they were pretty tightly-controlled
12 conditions. That piece was last set for hearing on
13 May 12, '09, but there has been no movement on it.

14 So once again, a lot of these bills are just
15 parked right now until we have a budget.

16 DEPT. DIRECTOR GREENE: Part of that was
17 Speaker Steinberg had instructed, most recently, that
18 no bills would be moving out of the Senate or even
19 being discussed until there was more focus in dealing
20 with the budget issues.

21 COMMISSIONER SLAVIK: I have a question for the
22 Chief. The 200-square mile minimum standard for
23 Assembly Bill 615, is there a reason for that? I know
24 we talked about the California City thing, and that's
25 Mr. Waldheim's personal backyard, but why are we

1 limiting it to 200-square miles when there are other
2 cities that could possibly take advantage of this bill
3 if it was enacted?

4 CHIEF JENKINS: That would be a question to ask
5 the author, I suppose. But I do know that by limiting
6 it to cities of that size, it did limit it to only two
7 or three cities in the state. If it all starts moving
8 forward again, certainly something that the public
9 could comment on to the author. But I don't know the
10 original thinking about that.

11 That's all for the legislative update.

12 Mr. Loren Rex, our Visitor Services manager will
13 now provide an update.

14 **AGENDA ITEM IV(B) (4) . PUBLIC SAFETY UPDATES**

15 OHMVR STAFF REX: Good morning, Commissioners,
16 Loren Rex, public safety report. In May, the public
17 safety team had the opportunity to review the local law
18 enforcement grants applications. As you know, this was
19 the first year that it was a noncompetitive process for
20 the law enforcement grants.

21 All of the law enforcement agencies weren't able
22 to get fully funded for their requests, so there was a
23 formula set in place by the amount that was available,
24 and they were funded at that level.

25 The public safety team has been conducting OHV

1 law enforcement classes for outside agencies throughout
2 the state. The last class was hosted by the Plumas
3 National Forest. There were 24 students in attendance
4 from all different agencies, California Highway Patrol,
5 Department of Fish and Game, local sheriff's
6 departments, Cal Fire, and DMV. We have had requests
7 for two additional classes by the CHP in that area.

8 The public safety team has been very busy during
9 these several months helping support some of the events
10 out in the SVRAs. As the Deputy Director mentioned,
11 the Hangtown event at Prairie City was very successful,
12 great collaboration between State Parks staff, as well
13 as the local sheriff's department and California
14 Highway Patrol made it a very family-friendly event,
15 and good times were had by all. As well as the
16 Hangtown event, the public safety team has been working
17 at Oceano Dunes for the Memorial Day weekend, as well
18 as the 4th of July weekend, which always brings very
19 large crowds to the beaches.

20 We have had a couple site visits with different
21 forests, one of them being the Lassen National Forest,
22 to look at the Share the Dream trail. There was a tour
23 hosted by the management of the Lassen National Forest,
24 and also in attendance was the Recreation Outdoor
25 Coalition. It was a great experience to have some

1 people come together to discuss getting the trail
2 designated for street legal and green sticker vehicles.

3 Our staff continues to attend the Rubicon
4 Oversight Committee meetings as well as having site
5 visits out on the Rubicon Trail.

6 As a part of the Division's ongoing effort to
7 provide more ATV safety classes to the public, we have
8 two ATV instructor classes scheduled. One of them will
9 be at Hollister Hills at the end of July, and we have
10 another class at Ocotillo Wells in the fall. We want
11 to get as many staff members through the class so we
12 can provide more safety courses for the public.

13 COMMISSIONER VAN VELSOR: I have a question.
14 I'm curious, as it relates to mixed use on federal
15 lands in relation to OHVs riding on previously street
16 legal roads, is it correct that that would require then
17 the person riding a non-street legal vehicle to be
18 16 years of age and a licensed driver?

19 CHIEF JENKINS: That does require a license. I
20 don't think it says 16 in there. It just says you have
21 to have a license. So I think in some situations, a
22 15-year old can have a license so they would be okay on
23 the same road. I can look at the actual text, but I
24 don't recall it saying 16. I think it says they have
25 to have a tail light. They have to have a licensed

1 driver, but it doesn't stipulate an age.

2 COMMISSIONER VAN VELSOR: Thank you.

3 CHAIR WILLARD: Commissioners, any comments or
4 questions of Division staff on their report?

5 COMMISSIONER SLAVIK: I was wondering what the
6 status is on the ATV Safety Committee?

7 DEPT. DIRECTOR GREENE: Currently, there's
8 nothing planned. If we have a request from another
9 entity to add additional curriculum to the ATV safety
10 training program, or until ASI wants to modify the
11 current curriculum program, there is no need for the
12 committee to meet.

13 COMMISSIONER SLAVIK: Thank you.

14 CHIEF JENKINS: And if I may correct my previous
15 statement to Commissioner Van Velsor, I fell into the
16 classic looking at mixed use and combined use as the
17 same thing, which my alert staff, Mr. Bernardo,
18 corrected me on. Mixed use is a Forest Service term
19 that they use for their roadways. Combined use is what
20 I was talking about, which is a term that's in the
21 Vehicle Code. When I looked at it, no, that's
22 combined. Section 38026 in the Vehicle Code describes
23 the requirements around combined use. Combined use is
24 if you have a highway section, and then the CHP can
25 designate it as combined use three miles or less

1 segments, et cetera. Mixed use is a different
2 situation. So the Forest Service has the option on
3 some of their roadways to designate them as mixed-use
4 roadways, which can be whatever length, et cetera. As
5 far as your question then about the age requirements or
6 not, I'm not an expert on the Forest Service
7 regulations, so you perhaps can ask Ms. Mick when she
8 gives her report.

9 COMMISSIONER VAN VELSOR: Thank you.

10 CHAIR WILLARD: We'll open it up to the public.
11 Any comments on either the Commissioners' reports or
12 Division's reports.

13 ED WALDHEIM: Commissioners, Ed Waldheim,
14 California City. I would like to just talk about
15 AB 615. Mr. Slavik, thank you for bringing up AB 615.
16 This is California City's bill. Council member Mike
17 Edmondson is the one who started it because we have
18 designated the trail from the desert to come into town
19 for food and services. It goes on roads. They're not
20 paved. They're kind of some gravel, some is just dirt.
21 But in order to make it totally legal, they felt that
22 they wanted to change this bill. I never thought in
23 this lifetime that they would even get as far as they
24 have gotten on this with Senator Ashburn.

25 But since they have gotten this far, one of the

1 problems that has arisen -- and everybody out of the
2 woodwork has come against it, AAA being one of them.
3 This was very specifically for California City, and
4 therefore that is the reason for the 54-square miles
5 that we have. We have 54,000 lots. We are the third
6 largest city in California. But the bill is portrayed
7 as demanding that the cities are going to open up to
8 OHV. That's not what the bill is about. The bill is
9 about giving local government the ability to designate
10 a trail for specific OHV, similar like they have in
11 Utah. They have the OHV trails next to the road. It's
12 very specific. Mr. Edmondson is very leery about
13 opening up to any counties; however, Bishop, yesterday
14 on Monday in my meeting with Bishop, they are
15 interested in developing something between Lone Pine
16 and Independence and Bishop to get tourism going. This
17 is tourism that we're talking about. This is also
18 about the ability for folks to get the services, again
19 tourism. The City of Ridgecrest is interested in
20 getting that from the college coming down from the
21 hills down to Wal-Mart. They've already started
22 negotiating with them. So it could have a possibility.

23 The thought is that perhaps what we should do is
24 have it where there are federal lands contingent to a
25 city, so for instance, San Francisco wouldn't come in,

1 it wouldn't be affecting them. So there is a thought
2 that maybe we can work on that.

3 I would love this Commission in concept to give
4 us the support that this is a good idea to develop
5 tourism, to give benefits to the cities who are close
6 to federal agency lands so they can take advantage of
7 that. We tried that many years ago with AB 1201. We
8 thought, hey, we won, we succeeded. We fought like
9 crazy. But we don't have one single route developed.
10 That was the three-mile route that you could go get
11 food and services. Why did it fail? Because all of a
12 sudden you had to have a license. You had to have a
13 light. You had to have a battery. We don't have that
14 on green sticker; we just don't have that. So it
15 failed. It failed miserably. Like a lot of things, we
16 thought we were doing good, but we didn't know the
17 consequences of what would happen.

18 So this AB 615 is hoping to give the local
19 entities the ability to designate a trail, if they so
20 wish. It's not a mandate. It's just authorizing them
21 to do so. That's all it is. I would love to have your
22 support on that for California City. Thank you.

23 CHAIR WILLARD: Thank you. Before we have the
24 next speaker, are the lights working? Now they are,
25 thank you. And then if you wish to make a comment,

1 there are these little slips in the back of the room
2 that need to be filled out. Non-agenda items, which
3 would come under the public comment period that we're
4 going to do around eleven o'clock, would be on the
5 blue. And then for any agenda item, please fill out a
6 green one, and then submit them over here to staff, and
7 we will get you heard.

8 JOHN STEWART: Good morning, Commissioners,
9 John Stewart representing California Association of
10 4-Wheel Drive Clubs. I'd like to make just a brief
11 comment on the issue that just came up about mixed use
12 and combined use. This is something that has a major
13 impact on recreation opportunities within the Forest
14 Service and BLM lands, whether it's county, whether a
15 bureaucratic administration regulation exists, it does
16 something, whether it's in Vehicle Code. This is
17 something that is of a major concern to the recreation
18 community, and I would like to see the Commission come
19 out and take a stance where this dual use of terms,
20 being the mixed use and combined use, somehow those
21 definitions get morphed down to something so that
22 everybody is talking about the same thing, and we can
23 actually make and come up with some trail systems that
24 make sense and not dead end. Where, you know, from a
25 Forest Service where mixed use is appropriate to a

1 state where it says combined use. We've got to have
2 something that makes sense for the public. I'd
3 encourage the Commission to come up and work towards a
4 point where we have a common definition to move
5 forward. Thank you.

6 TOM TAMMONE: Tom Tammone. Commissioner
7 McMillin, your question about where this thing came
8 from with the license plates and the green sticker
9 numbers, I wasn't at the table at any negotiations, but
10 I remember it was two, three years ago -- I'd have to
11 look at the archives -- one person that I've never seen
12 at a meeting before basically brought up the concern.
13 This person also spoke for a lot more than two minutes
14 and didn't represent any organizations. As we talked
15 about before, this has been a sore spot with a lot of
16 us, including me. This has been selectively enforced
17 over the years.

18 At the last meeting I complained about it. I
19 objected to it. The one person was allowed to speak
20 for four minutes because he said he represented a
21 website. This person didn't even say what website it
22 was. It wasn't even an organization. So this whole
23 idea that we're basically deciding which individual
24 gets more time than another individual, my belief is,
25 again, still open meeting act. An individual is just

1 that, an individual. They get equal time regardless of
2 their affiliations.

3 As far as Mr. Waldheim's letter, I read it on
4 the Internet. It wasn't been approved yet, but we need
5 to avoid the appearance that Division and Parks is in
6 bed with certain organizations. The best way to do
7 that is to drop different speaking times for different
8 people just because they represent certain
9 organizations. Allowing equal speaking time will
10 definitely remove that appearance as it came out in
11 print in the minutes. You know, again, I'm going to
12 say, I'm going to urge the Commission to get rid of
13 this policy and give everybody equal time to speak that
14 takes their time to drive out here. I'm going to put
15 about some 850 miles on my car today, so I want equal
16 time. Thank you.

17 FRED WILEY: Good morning, thank you for the
18 opportunity to speak here today. My name is
19 Fred Wiley. I'm the president and CEO of the Off-Road
20 Business Association. I'm going to comment just a
21 little bit on what Mr. Slavik was talking about with
22 respect to Johnson Valley.

23 During the month of December, ORBA and AMA
24 National hosted a facilitated meeting in Ontario that
25 brought together all of the groups of interest, and

1 hopefully I won't forget one, but I'll start with
2 CORVA, SDORC, AMA, ORBA, District 36 of AMA,
3 District 37 of AMA, Cal 4-Wheel Drive, Friends of
4 Johnson Valley, Partnership for Johnson Valley, and
5 this was a professionally facilitated meeting. By the
6 end of the day -- I'm sorry, I forgot the Division was
7 there, as well.

8 We were attempting to develop shared views to
9 comment to the Marine Corps on their acquisition. We
10 developed, I believe, 12 to 14 comments that each one
11 of the groups could utilize in their comments, so there
12 was a facilitated meeting that started this. Our
13 intention now is since Senator Feinstein is looking at
14 wilderness that may affect that acquisition, as soon as
15 that language is out, we will be going to the next step
16 of offering another facilitated meeting to bring these
17 groups together so that we may comment in a meaningful
18 way and have a positive effect on this. So thank you.

19 CHAIR WILLARD: Harry Baker.

20 HARRY BAKER: I am Harry Baker. I am
21 vice-president of the California Association of 4-Wheel
22 Drive Clubs, and Chairman of the Partnership for
23 Johnson Valley. And in the comments that Mr. Slavik
24 made, it was the Partnership of Johnson Valley that
25 hosted the meeting, not the Friends. The Friends is a

1 user group. The Partnership is a collaborative group
2 of stakeholders. We got the stakeholders that use
3 Johnson Valley together to find out what their concerns
4 were about the Marine expansion into Johnson Valley and
5 the OHV area. They support the Partnership and the
6 theme that the Marine should go east and not use
7 Johnson Valley. However, as Paul mentioned, there are
8 divisions within the OHV community who support a
9 resolution of saving up to 70 percent of Johnson
10 Valley, and already admitting that 30 percent or more
11 will be lost to the Marines. We, as Partnership of
12 Johnson Valley, do not support that. The meeting did
13 have three Marines that were there, not just one.
14 There was actually a Marine on duty and two staff
15 people, and also from the Division I think there was
16 three ladies there. I hope they were informative about
17 what was going on there. It is a very complex issue,
18 and as mentioned, there is a problem now with the
19 expansion of the Mother Road National Monument, the
20 Sandstone National Monument, and the proposal for
21 Johnson Valley becoming a national recreation area.
22 The Mother Road National Monument may have a name
23 change. I understand Senator Feinstein does not like
24 the name. It has been referred to the Mohave Desert
25 National Monument. It still will have an impact on

1 what the Marines do in their expansion because it will
2 curtail a lot of their efforts to study and expand
3 towards the east, and also they are still looking at
4 taking part of Johnson Valley, if not all of it. And I
5 understand also from Senate Feinstein's office that
6 that information will be out in about two to three
7 weeks before the August recess, so we'll have some
8 information about the expansion and the proposed
9 national monuments in a couple of weeks. Thank you.

10 CHAIR WILLARD: Bruce Brazil.

11 BRUCE BRAZIL: Thank you. Bruce Brazil,
12 California Enduro Riders Association. And under the
13 public safety updates, there is something that I'm kind
14 of surprised was missed, and that's the proposed
15 changes to the operating regulations at Oceano Dunes.
16 It's been posted on the Division website that they're
17 open for comments, and nothing was mentioned here. So
18 at this point, while I'm up here, I would like to make
19 a comment or two.

20 And that's, first, for those that are
21 unfamiliar, it has to do with putting whips and flags
22 on all vehicles that are out there, and I fully support
23 that. But the other part has to do with age
24 requirements of operators of the vehicles, and it looks
25 like part of that is going even more stringent than the

1 California Vehicle Code. And I think that's kind of a
2 tough thing to pull off, and I think I'll let it go
3 with that. Thank you.

4 DEPT. DIRECTOR GREENE: Commissioner Willard, if
5 I may, my apologies, Chief and I just looked at each
6 other. That was a case of: I thought you were, I
7 thought you were.

8 If I may, just for clarification purposes, and
9 then I'll turn it over to the Chief. As you know, at
10 Oceano Dunes two years ago, we had seven fatalities out
11 at the Dunes, keeping in mind that this is a park that
12 receives two million visitors a year; however, no
13 fatality is ever acceptable. For clarification
14 purposes however, two of those fatalities were the
15 result of people burying each other. And so tragic as
16 that is, it didn't have any relationship to OHV
17 recreation, but it is still a concern to us when
18 anybody gets injured at our parks.

19 We met with Assembly Member Blakeslee in our
20 continued efforts to ensure visitor safety at Oceano
21 Dunes. From the meetings came the proposed changes to
22 the California Code of Regulations.

23 CHIEF JENKINS: Thank you. And thank you,
24 Mr. Brazil, for catching us on that one.

25 What we're proposing to do is to modify an

1 existing section in the California Code of Regulations,
2 Title 14, it's Section 4609. This piece has been in
3 the regulations all along, but we're trying to have
4 more specificity, more ability to actually make this do
5 what is needed.

6 Some of the changes are fairly non-substantive.
7 For instance, when it was originally written, it was
8 still called Pismo Dunes. So we're changing and
9 correcting the name to Oceano Dunes. So there are a
10 number of other changes in this that are housekeeping
11 changes to keep up with things that have changed over
12 the years. It's an indication of how long this one has
13 been on the books, by the way.

14 The problem originally presented to us was
15 concerns about some of the more extreme reckless
16 driving that was occurring in the Dunes. One of the
17 problems that officers in the field have when you're
18 working in an off-highway environment, and particularly
19 in an area like the Dunes where there are no defined
20 trails, it's an open sand sheet and you drive along.
21 If you were to spot some activity that was clearly over
22 the line, what you would consider to be reckless
23 driving if you were on a roadway, it's harder to define
24 when you go to court when you can't tell the judge that
25 they were crossing the center line, they were going

1 over the shoulder, they were passing cars on curbs.
2 All of the things that you would traditionally do as a
3 peace officer to describe to a court why this was
4 reckless driving are very difficult out on an open sand
5 sheet.

6 The original request was, could we offer some
7 technical advice to make the regulation tighter or
8 could we broaden the interpretation of reckless driving
9 that could be used off-highway. That didn't seem to be
10 appropriate because reckless driving is a pretty
11 well-documented, well-used, appropriately-used term on
12 the roadways law. And it just doesn't cross over well
13 to the off-highway situation.

14 So we looked at this regulation that was already
15 on the books and decided we can take this Regulation
16 4609, and we can give it a little more body so that it
17 is able to be used by the peace officers, the rangers
18 out at Oceano Dunes to actually issue citations when
19 they see this inappropriate vehicle operation and
20 actually get a conviction in court for those ones that
21 are really causing safety issues.

22 So the changes that are being suggested in here
23 include requiring whip and flag on both street legal
24 and non-street legal vehicles. It would prohibit
25 operation of vehicles at a speed or any other manner

1 that is not safe or prudent having regard for weather,
2 visibility, traffic conditions, presence of
3 pedestrians, or the nature of the terrain in which the
4 vehicle is being operated. It goes on in that vein.
5 In other words, it lists a number of things that an
6 officer can go into a courthouse and articulate to a
7 judge, or jury if it's necessary, why in the officer's
8 opinion, in the ranger's opinion, the driving activity
9 that they witnessed was dangerous and should be dealt
10 with.

11 So it's giving us another tool. It's still
12 going to be a pretty high bar; however, as we were
13 getting input from various parties about how we drafted
14 this, one of the concerns was it would give too broad
15 of a tool to law enforcement, that they could just go
16 out and say, I just don't like the way that guy is
17 driving, issue a citation, and all of a sudden there
18 you have a problem. However, we're looking for public
19 comment. We're looking for input. It needs to be a
20 high bar that when you see the reckless activity, you
21 can clearly articulate it and then go in and deal with
22 it in court.

23 All of the information on the the CCR, the text
24 of the change, et cetera, is all on our web page.
25 Since this is a CCR, by the way, California Code of

1 Regulation change, it's going through the Office of
2 Administrative Law process, and so that's moving
3 forward. The public comment period is going on
4 currently, and the public comment closes August 17th,
5 2009. There will be a hearing at the conclusion of the
6 45-day public comment period.

7 CHAIR WILLARD: Chief, I have a question. Where
8 would this apply? If it's an amendment to the CCR,
9 would it apply everywhere?

10 CHIEF JENKINS: This one is specifically written
11 for Oceano Dunes, so this one would only apply at
12 Oceano Dunes.

13 COMMISSIONER McMILLIN: That sounds good to me.
14 What about the concern about the age
15 requirements being tougher than the California Vehicle
16 Code that Bruce mentioned? I'm all for the whips. I'm
17 all for very loose interpretation of reckless driving,
18 because the officers do need that. But is there age
19 restrictions in there?

20 CHIEF JENKINS: It's not a restriction, per se.
21 What we did say is that if you're driving in such a way
22 that you're endangering a person who is under 18.
23 Let's say that you put a 12-year old in a seat with you
24 in a sandrail, and now you're out there just going
25 inappropriately over huge jumps that are not safe,

1 maybe without a spotter, whatever the situation you can
2 articulate, but you were creating a dangerous situation
3 with that sandrail and placing that passenger who is
4 under the age of 18 at risk, it gives us the ability to
5 get the conviction on that a little more easily.

6 One of the issues that we have had frequently in
7 the Dunes is that when we see parents or guardians
8 putting children at risk, it's almost impossible to get
9 a conviction for child endangerment. For instance,
10 another example would be putting young people in the
11 back of a pickup truck and then jumping, or traveling
12 at extremely high speeds. That is clearly a problem.
13 They're not seat belted in. There is no highway code
14 section that applies out at the Dunes that would
15 preclude that. We can't write them for child
16 endangerment because those citations would never get
17 through the court system. But this would allow us to
18 say, you're now putting a child, a person under the age
19 of 18, at extreme risk by your behavior, in this case
20 allowing them in the back of your pickup when you're
21 driving at high speeds. That's inappropriate. Here is
22 your citation. So that's what we're trying to do
23 there. And if we haven't achieved that, then that's
24 why we're looking for public comment.

25 COMMISSIONER McMILLIN: So you don't believe

1 that in a single occupant situation, whether it be a
2 four-seat buggy with a single occupant, that that can
3 be viewed as the driver?

4 CHIEF JENKINS: If you're in a single occupant
5 situation, you can still the get a citation,
6 absolutely.

7 COMMISSIONER McMILLIN: Does it make it illegal
8 for that 17-year old to operate that vehicle?

9 CHIEF JENKINS: Not at all.

10 COUNSEL LA FRANCHI: No, it doesn't make the
11 17-year old, but it does make the parent who allowed
12 the child to be in that situation to be subjected to
13 citing, if that was an irresponsible decision.

14 CHIEF JENKINS: It's kind of an extension, if
15 you will, of the other bill AB 134, which would require
16 the youngster to reach and operate all controls. If
17 you put a young person in a vehicle where they can't
18 reach the brake and the gas pedal, that's
19 inappropriate. That's citable.

20 Let's say now that you place a nine-year old
21 behind the wheel of a sandrail with a huge engine in
22 it. They can reach and operate all of the controls,
23 but they touch the gas, and the thing takes off and
24 crashes on them because it's just too much vehicle for
25 that child. What would you do? They can reach and

1 operate the controls, so the parent did nothing wrong
2 there. It's not child endangerment. So in that
3 situation, where it clearly is perhaps -- there again,
4 you would have to articulate for the court all of the
5 situations surrounding it. If you put a child in a
6 vehicle that is clearly beyond their ability to
7 control, but they can reach and operate the controls,
8 this statute would then allow you to go to the parent
9 and say, you never should have put the nine-year old
10 behind the wheel of the sandrail. But it doesn't say
11 that everybody under 18 can't operate those vehicles,
12 certainly.

13 DEPT. DIRECTOR GREENE: One of the other issues
14 that was of concern to us is that at the base of a dune
15 bowl, if you're coming up over the top and you haven't
16 taken the time to make sure that you've dropped
17 somebody off at the top who can spot, that if that
18 vehicle coming up then ends up crashing onto somebody
19 up on top and injures them or kills them, these are
20 situations that we want to avoid. People need to be
21 responsible. And if they aren't, then they're putting
22 the entire park operation at risk. All of us who go
23 out there have to act responsibly.

24 CHAIR WILLARD: Great. Commissioner McMillin,
25 do you have a comment?

1 COMMISSIONER McMILLIN: I'm just curious. Now
2 that the staff has given a report on that, does the
3 public have any comment on that just quickly?

4 CHAIR WILLARD: Sure.

5 TOM TAMMONE: Tom Tammone. Blakeslee, I
6 understand he's well intended, but what I'm afraid
7 of -- I almost get the intention from listening to all
8 of this that this is an appeasement attempt to keep him
9 from writing more legislation that's going to go
10 statewide. I understand the mentality, but I'm afraid
11 it's going to backfire. And he's going to use it as an
12 example later on, and he'll take this and apply it to
13 the Legislature through some other bill later on in the
14 future. So I understand the intent of trying to keep
15 it at the Dunes, but I'm afraid that strategy will
16 backfire. That's my only concern about that.

17 But on the street, I understand reckless driving
18 basically accompanies three violations of the same
19 incident. Like, for instance, if you get a ticket and
20 he writes on the ticket three things, like ran a red
21 light, crossed the center line, speeding or whatever,
22 then at that point, since he's already got three things
23 on there, he can write reckless driving. Pretty
24 defined. But it's not to raise the fee. Basically
25 what it is, as far as the point system, as I

1 understand, it's like a coup de gras tool. If that guy
2 is really that messed up of a driver, we just don't
3 want him driving on our public roads. And if somebody
4 is really that much a danger in the park, we don't
5 really want him in the park, you know, frankly. Who's
6 going to make that call, I don't know. But that's what
7 I understand the intention of reckless driving is.
8 It's sort of a coup de gras tool utilizing the point
9 system on the street driving system to get somebody
10 that's really a complete total hazard off the road, not
11 necessarily to determine how to make a fine.

12 I'd like to see steps to keep it from getting to
13 that point in the first place, rather than trying to
14 come up with an off-road definition for what we would
15 call reckless driving. Thanks.

16 CHAIR WILLARD: Bruce Brazil.

17 BRUCE BRAZIL: Thank you, Bruce Brazil,
18 California Enduro Riders Association. Now that it's
19 been brought up as a topic, I'd like to clarify a
20 little bit as to what I was referring to on the age
21 requirement being more stringent than the other regular
22 vehicle code. And my understanding of the Vehicle
23 Code, an individual 17-and-a-half can have a
24 full-fledged driver's license, operate any vehicle out
25 on the highway without adult supervision. I believe

1 the age limit is even lower to operate a motorcycle out
2 on the highways with no adult supervision, and that was
3 the point that I meant as far as this being a little
4 bit more stringent than Vehicle Code. Thank you.

5 CHAIR WILLARD: John Stewart.

6 JOHN STEWART: Good morning, Commissioners.
7 John Stewart, California Association of 4-Wheel Drive
8 Clubs. There's always a tough issue when you're
9 looking at public safety and personal safety and trying
10 to work in personal responsibility or parental
11 responsibility.

12 I would like to see better definitions and
13 clarification of how this particular proposed rule
14 conforms with existing state law. In other words,
15 hoping that this particular rule does not become much
16 more stringent than what state law allows, becoming a
17 new standard for persecuting a prosecution. I think
18 it's a very tenuous line of where the agency begins to
19 interpret the intent of the law perhaps at some point
20 in time. It's a very fine line of how you come up to a
21 point where you do not actually put in something more
22 than what was intended in the original law. So it's
23 something that, yes, it's going to take some scrutiny
24 and public comment. So I appreciate the opportunity
25 for having that. Thank you.

1 CHAIR WILLARD: Counsel.

2 ATTORNEY LA FRANCHI: I wanted to make the point
3 on the logistics and the process. Any comments made
4 here today would not be considered official comments
5 with regard to the administrative law process. So if
6 any of the commenters today want to be sure that their
7 comments are considered in that process, they should
8 make those comments through the hearing process or
9 through the public comment process to be sure.

10 CHAIR WILLARD: Thank you for that
11 clarification. Chief.

12 CHIEF JENKINS: One other item, by putting it in
13 the CCRs, the California Code of Regulations, as
14 opposed to using the Vehicle Code for reckless --
15 because there is an off-highway reckless section, as
16 opposed to the highway reckless section. So there is
17 Section 38316, reckless driving, which only applies to
18 off-highway, and it doesn't have the three violation
19 situation as Mr. Tom Tammone was describing. That's
20 more of a highway-type thing, and that is a
21 misdemeanor.

22 And so one of the other things that's under
23 consideration as we're looking at this is, there is
24 this reckless section, and then there was this other
25 section in the CCRs that is treated as an infraction.

1 It's written that California Code of Regulations
2 violations are treated by the courts as infractions.
3 And so what this would do would give the officers a
4 full range of abilities. So if it was something that
5 rose to the level that you could clearly articulate
6 reckless driving, then we would use the reckless
7 driving section in the Vehicle Code. What this does is
8 give us something, a lower bar when we can't articulate
9 the reckless driving but it's clearly an inappropriate
10 activity, we can still address the activity and not
11 have to write a misdemeanor citation. We can write an
12 infraction citation. It's a lower bail schedule
13 usually and a lot less penalty, so it just gives us
14 more tools in our toolbox to use.

15 CHAIR WILLARD: Okay. If Commissioners don't
16 have any other comments, I think I'd like to move on
17 with the BLM report.

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

19 JIM KEELER: Jim Keeler, BLM California State
20 Office. Commissioners, Deputy Director Greene, and OHV
21 staff and the public, it's an honor to appear before
22 you again. What I'm going to do, I presented you with
23 a written copy initially of my notes, so I'm going to
24 hustle through those relatively quickly.

25 The first item -- well, I'm sorry, also I was

1 going to introduce to you Kathy Hardy, who is the new
2 district manager for our Central California District,
3 which includes Ukiah, Hollister, Folsom, Bakersfield
4 and Bishop. So she's the line officer between the
5 state director now and the field offices. So she
6 actually works here out of our Sacramento office, and
7 she may have an opportunity to correct me if I make a
8 mistake some place in her bailiwick. Also, we have
9 Dave Christie, who is the public affairs office for the
10 same district. He's actually stationed in the Folsom
11 Field Office, which is now known as the Mother Lode
12 Field Office.

13 Last week, Bob Abbey had his hearing for
14 director of BLM. We're on hold, and we'll see where it
15 goes from there. He's fairly likely to become the next
16 director for BLM. His last assignment was state
17 director in Nevada. He has a real broad and varied
18 background. Staff has always liked him, and he's well
19 respected by both sides.

20 Probably the biggest item going for us right now
21 is our fast-tracked solar EIS program. I can't begin
22 to even try to follow it myself, let alone explain
23 everything that's going on. But I'm happy to be a
24 conduit. If you have additional questions if you're
25 not seeing through the process, please don't hesitate

1 to at least let me help steer you to the right person.

2 Director Salazar and Harry Reid announced in the
3 end of June that we're going to be working on a
4 preliminary EIS for a number of solar sites all the way
5 across the west. Four are in California. I've handed
6 out today a description of the PEIS process, with web
7 addresses and a map of the four sites in California.
8 They fast tracked four specific areas for potential
9 solar development. So it's sort of on a cooperative
10 basis between the Department of the Interior and the
11 Department of Energy which is going to have some big
12 impacts. This doesn't even begin to discuss what's
13 going on with wind and geothermal, but it's going to be
14 pretty exciting stuff for a while I think around the
15 California Desert District and some in northeast
16 California, as well.

17 Going on, the California Archeology Site
18 Stewardship program, which has been a grant sponsored
19 program with the California Archeological Society and
20 BLM and other agencies, is actually going to hold a new
21 training workshop. We're looking at OHMVR helping us
22 sponsor a workshop and site visit, it looks like mid
23 November at this point but look for further
24 announcements on that.

25 Jumping down to El Centro, an environmental

1 assessment was signed on June 18th to allow vehicle
2 access by permit only in Devil's Canyon along Highway 8
3 out of El Centro for special events with special
4 oversight.

5 Going on down to the Imperial Sand Dunes,
6 Glamis... Union Pacific closed the major access road
7 along the railroad tracks on the east end of the Dunes.
8 We just signed an EA and are going to work this summer
9 to build a parallel access road inside of the new fence
10 line that they've added, a fence to their original
11 access road. So we're going to develop a graded access
12 road on the inside of the fence, so that's going to be
13 completed hopefully by the opening of the next season
14 in the fall.

15 Other Imperial Sand Dunes related activities...
16 in April we proposed a new fee schedule for the Dunes,
17 which we withdrew within a month. So the fees for the
18 Dunes will remain at the same level which it had been
19 before. Offsite costs are \$90 on an annual or \$25 for
20 a week. Onsite is \$120 annual, and \$40 for a week. In
21 a related action, El Centro Field Office has asked to
22 restructure the old technical review team for the Dunes
23 and make it more accountable to the Desert Advisory
24 Council. So it will be a subgroup now of the Desert
25 Advisory Council, rather than a standalone.

1 Legislation. The only one that I can discuss at
2 the moment is the bill to interchange lands between the
3 Forest Service and BLM at Chappie-Shasta, which would
4 put Chappie-Shasta entirely into BLM ownership in
5 exchange for some property adjacent to several
6 wildernesses in Shasta-Trinity National Forest. That's
7 gone through the House, and it's waiting for action in
8 the Senate now. In addition, there is the Feinstein
9 proposal, but until that becomes legislation, I don't
10 know anything about it, or I'm not supposed to.

11 Going on, Hollister, CCMA. The Clear Creek
12 Management Area Plan is waiting on final approval. We
13 anticipate a draft out sometime this summer. I can't
14 make promises on when.

15 Going on, Carrizo in Bakersfield, we're just
16 waiting to release the proposed RMP and final EIS.
17 That will be open for a two-month comment period or
18 protest period at that point. Bakersfield RMP should
19 have a public comment draft out late this summer, early
20 fall.

21 And I believe that's all that I'm going to cover
22 for my report for now. Happy to take questions.

23 CHAIR WILLARD: I just have one comment. Maybe
24 if you could make sure that we get a copy of the Clear
25 Creek EIS draft when it's out?

1 JIM KEELER: I'll do what I can on that. Would
2 a CD be okay?

3 CHAIR WILLARD: Sure, just make sure we have it.

4 DEPT. DIRECTOR GREENE: Jim, you and I can
5 coordinate, and we will make sure that the
6 Commissioners get a CD or hardcopy, whatever is
7 appropriate.

8 CHAIR WILLARD: Any other Commissioners have any
9 questions of Jim? Commissioner McMillin.

10 COMMISSIONER McMILLIN: I would like to be made
11 aware of how the process goes on the Imperial Valley
12 Desert Recreation Area, those applications. Just maybe
13 before lunch you can make me aware how that --

14 JIM KEELER: On the solar?

15 COMMISSIONER McMILLIN: No, Imperial Valley Sand
16 Dunes, the subgroup, the DAC.

17 JIM KEELER: That's out of the Desert Advisory
18 Council, and I'm not sure what point that is in, but
19 I'll be happy to contact you back.

20 COMMISSIONER McMILLIN: Figure out how people
21 are made aware, so they can apply for that.

22 JIM KEELER: I'm not sure what the process is.
23 I'll have to research it, but I'll do that for you.

24 CHAIR WILLARD: Commissioner Lueder.

25 COMMISSIONER LUEDER: Jim, I have a question for

1 you on the solar energy studies areas. As I'm looking
2 at the map, obviously there are some areas that are
3 crosshatched for study. And I'm just wondering how
4 that's going to affect OHV areas, if there is any OHV
5 recreation area, and how that might be analyzed.

6 JIM KEELER: The way they got to the big
7 crosshatched areas was to look for sites that met a
8 bunch of criteria. In this case, all of the sites that
9 are listed are not particularly active. They're not
10 the big open areas, and these are the first candidates
11 for what's going to be done. There are things like the
12 Mojave Road that crosses those. So what the studies
13 are going to be is to look at the potential impacts and
14 potential mitigations on siting the projects and what
15 can be done there.

16 So what I think I'm saying is that it bears
17 additional watchfulness from everybody, but at this
18 point in the process, I think what it involves is
19 staying in tune with where it's going. Is that a
20 satisfactory answer?

21 COMMISSIONER LUEDER: Sure. I just want to make
22 sure that through the process all uses are carefully
23 analyzed, and if there is possible mitigation, that
24 that take place.

25 JIM KEELER: Internally, I do my best to keep

1 that process going, and I will do my best to keep you,
2 the Commission, informed. But beyond that, I think
3 that this is such a complex, fast-moving process, that
4 we all have to keep our own eye on it, too. And I
5 encourage anybody that has interest in it to look at
6 these sites. On the PEIS now, there is a whole website
7 for it. And I've answered questions that have come in
8 that the website couldn't answer. So, again, my role
9 is mostly to steer you to get better answers.

10 COMMISSIONER LUEDER: Thank you.

11 CHAIR WILLARD: Deputy Director.

12 DEPT. DIRECTOR GREENE: Just a quick question,
13 if the Commissioners desire, perhaps we can coordinate
14 with BLM at the next meeting to provide an overview of
15 the situation.

16 CHAIR WILLARD: We'd appreciate that.

17 DEPT. DIRECTOR GREENE: And, Mr. Keeler, could
18 you just comment on the Bakersfield RMP? Are there a
19 number of areas that affect OHV recreation areas of
20 interest that perhaps Commissioners should know? Are
21 there specific trails or areas of interest for the
22 community that they should be aware of in this RMP?

23 JIM KEELER: The answer is, yes, a couple of
24 them. Some of the opportunity around the Lake Isabella
25 area and Kernville has always been listed as

1 off-highway vehicle opportunity; and then quite a bit
2 in conjunction have the Sequoia Forest in the Greenhorn
3 Mountains and the Paiutes on the other side; and then
4 in the valley and the eastside of the Kimbler Range,
5 there is also quite a bit of opportunity. I think
6 several people from a subgroup of the Central
7 California RAC have been looking at potential
8 off-highway opportunity, so they've been very much
9 engaged with the Bakersfield Office in trying to
10 present some alternatives for additional routes that
11 might be appropriate on the various lands in
12 Bakersfield. Bruce Witcher from San Luis Obispo has
13 been very much involved with the planning process.

14 CHAIR WILLARD: Question.

15 COMMISSIONER SLAVIK: Jim, on the eastside of
16 Lake Isabella, there has been a little motocross track
17 that has been there for years. I thought it was on
18 Forest Service property. Where does the BLM -- where
19 is your management area?

20 JIM KEELER: Keyville, which is the main area
21 we have there, if you look at the land, we tend to have
22 the low sort of foothills. But Keyville is just
23 across the dam from the town of Lake Isabella, just
24 across from where the Greenhorn Ranger Station is, so
25 that's the foothills going up into the Green Horns.

1 It's actually sort of a staging area for a bunch of
2 Forest Service trails.

3 COMMISSIONER SLAVIK: My specific question was
4 that motocross track, is that yours, is that Forest
5 Services', is that still in existence?

6 JIM KEELER: That's Cyrus Canyon, and I believe
7 that's Forest Service.

8 COMMISSIONER SLAVIK: And it's still in
9 operation?

10 AUDIENCE MEMBER: Yes.

11 JIM KEELER: Thanks. It takes a village.

12 CHAIR WILLARD: I guess that's it. Thank you.
13 I appreciate your report, Jim.

14 (Proceedings reconvened after a 20-minute break.)

15 **AGENDA ITEM - 11:00 PUBLIC COMMENT PERIOD**

16 CHAIR WILLARD: We're going to go into our
17 general public comment period. And so if you would
18 like to make just a general comment on something that's
19 not on the agenda, please feel free to fill out one of
20 these blue forms and submit it. We want to make sure
21 we get all of the public's comments. So we'll get
22 started.

23 DAVE PICKETT: Good morning, Commissioners.
24 Dave Pickett, District 36, Motorcycle Sports Committee.
25 My comment is generic from a board meeting we had last

1 night, and I am here to pass a small message that our
2 district is very frustrated that the OHV Division staff
3 is having to take three furlough days when we feel we
4 have adequate funds on hand for the program, and our
5 sympathies go out to their families. Thank you.

6 JOHN STEWART: Good morning, John Stewart,
7 California Association of 4-Wheel Drive Clubs. A
8 couple of things have come up in the news recently with
9 your discussions of, you know, the State budget and
10 what has transpired. Some organizations have come up
11 with calls to pull the OHV funding in in order to
12 balance the State budget. Reading through this press
13 release, I find that there's a lot of license, literary
14 license taken with some terms and phrases. And what I
15 would like to see is the OHV Division come up with a
16 more definitive synopsis of what the OHV program is
17 that can be up on the website for public display. This
18 would include the clarity of the sources that generate
19 the funds that sustain the OHV program, and clearly
20 articulate that, yes, these are user-related --
21 user-generated funds for this program.

22 And something that has always been a bother to
23 me is that there's a lack of a good clear definition of
24 what an OHV is, the vehicle is. The general
25 connotation is that OHV is an off-road motorcycle.

1 It's an ATV. That's clearly not the case. That's
2 clearly not the input of what the program is all about.
3 I would just like to see that articulated in a much
4 clearer fashion so that the public can have a ready
5 source of accurate definitions to go to.

6 Also, in relation to the budget, we still have
7 some plans, some general plans that appear to be
8 stalled, specifically the Ocotillo Wells General Plan,
9 which includes the Truckhaven area. Now, are these
10 victims of the budget, are they being stalled? And if
11 they're being stalled, then does this delay pose a risk
12 to recreation opportunities in the coming year in those
13 areas? These are general plans, especially in the
14 Ocotillo Wells area. This area is one of the more
15 highly visited of the State Parks for OHV. You know,
16 the SVRA for recreation opportunities, it's a very
17 important asset, and the people would love to see these
18 general plans move forward and would also like to
19 ensure that the recreation opportunity is not adversely
20 impacted by the inability of the Legislature to come up
21 with a budget. Thank you.

22 KAREN SHAMBACH: Karen Shambach, PEER and Center
23 for Sierra Nevada Conservation. I wanted to address an
24 incident that happened over -- partly anyway, an
25 incident that happened on the Stanislaus NF back in the

1 end of June when a high mountain meadow was entered
2 illegally by dirt bikes who ripped it up and not only
3 damaged a Yosemite toad habitat but compromised an
4 expensive five-year study. They were in their third
5 year of it, and so the results of that year are pretty
6 much wasted.

7 I haven't heard a single word from the Division
8 or the OHV community condemning that action. And I
9 think that these are the people that are defining your
10 sport, and it would behoove the OHV community to speak
11 out against these things instead of being silent,
12 because then you allow these people to defame the
13 sport.

14 We spend millions on restoration on the same
15 projects over and over because the project will be
16 restored, and then it gets violated, and the boulders
17 that are put in front of it are pulled way or they're
18 driven over. There is one project, for instance, on
19 the Eldorado on the Manzanita site that is -- I think
20 it's on its third grant for restoring it, and then the
21 Forest Service has done some with their own funding.
22 So these things are being repeated, and we are spending
23 millions and millions of dollars on law enforcement,
24 and yet there are people in the southern -- well,
25 actually throughout the state and rural communities

1 that are unable to get their sheriffs to respond to
2 their concerns, and, in fact, face retaliation for
3 making these reports.

4 So my point is we're spending millions and
5 millions of dollars on law enforcement and restoration.
6 People who are doing the damage are clearly not getting
7 the message that this isn't acceptable. And they say
8 when you continue doing something the same way over and
9 over and expect different results, that that's a
10 definition of insanity. And I think it's time for
11 people to come up with some creative solutions.

12 This program was brought about to address these
13 very things, impacts to residents, impacts to natural
14 resources on public and private lands. And we haven't
15 fixed those problems, and it's time. This is the
16 community that you know your peers, you know what they
17 would respond to. In my opinion, I've always said it
18 needs to be penalties that will get their attention.
19 And yet every time that's proposed, the OHV community
20 just goes ape over it and, you know, we can't do that,
21 this is punitive. And yet by allowing this to
22 continue, if you look at the blogs over the meadow
23 incident, you'll see things like, well, this is why
24 everybody hates these guys, and it's absolutely true.
25 And unless you folks and you folks come up with

1 something creative and original and stop just plodding
2 along in the bureaucratic way that's been going on -- I
3 know the people have tried, but there needs to be some,
4 like I say, creativity, some risk taking maybe. Maybe
5 you're going to make some people in your community
6 angry with you, but in the long run it will be good for
7 the sport. Because I understand that there are
8 responsible riders. I know there is a lot of them in
9 this room. And I've spent a lot of time out in the
10 wilds, out in the woods and in the desert, and I rarely
11 see a meadow that doesn't have tracks in it. So I
12 still, you know -- of course, I possibly bring it on,
13 but I still have vandalism at my rural home. So I
14 think that you need to start thinking about some
15 solutions to this that are -- think out of the box and
16 try to end it. Thank you.

17 CHAIR WILLARD: What meadow was that in the
18 Stanislaus?

19 KAREN SHAMBACH: It was called Groundhog Meadow.

20 CHAIR WILLARD: Where is that?

21 KAREN SHAMBACH: It's up above Pinegrove.

22 CHAIR WILLARD: Okay. Thank you.

23 TOM TAMMONE: Tom Tammone. Well, personally, I
24 said the last time I was up here the reckless drivers
25 should be thrown out of the park. I'm pretty sure how

1 I stand on this. And as far as the fund goes, I'm
2 pretty sure everybody knows how I stand on that. I put
3 a lot of e-mails into the Division before this came up
4 that I was also not in approval of our money not being
5 spent as it was supposed to be spent. We should have
6 the funds to keep it open. And we're not part of the
7 general fund, and I'm a little concerned about the
8 motivation saying that we're not supposed to have our
9 people there, as everybody agreed to. We all sat down
10 in legislative -- AB 266, 2774, et cetera, et cetera,
11 et cetera. We all agreed that we had this money to do
12 it, and we should be able to utilize it to fulfill the
13 goals that we've agreed to do and all of our
14 obligations that we've agreed to operate. We have the
15 funds. We should be able to use it. And if the
16 Governor or anybody wants to cut our funds -- I hate to
17 say it, the funds are secondary. Opportunity is really
18 what we're all about. So if you want to cut our funds,
19 if you want to divert our money, then you tell us how
20 we're going to operate with less money. You go tell us
21 how we're going to rewrite all of this legislation that
22 we agreed to over the last two decades so we can still
23 operate and not get sued out of existence. Thank you.

24 ED WALDHEIM: Ed Waldheim, California City. I'm
25 so glad that Karen set the stage for me. Karen, I

1 agree with you a hundred percent. Ms. Greene, we need
2 to do that education. I've been hitting that for the
3 last 15 years, and we just are not doing it. We cannot
4 give any money to anybody in the state government,
5 period, and Karen has to withdraw her PEER thing
6 because she just gave me the introduction on why we
7 need our funds. We cannot give it to the state
8 government, the general fund. We gave them \$140
9 million. Enough is enough. It is our money. We put
10 it in there to do the job that we need to do, exactly
11 what Karen is talking about. We have to go and police
12 and enforce the rules. If we don't do it, then it's
13 chaos. And if we lose our money, it is going to be
14 become chaos.

15 The reason in 1991 George Barnes from the Sierra
16 Club and other groups created our program was to manage
17 our program. So that's what our job is, to manage. If
18 the environmental communities and the hikers and
19 equestrians want to have a program, we can more than
20 help them, and advise them, and give them assistance on
21 how to create their own program. I tried 15 years ago
22 with Director Murphy, put three dollars on the license
23 plates and fund all of the parks and all of the
24 non-motorized areas, just like we did. We did it.
25 We're paying out of our own pocket. We're paying

1 three, four times out of our own pocket the same thing.
2 So thank you, Karen, for that introduction.

3 Wilderness areas are coming up all over the
4 place. We are working on that. Mr. Harry Baker is
5 working with a whole bunch of people. Randy Bannis is
6 working on it. I just got four different areas with
7 GPS things that we have to prove that there's a whole
8 bunch of routes out there because they want to
9 turn it into wilderness. They say there are no routes
10 when, in fact, there are routes in there. We're
11 working like crazy to get that done. We need the
12 staff's help on that.

13 Johnson Valley, we heard Mr. Baker talk about
14 that, and we appreciate very much the work that he's
15 doing there with a Partnership for Johnson Valley.
16 Grants is the life blood of our program. The federal
17 government provides us the land. We provide the money.
18 It is our citizens of the State of California who are
19 going to recreate there. Without that, we are dead.
20 Two years, we were dry. We almost didn't survive. If
21 it hadn't been for the RTP grant and Dan Canfield
22 helping us, we would have lost everything. The trails
23 would have been in disastrous condition.

24 I'm looking so forward to the new grant cycle
25 that we're going on to start working and keeping the

1 things in good shape. Jawbone Station, we are going to
2 add the building, a 12,000 square foot shop, and we
3 have with 2,800 -- yesterday I saw that General Steel
4 had a sale on buildings, so I'm going to come up with a
5 6,000 square foot building so we can put all of the
6 vehicles inside. So I'm going to try to get ahead of
7 State Parks and make sure all of the equipment is cared
8 for good. So we are really happy on that.

9 Kern County is working with us. They're
10 thinking that if something happens with the government,
11 we may have to come up with our own green sticker
12 program. What does that mean? California City has
13 already started charging eight dollar for each vehicle
14 that comes in. They collected \$300,000 in the last
15 eight months. I asked the chief of police what's going
16 to happen if we lose our grants money, he said, I'll
17 just double the fee. Simple math. So we may have to
18 do that. We may have to come up with a fee in Kern
19 County or any other county that provides opportunity.
20 You come into Kern County, you have to buy your fee.
21 It doesn't matter if it's Forest Service, BLM, whatever
22 it is. You're in Kern County, period, end of
23 discussion. We had this discussion with Inyo National
24 Forest, and for the Inyo meeting up in there.

25 So there's rumbles going on. We cannot not

1 continue to manage our program. We have to manage our
2 program. So anybody who wants to steal our money, take
3 our money away from them, I would say shame on them
4 because we can't let that happen. If the counties have
5 to take the control of our destiny, then so be it. It
6 will be triple taxation. I don't want to go that
7 route. That's why we created this program in 1971, and
8 I hope we don't lose that.

9 El Mirage, we are doing fantastic in that area.
10 Also, the visitor center, we're keeping the Jawbone and
11 El Mirage Visitor Centers open; got good RTP grants for
12 West Mojave signing that we're going to work like crazy
13 on, and we're also working on an interpretive display
14 inside of the business center. We came up with a brand
15 new prototype of an auger to work to put signs in to
16 make it easier for staff to put them in the ground. So
17 it's incredible all of the work that we have to do.

18 The last thing I have, we would like to see --
19 and I talked to -- on the websites. We need to make
20 sure that the website has our grants in there. Right
21 now when the cutoff date was done for the public
22 comment, the door was closed, you couldn't look at
23 grants anymore. Nobody can look at what grants do we
24 really have. Unless you made a copy of it yourself,
25 there's no way to do it. So if there is a way that we

1 can make sure that you the public, you the Commission,
2 know what kind of grants that we have going. We have
3 no clue. If we can massage that a little bit.

4 But, again, I want to thank the Commission, the
5 staff on the grants. It's incredible work that these
6 gals and guys have done. There are seven of them now.
7 So I take my hat off. They come to our meetings, and
8 they participate with the public. It's fantastic.
9 We're on a roll. Positive things are happening. Thank
10 you.

11 FRED WILEY: Why do I always get to follow him?
12 Thank you. Fred Wiley with the Off-Road Business
13 Association. As I sat here this morning listening to
14 the comments and the questioning and things that's
15 going on between the Division, the Commission, and the
16 public, it occurs to me how difficult it is for the
17 public to understand the dynamics and the concepts of
18 the entire program statewide. I think you hear from
19 some from time to time, and I know that the Division
20 knows pretty much what's going on, and some of us in
21 the OHV world kind of understand border to border and
22 Nevada to ocean as to what's going on. I would like to
23 see some way -- and maybe it would be a part of the
24 later-on discussion -- where we can make sure that
25 there's an ability for the general public to

1 communicate what is going on out there, how many solar
2 projects, how many wind projects, how many wilderness
3 projects, travel management. I think you're seeing the
4 highlights, and then from time to time you're getting
5 little bits and pieces, but I think there needs to be a
6 system in place that somehow we put everything in a
7 place where it can be viewed by all. That's the end of
8 my comment. Thank you.

9 CHAIR WILLARD: Amy Granat.

10 AMY GRANAT: Good morning. Thank you for the
11 opportunity for me to address you this morning. I can
12 barely see Commissioner Slavik at the end there. I
13 want to thank Karen -- actually, I was going to thank
14 Kathy Mick, too, for originally telling us about the
15 meadow damage, and I wanted to give the Commissioners
16 an update on what we have done, because there has been
17 action, and I feel it's important for the community to
18 know. So, Karen, thank you for bringing it up, and we
19 appreciate it.

20 Kathy Mick made us aware of the damage as soon
21 as it happened and asked for help. And I want to thank
22 particularly two clubs in the Sonora area from the
23 California Association of 4-Wheel Drive Clubs.

24 Oh, I didn't identify myself. I'm the new
25 national resource consultant for the California

1 Association of 4-Wheel Drive Clubs.

2 And Mud, Sweat, and Gears, which is located in
3 Sonora, President Kathy and Dave Avery, longtime
4 residents of the Sonora area, as soon as I contacted
5 them and told them about the damage, not only did they
6 know about the damage -- about the area where the
7 damage occurred, but they thought they knew who might
8 be responsible for it. And what we wanted to do is try
9 to take care of it and try to find the people. And in
10 this case we believe it was young adults, young male
11 adults in the Sonora area, local people who were
12 responsible. So we got in touch with the investigator.
13 His name is Kendall Bond, very nice gentleman; gave him
14 the information. He happens to know Dave Avery, so
15 they're going to follow it through.

16 We got in touch with the biologist on the case.
17 Right now they are seeing if anything lived through the
18 damage and trying to do an assessment, but we had
19 groups ready and willing to go out there on July 4th
20 weekend, also from Four by Four Motion, which is
21 located in Turlock. Perhaps I am not as good at
22 promoting the action when our volunteers and our club
23 members drop everything and are willing to go up and
24 sacrifice their own plans on the holiday weekend to do
25 it, but we did have people that are still willing to go

1 up there and take care of it.

2 We still need an education program. We need a
3 program to tell people how to do this responsibly. We
4 have talked about it for a long time. I agree with
5 Mr. Waldheim, and that is time to take action. As a
6 trainer for Tread Lightly, I would very much like to do
7 it. That would be a great thing to put on the agenda
8 if we could form some kind of subcommittee that would
9 look into it. We don't like to hear about these things
10 any more than anybody else does. But I do want to
11 thank the OHV community for taking care and taking time
12 to take care of the problem. Thank you.

13 CHAIR WILLARD: I guess that's it for the public
14 comment, but I think I would like to make a comment
15 myself on this damage in the meadow in the Stanislaus.
16 And I think I can speak for all of the Commissioners up
17 here and say that we are obviously very distressed when
18 we hear of our natural resources being spoiled like
19 that. At the same time, I'm very impressed and
20 thankful and happy that the OHV community has stepped
21 up and is trying to play a positive role in dealing
22 with this situation. I want to commend Amy and the
23 Averys and everyone else who has stepped up and gotten
24 involved. I think that's something for everyone else
25 to look at as an example of how we can have a positive

1 impact on policing ourselves and making sure that the
2 few bad apples don't spoil it for all of us.

3 Commissioner Slavik.

4 COMMISSIONER SLAVIK: Further comment along the
5 same lines, I would challenge the environmental
6 community to take that message that we just heard here
7 today and put it on their websites and communicate that
8 to their folks. Because if we use this kind of
9 information cross culturally, maybe we can all get
10 along a little bit better.

11 CHAIR WILLARD: That's a great point.

12 DEPT. DIRECTOR GREENE: Chair Willard, if I may,
13 at a previous meeting, I told you about a situation at
14 Folsom State Recreation Area where an illegal dirt
15 biker was in the area, spooked a horse, the horse threw
16 the rider, and the horse ended up having to be
17 euthanized. What resulted from this was NOHVCC, the
18 Back Country Horseman, AMA, BRC, State Parks, Tread
19 Lightly -- I think it was nine different organizations
20 that came together to work on ways to have an
21 educational pamphlet available to hand out and to
22 prevent motorized use in areas it does not belong. So
23 I do think we have areas where we can point to
24 successes in doing this.

25 In this particular instance referenced today,

1 what Karen did not share is that PEER and CBD has
2 offered a \$1500 award. From what I am hearing today,
3 we have a failure to communicate amongst groups. In
4 the future, instead of having people dealing in their
5 own separate communities, perhaps we could try to bring
6 everyone in the loop. Certainly the Division will try
7 to help foster that in the future.

8 CHAIR WILLARD: Yes. Maybe to further that
9 thought, maybe there is some role that the Division can
10 play in letting the appropriate OHV community leaders
11 in an area know what's going on and helping get them
12 involved. I'm sure it was a matter of coincidence that
13 so and so knew so and so, and so we were able to react
14 in the Sonora area. But maybe there's some other
15 instances of where someone sees some damage but doesn't
16 know quite how to get the word out, so we can be
17 helpful in trying to get the people that were involved.

18 DEPT. DIRECTOR GREENE: It's a point well taken,
19 and it might be a point that we could discuss at a
20 workshop. Kathy Mick with the Forest Service did
21 notify a number of us, I know Don Amador and myself and
22 Amy, and then there was discussion about the best way
23 to approach it. So people were aware of it.

24 Perhaps, though, I think promoting more of what
25 we saw occur at Folsom, where people were very vocal

1 and came out in opposition to the conduct. In this
2 case, the OHV community, the environmental community,
3 and access community, and the horse community were able
4 to work together and start fostering relationships. A
5 tragic situation had a good collaborative response.

6 CHAIR WILLARD: Great. So I think I'm going to
7 go back now to the BLM report and open it up for public
8 comment on that.

9 **AGENDA ITEM IV(C). BLM REPORT (Continued)**

10 JOHN STEWART: Good morning, Commissioners,
11 John Stewart with California Association of 4-Wheel
12 Drive Clubs. I want to thank Jim Keeler for his
13 report. It's very informative, and it touched a lot of
14 highlights of things going on in the Southern
15 California deserts especially, specifically dealing
16 with the energy. Energy proposals have a potential to
17 have a significant impact on OHV or all recreation
18 opportunities in the desert region. It's very
19 difficult for recreation to coexist with the large
20 landmasses set aside for solar generation plants. So
21 that's a significant issue that will have to be watched
22 very closely. And there are some potentials for some
23 mitigations to work around on that so that access is
24 not denied past a solar operation. So, in other words,
25 figure out some way to bypass it if a road is blocked.

1 Also, Jim mentioned a project going on in the
2 El Centro Field Office dealing with an environmental
3 assessment to allow permitted vehicles access to
4 Devil's Canyon. We looked at this. Myself and a
5 number of the local groups have been working with the
6 BLM for almost three years on how we can get this
7 moving forward. From day one, it's been acknowledged
8 that a permitting system or permit system would be
9 acceptable in order to provide a control on the number
10 of people into the small section of a technical trail.
11 However, what has come out in the end is recreation
12 activities are now being considered under this as a
13 special event, and as such being a potential for having
14 special insurance requirements and emergency vehicle
15 standing by in the event of whatever. But this is
16 something that we have a pending administrative issue
17 with terminologies and how it's going to be approached.
18 But that if this recreation activity, if a permit is
19 allowed and provided for recreation people to get in
20 and engage in a recreation activity in this area, why
21 should they be subjected to the same conditions that an
22 event promoter would be with the requirement for
23 insurance, with the requirement for emergency medical
24 staff standing by. It is something that is onerous on
25 the average recreation public. So I wanted to address

1 this to bring it up to your attention that this is
2 something that we probably will be hearing more about
3 in the future. So thank you.

4 TOM TAMMONE: Tom Tammone. I want to dovetail
5 to something that Fred Wiley said earlier, that it
6 seems like we're not really getting the word to wipe
7 down the trail as to what's going on with all of these
8 projects. The Twenty-nine Palms Marine expansion would
9 be a good example of that. Obviously, there's been a
10 lot of rumbling going on between BLM and Marine Corps
11 for a very long time before it became public of what
12 was going on. We need to figure out a way to have more
13 of a heads up as to what's going on that could possibly
14 influence our sport. Thank you.

15 ED WALDHEIM: Ed Waldheim, California City. The
16 issues of everybody wanting to use our public lands is
17 getting to the point of absurdity. Everybody wants a
18 piece of the pie. Somehow we have to figure out where
19 our recreation opportunities are put into some type of
20 a statute, and I think Senator Feinstein was talking
21 about it to form into a monument or wilderness. You
22 wouldn't dare take and go and do something in
23 wilderness; you wouldn't dare. Yet you go through
24 management plans for 15, 20 years with the Bureau of
25 Land Management. We thought we were safe, and we get

1 taken away. There is no guarantees whatsoever. We are
2 open. It's an open field. They can do anything they
3 want to. So somehow, as a Commission, I think you may
4 want to tackle how can we make sure we codify into law
5 that we preserve the recreation for our future
6 generations.

7 Now, we did it through the SVRAs. That was fee
8 title. However, as you know, my feeling is on the
9 SVRAs, they derive 33 percent of the opportunity. The
10 federal government provides the land base for us to do
11 the other 75 percent of the opportunity for where most
12 of the visitors go to. That's the long distance travel
13 that we like to do, those of us who love to travel 120,
14 130 miles in three, four hours, I mean you just don't
15 do that in an SVRA. You go do the racing in Mexico,
16 you go long distances. You need to go to San Philippe
17 or you go all the way down to the Baja 1000. You don't
18 do that in an SVRA.

19 So for some reason in our regulations, somehow I
20 think the state, we need to get more involved, more
21 proactive with somehow codifying that we preserve our
22 opportunities. Clear Creek is a perfect example. We
23 spent close to a million dollar in Clear Creek. What
24 do we have? Nothing, absolutely nothing. I feel we
25 should go after the agencies. If they take the

1 opportunities away from us, then they should compensate
2 us and give us back the money because they're not using
3 it for what we did.

4 As I understand it right now, if State Parks
5 closes an area that was given to them by a private
6 donor or by the Bureau of Land Management or the
7 federal agency, those lands have to revert back to the
8 agency because they're not being used for the purpose
9 that it was intended, and I think we need to be a
10 little bit more serious and get a little bit more hard
11 on making sure that we protect our opportunities.
12 Hiking or bicycles or equestrians or motorcycles, I
13 don't care what the thing is, recreation needs to be
14 protected. We haven't done a good enough job on that.
15 It's something we need to put on the radar and get
16 serious about. Thank you.

17 **AGENDA ITEM - BUSINESS ITEM V(A)**

18 CHAIR WILLARD: Thank you. So we're going to
19 put the U.S. Forest Service report on hold and then
20 move to Business Item V(A). Deputy Director, if you
21 could please start out by introducing our guest.

22 DEPT. DIRECTOR GREENE: I'm delighted to have
23 Ruth Coleman, Director of California State Parks, and
24 Manuel Lopez, Deputy Director for Administration.

25 In the statute it says that Director Coleman is

1 the Secretary to the Commission, and so we are pleased
2 she can be here today. As we look at the enormous
3 budget crisis facing California State Parks and in
4 California in general, we thought it was important that
5 Director Coleman share some of the challenges we're
6 facing in state government. So on that note, Director
7 Coleman.

8 DIRECTOR COLEMAN: Thank you, Members of the
9 Commission, it's great to be here, and I wish I could
10 say I have lots of great news. But my teenage daughter
11 always accuses me of being a fun sucker, so I regret
12 that's what it's going to be today, letting you know
13 what it's like.

14 Where I want to start is just by talking a
15 little bit globally about the sort of overall malaise
16 that we're dealing with, and its effect on all aspects
17 of government, whether you're special funded or not.
18 And then I'll spend some time talking about the
19 proposed budget for State Parks, let you know what we
20 know about the budget -- which is being negotiated
21 right now -- which in fact is not much. And then I'll
22 have Manuel Lopez, my chief of administration, he's
23 here to answer more of the technical questions because
24 there is a lot of confusion about why special funds are
25 being affected when the problem is in the general fund.

1 So he can explain more about the cash flow issues and
2 that sort of thing.

3 There's, as you know, a global economic
4 recession, and that has profoundly reduced the amount
5 of tax receipts to California, both from income tax,
6 which we are heavily dependent on, also now sales
7 taxes. People aren't buying as much. And virtually
8 every other kind of tax revenue, they're all dropping.

9 The Legislature, to their credit, they really
10 pushed the envelope and came up with a very difficult
11 budget. They cut at least \$40 billion in programs back
12 in February. So we actually have a budget now. You
13 hear a lot about how there is no budget. That's
14 actually not true. There is a budget, and it is in
15 place. And it was actually passed last February, which
16 is an unprecedented early budget because the budget
17 wasn't due until June 30th, but they actually passed it
18 in February for the fiscal year that began July 1st.
19 It included various aspects that required voter
20 approval because they were amending the Constitution.

21 The only way you can amend the Constitution is
22 go get voters to go along with that. That's why you
23 all faced five different ballot initiatives in May. A
24 lot of people were asking why are they passing the buck
25 on to us. The fact is that the Constitution requires

1 it. It was not a buck-passing exercise. In order to
2 do the things they wanted to do to change education
3 spending and some other things, they were amending the
4 Constitution. So the voters had to actually agree with
5 that. The voters didn't, and they all went down. And
6 so that put the budget out of whack, as has this
7 continued global malaise.

8 So what you have right now is a budget that is
9 in place, but it's about \$26 billion out of balance.
10 So that's what they're now wrestling with to try to
11 close. So State Parks' budget last February, we were
12 treated well considering the overall conditions. We
13 had some reductions, but not a lot. It's the
14 amendments to the budget, to bring it into balance to
15 deal with that \$26 billion hole, is where we become
16 much more vulnerable that you've been reading about.

17 So it was the Governor's proposal in the
18 aftermath of the election of May, that is what has
19 brought so much attention to State Parks and many other
20 departments like CalWorks, and all of these other
21 things you're hearing about. So we're being caught up
22 in this very large global economic decline. The
23 Governor proposed to eliminate all general fund support
24 for State Parks. So what that amounts to, if it was
25 agreed to by the Legislature -- someone emphasized it

1 was a proposal -- that would eliminate all. They
2 proposed to do it in two years, so it would be
3 \$70 million cut in the first year, and then the
4 balance, \$73 million, the following year. We get
5 \$143 million out of the general fund.

6 Now, State Parks is different than most
7 departments because we're an enterprise department.
8 Most departments if you cut, let's say, a ten percent
9 cut from their operations, you would expect to see a
10 ten percent reduction in the program. But because
11 we're an enterprise department, if you cut us say ten
12 percent, that means we start having to reduce
13 operations, which generally means you start closing
14 some doors. You close the doors, you lose the
15 enterprise aspect, which is the fee generation that we
16 do, because we get -- not quite 50 percent is fees. So
17 as you close a park, now you lose that revenue. So the
18 cut rapidly spirals downward.

19 So you can't look at the percentage cut as
20 equating to a percentage reduction in program. So by
21 the fact, by taking out all of the general fund, it
22 amounts to an 87 percent budget cut to State Parks,
23 nearly 90 percent. So it's kind of game over for our
24 institution if that goes forward. We will remain open
25 in the sense that any parks that are funded from

1 special funds are not affected by this. So reservoirs
2 that are funded from gasoline taxes, use, and boating,
3 those stay open. So all of our reservoirs stay open
4 because they're funded from the Harbor and Watercraft
5 Fund. SVRAs, which are funded from taxes, used
6 off-road and green sticker. Those are not general
7 fund. They stay open. We have urban beaches in
8 Southern California that are self supporting, so they
9 stay open. Hearst Castle, it's virtually a wash. So
10 we leave that one open. It would cost us as much to
11 close as it would be to open. It basically breaks
12 even. The Railroad Museum has so much private funding
13 that it can stay open. And Asilomar and Marconi, those
14 are all nonprofits models, and we have some parks that
15 are run by cities and counties. So those are the parks
16 that stay open.

17 And what's left is 220 parks that would close,
18 and basically you're talking about the coastline from
19 Orange County to Oregon, and virtually every park in
20 between except for the SVRAs, reservoirs, Hearst
21 Castle, Asilomar, and the Railroad Museum. So this, of
22 course, has got a lot of people very unhappy. The
23 legislators indicated that they don't have a lot of
24 appetite for that large of a cut. And so at this
25 point, we don't know what they're going to do.

1 I can describe to you what the conference
2 committee did. They accepted the Governor's proposal
3 to eliminate all of our general fund. The democrats
4 put on the table, and they proposed to backfill that
5 general fund with a \$15 vehicle license fee increase.
6 That is a tax that required two/third's vote. They put
7 that vote up, and it failed. So right now the budget
8 as drafted has our general fund being eliminated, and
9 we're not aware of whether backfill may or may not come
10 in.

11 We heard that there might be a budget last
12 night. It didn't happen. So we're still waiting. We
13 honestly don't know what mechanism they will use, if
14 any, to backfill our general fund loss. And so we're
15 sort of hanging here waiting and not really sure. We
16 are actively looking for partners, cities, counties,
17 nonprofits, private sector, who could partnership with
18 us to help keep some of these places open. So I'm
19 optimistic that it might not have to be 220 at the end
20 of the day.

21 But if it really does come to an 87 percent
22 budget cut, from an administrative point of view, it's
23 very difficult to keep running because you essentially
24 have to lay off everybody, our entire executive team,
25 everybody but a handful of accountants to keep the

1 contracts going, and personnel transaction people, so
2 the rebar, your admin, but a very small core. But we
3 would certainly be eliminating the entire rest of the
4 department at headquarters and at the field level also.
5 So places like Tahoe, the entire district would be --
6 all Tahoe parks closed, the whole Sierra Nevada, that
7 all goes away.

8 Our concern is that there really is not enough
9 money in an 87 percent budget cut to provide for much
10 oversight of caretaker status. We've been saying
11 caretaker, because we aren't real interested in looking
12 at selling the parks. Nobody has told us they want us
13 to sell these places. That's really a permanent loss.
14 It is a cyclical problem. It's hard to believe, but
15 remember back in 2000, they were doing crazy spending
16 money, cutting the car tax, doing all kinds of things.
17 It's hard to believe that there was billions of dollars
18 of surplus back in 2000, and here we are in 2009 and we
19 are looking at a \$24 billion hole after they already
20 just cut 40. So it's really kind of astonishing, but
21 it is cyclical. So we don't want to be making
22 permanent changes to a cyclical problem.

23 But I want to say, in our view at an 87 percent
24 budget cut, we would not be able to provide more than
25 half a position year per park of oversight for those

1 closed parks. So that really isn't much oversight. So
2 our concern, of course, would be that they would suffer
3 a tremendous amount of vandalism and everything else.
4 Because you can't close a lot of those places,
5 practically speaking, but there would be use still.
6 It's just going to be unauthorized use. So it's
7 uncontrolled use, so you wouldn't necessarily have good
8 outcomes from that.

9 We're very concerned about the cultural
10 resources. We would probably be removing all of the
11 artifacts, putting them into warehouses, things like
12 that. So we really haven't gone that far along that
13 path because we just don't know what's going to happen.
14 So that's kind of the world we're in. We're still
15 trying to do a contingency plan, a contingency plan,
16 contingency plan because we just don't know what card
17 you're going to be dealt.

18 And I think to their credit the staff in the
19 field are keeping their spirits up. People are still
20 running the parks. We're on three-day-a-month
21 furlough. That has a real devastating effect on
22 people's home lives, but our parks are still open seven
23 days a week, we close all of our offices every three
24 Fridays a month.

25 But the parks are really full to capacity right

1 now. This is clearly the vacation of choice, as
2 families are all experiencing their own decline. And
3 so our campgrounds are filled to capacity in most
4 cases, and a lot of people I think are discovering the
5 parks for the first time because it is an affordable
6 vacation. So they're needed more than ever, but these
7 are really tough times. The decisions that have to
8 made are unimaginable. I don't envy anybody in the
9 Legislature or the Governor's Office having to make
10 these kinds of tradeoffs.

11 So I'm not trying to impose any sense of values
12 on what the decisions are. I just want to convey to
13 you what it is that we're looking at right now. This
14 cash flow problem that has resulted from this
15 \$26 billion hole is what's causing and wreaking havoc
16 with planning in other areas which are not general
17 funded, so that includes the OHV-funded activities.

18 And this is where a lot of folks get very
19 confused, and it doesn't make sense. I have a lot of
20 colleagues in some of these special funded departments,
21 like the Water Board, and they have no general fund,
22 why are we having to take a furlough? Why are we
23 having to have our contracts frozen? Why can't we get
24 our bond projects moving forward? What is that all
25 about? And the issue is all about cash and inadequate

1 amounts of cash, and that the general fund actually
2 fronts the expenditures, which are subsequently repaid
3 by special funds. So when you don't have enough money
4 to front it, you can't do anything in the back end. So
5 they're actually constraining all of the programs
6 because of the cash flow problem, and everything else
7 in IOUs. And if nothing changes, we will start to
8 default on our legal obligations for bonds. And if
9 nothing changes, they expect that to occur in
10 September.

11 At this point I start getting a little bit over
12 my head in my level of understanding of cash flow and
13 how that all works. So I'm going to toss it over to
14 Manuel right now, so he can explain it more clearly as
15 to why it is that things like your bond funded
16 programs, your contracts for OHV activities, why are
17 your staff being furloughed. You're not general
18 funded; why are you being affected? I mean you're
19 being spared your closure problem because we're not
20 going to close any SVRAs because our cut is out of
21 general fund, not out of the OHV fund. But you're
22 being affected by this overall malaise in other
23 operational ways. So I wanted Manuel to talk to that.

24 MANUEL LOPEZ: I kind of liken the cash flow
25 issue to your own private account, where you have a

1 multitude of various accounts, and you basically shift
2 cash between those accounts. That's what the State
3 does on a very global basis. And what they're trying
4 to do is basically retain as much cash to cover
5 mandated expenditures, some of those being transfers to
6 cities and counties and payroll costs. So basically
7 all of these actions are geared towards trying to
8 retain as much cash.

9 In prior years, the state was able to go out and
10 get short-term loans, bond issuances to cover cash flow
11 shortfalls because revenue with the State comes in at
12 odd times and it doesn't always match up with the
13 disbursements. So with the global meltdown in the
14 credit market, it's been very difficult for the State
15 to go out and actually secure bonds to cover cash.
16 That's why some of these more draconian measures are
17 being implemented in order to retain cash. Hopefully,
18 I captured that in a nutshell. If any of you guys have
19 any questions, I would be more than willing to answer
20 those for you.

21 As you know, in February we were hit with a
22 two-day furlough. In June, we were hit with an
23 additional third furlough day. Those were executive
24 orders, and that basically applied statewide. I
25 believe CHP was exempted from that and Cal Fire. In

1 addition to that, there were additional executive
2 orders basically putting a restriction to all contracts
3 and put in place an exemption process. And for the
4 most part, we've been fairly successful in getting
5 exemptions to contracts, but not everything is being
6 exempted. And that covers all fund sources, whether
7 it's general fund -- nothing in the general fund is
8 moving forward. And I think we've got a few contracts
9 through on OHV, but nowhere near the amount that we
10 were requesting to get things through. So it's been
11 tough across the board.

12 That hit us in June, and we're also hearing that
13 there could be some reductions to OE&E, operating
14 expense and equipment line items within the budget.
15 That cover things like utility costs, vehicle
16 purchases, vehicle maintenance, and other maintenance
17 activities within the state.

18 Bond freeze, that's something that basically has
19 hit this department pretty hard, as well as a lot of
20 other departments within the agency, again, a victim of
21 the global credit market. What was happening is
22 typically we operated on a loan basis. That means that
23 all of the projects that were underway, we basically
24 used general fund to front all of those projects, and
25 then as that general fund started to be depleted, we

1 would go out and sell bonds to cover those costs. So
2 basically you were trying to take a cash management
3 approach to managing our bond projects.

4 When the market froze on us, we could not cover
5 those loans. And as such, we have had to basically
6 stop in their tracks a myriad of projects. They are
7 slowly starting to be released, but it doesn't look
8 like there is going to be any new projects started
9 until we complete the ones that we finished. We had a
10 bond sale. I believe it was in February and April, and
11 we're in the process of spending that cash now on
12 existing projects.

13 But for most of the OHV projects, those are
14 funded by your own Trust Fund, so typically most of
15 those were not impacted by the bond freeze.

16 DEPT. DIRECTOR GREENE: Manuel, just a question
17 on the bond. They keep saying that we're one step
18 above a junk bond. How does this impact our situation?

19 MANUEL LOPEZ: Well, it just means that we're
20 going to be basically paying more for debt service on
21 all of our bonds, whether it be an infrastructure type
22 of bond, like Prop 84, or the short-term revenue
23 anticipation notes that we are able to go out and
24 secure to cover cash flow. Everything is going to cost
25 us that much more. Hopefully, that issue will be

1 resolved once the budget is in place. The reason for
2 the downgrade is due to the fact that the State has
3 been issuing IOUs, and we still have not got a
4 reconciled budget in place. I believe banks, up until
5 last Friday, were accepting IOUs. The majority of the
6 major banks in California have stopped accepting the
7 IOUs at this point.

8 CHAIR WILLARD: Well, thank you. And on behalf
9 of the Commission, I want to welcome you and thank you
10 for taking time out of your busy schedule, I'm sure
11 it's hectic right now, and explaining all of this to
12 us. Obviously, we have a very keen interest on what's
13 going on because definitely this has an unfortunately
14 very severe impact on our program, which we're
15 interested in seeing continue.

16 There have been suggestions that a substantial
17 amount of our funds should be reallocated some way -- I
18 don't understand the mechanism of how it would
19 happen -- but would be reallocated to assist State
20 Parks. You probably heard of that, and if you have,
21 have you got any comments on that?

22 DIRECTOR COLEMAN: We've heard rumors. It's not
23 an administrative proposal. I've read the same
24 literature you guys have read. And if I understand
25 their literature correctly, I think what they're

1 proposing would require a statute change. Finance has
2 already borrowed \$90 million from this fund. That was
3 part of, I think, the February budget. They can do
4 that, so they can borrow funds. If they wanted to
5 actually take them on a permanent basis and change
6 their uses, I think they'd have to change the law.

7 So we really don't know which approach they're
8 going to be taking. There's another proposal for what
9 they call opt out. In other words, use that vehicle
10 license fee, but you would allow people to opt out of
11 it if they didn't want to do it, so you make it more
12 voluntary. Legislative counsel, we're hearing that
13 they probably opined that there would still be a tax
14 because -- there's been examples of opt out in various
15 contexts.

16 For example, we have a hotel that does an opt
17 out voluntary program and is right adjacent to Silver
18 Strand State Beach. The hotel owner, her own decision
19 to do this, she adds on a certain amount to the bill to
20 the customer when they come into the hotel, and a
21 certain amount is added onto the bill. She has a sign
22 up about it that, we use this money to take care of the
23 park next-door, and if I don't want to pay it, let us
24 know. So you're charged unless you opt out. So as a
25 customer, you have to ask for your dollar back, if it's

1 a dollar, a dollar 50, whatever. And with something
2 like that, about 90 percent of the people never do. It
3 takes an action to get out of it, so you have a very
4 high compliance rate.

5 We have an opt-in program at Asilomar where they
6 say you can make a donation if you would like to help
7 take care of the park. That has a participation rate
8 of around five to six percent, so opt in has a very low
9 participation rate; opt out has a very high. But opt
10 out is kind of banking on the idea that you kind of
11 don't get around to it, or you didn't understand it, or
12 a lot of other things that happen to make you not do
13 it, and that make you actually stay in the program.
14 And all of those things are what makes counsel say
15 that's what makes it a tax because it becomes slightly
16 less voluntary.

17 So I don't know whether they'll go with the opt
18 out or not. There's been a lot of conversation about
19 that. So they might try the opt out program, but they
20 would have to draft it in such a way to make it a fee
21 that virtually becomes opt in. And so then the
22 question is how much money is that going to generate
23 and how will that translate because certainly people
24 will opt in who are already paying for an annual pass.
25 Because right now the annual pass is \$125, and now you

1 can get it for \$15. That becomes a big money loser
2 really quick. You have to have a participation rate of
3 about 68 percent to break even with this program. We
4 just don't know whether we would or not. And so that's
5 another issue that is certainly being debated.

6 So I honestly don't know which way they'll go,
7 and I think if they did take OHV money, my guess is
8 they would do it as a borrow because they would have to
9 do statute change and to do a bill in order to try to
10 take it on a more permanent basis. But I wouldn't say
11 they're not looking at it, because we certainly have
12 heard the same stories you have, but we've raised a
13 variety of different options.

14 And then they may decide this is not that much
15 of the general fund that we're talking about. It's not
16 worth it. Let's just put the money back in. Because
17 if you're trying to maintain a \$4 or \$5 billion
18 reserve, and we're talking between \$15 and \$70 million
19 here. We are less than one-tenth of a percent of the
20 State budget. So we've also heard that school of
21 thought of some staff saying they may decide. Enough
22 already, I just don't know which way they're going to
23 go.

24 CHAIR WILLARD: Speaking of borrowing, the
25 \$90 million that was lent to the general fund, it's a

1 loan I think until I think 2013. And that was a heavy
2 burden for this program to undertake, and so I think we
3 all feel like we've done our share to help out.

4 DIRECTOR COLEMAN: Given at the office.

5 CHAIR WILLARD: Exactly. What should we be
6 doing or what can we do, looking forward, to ensure
7 that we get repaid because that's really an important
8 funding for us.

9 DIRECTOR COLEMAN: It is, and they have a bad
10 track record of repaying it, really bad track record.

11 CHAIR WILLARD: We know about that. We want to
12 make sure that we do what we can be doing, so looking
13 for advice from you. What do you think -- maybe it's
14 not safe because they've got other things, but once the
15 budget is put to bed, looking forward over the next few
16 years, are there things that we can do as a Commission
17 to make sure the program gets paid back?

18 DIRECTOR COLEMAN: At the end of the day, the
19 appropriation authority rests with the Legislature.
20 The administration proposes and the Legislature
21 disposes. And so you want to be communicating to
22 whomever is governor and also to all of your
23 legislative representatives. Because at the end of the
24 day, it's the legislative representatives' decision to
25 repay it, but you also want a governor to propose that

1 repayment. It will be a new governor. You certainly
2 want to be meeting with all of the candidates to convey
3 your interests.

4 And then also to legislators, it will be a whole
5 new set of legislators in 2013. That's the interesting
6 part about term limits. This is an institution, at
7 least in the Assembly, that has 100 percent turnover
8 every six years. It has 30 percent turnover every two
9 years. It's one of the reasons why -- I wonder; I mean
10 it may not function as well as it might. I mean you
11 might think of any other organization, part of a rotary
12 club, anything else, 100 percent turnover does not
13 necessarily serve an organization well. I wouldn't
14 want to see a business turnover at 100 percent. That
15 wouldn't be a good business model. That is what we
16 have all asked for with our initiatives. Voters have
17 asked for that. They continue to seem to want term
18 limits. So that means you have 100 percent turnover
19 every six years in that Assembly, which means the
20 burden is high on all stakeholders to communicate to
21 who the new candidates are, because they're going to be
22 the ones in in 2013 because you want to make sure that
23 you're up at the top of the list. Because we would
24 hope by 2013, things would be better and that they
25 would be able to repay it back. And I think they

1 should. I think they should have repaid it back to the
2 one they did back way before me. I don't know how long
3 ago that was, \$50 million back in like the '80s, wasn't
4 it? They took it, and they've never repaid that. And
5 so the track record is not good. So vigilance is in
6 order.

7 CHAIR WILLARD: Thank you. Fellow
8 Commissioners, any questions of the Director?
9 Commissioner Lueder.

10 COMMISSIONER LUEDER: Question for Director
11 Coleman. I think all of us recreate in State Parks in
12 one form or another, not just the SVRAs. So, of
13 course, I think we're all very concerned about this.
14 And I'm just wondering what kind of discussions you're
15 having with local groups, other organizations that may
16 be able to step in and help the situation as far as
17 managing some of your properties. Because obviously
18 you can't shut down places like Mt. Tam State Park or
19 China Camp State Park, or a lot of the other ones. So
20 it's going to be a big law enforcement issue, and I
21 think we are all very concerned about that.

22 DIRECTOR COLEMAN: We had a partnership meeting
23 about three weeks ago where we brought together local,
24 federal, private sector, nonprofit to discuss what are
25 the different legal impediments, what are different

1 opportunities. So it's no question we're really
2 interested, and I think it's going to stress the
3 institution a lot to try to come up with as many
4 partnerships as possible.

5 In particular, if there's surrounding cities
6 that are willing to take on a portion of the cost,
7 we're all exploring some joint powers authority type
8 arrangements with some towns that are around certain
9 parks. One of the challenges we have is that the
10 Legislature, while they're debating Prop 98 and all
11 these other things, they're also talking about how much
12 are they going to take from local government. The
13 estimate is somewhere between \$1.7 and \$3 billion that
14 they will borrow from local governments this year. If
15 they're borrowing \$3 billion from local governments,
16 their capacity to come and step up and help us is going
17 to be greatly diminished, which is really unfortunate.
18 Because I think there is tremendous potential for
19 certain places like Benicia. We've already met with
20 the city officials of Benicia. Citrus down in
21 Riverside, there is a lot of potential. The cities
22 surrounding Chino Hills have expressed interest in sort
23 of forming a consortium to dealing with, like I said,
24 from a law enforcement issue. So we're trying to come
25 up --

1 All of our superintendents are now in the
2 process of quantifying what it costs to run each park.
3 Now, you may think we're crazy, why don't you know how
4 much it costs you to run each park. It is because our
5 budget has been cut so many times in the past. This is
6 not the first cut. Every time the economy tanks, we're
7 on the front of the list. I always say we're first in
8 their hearts, last in their wallets. So we have been
9 what we call sectorized for many years. So you'll have
10 say a place where there are four or five parks say in a
11 40 to 50 mile area, and you will have no staff assigned
12 to any one park. So you have drive-by maintenance,
13 drive-by enforcement, drive-by ecology. You're, in
14 essence, deploying your staff over a broader area, so
15 it's a fraction of a person that's covering all of
16 these different parks.

17 So when you try to start quantifying what that
18 park costs, what is the gap for that park, it's
19 obviously going to be a challenge, and there will be a
20 certain amount of sort of professional guessing, but my
21 goal is to have that kind of quantification done for
22 every park, so we can approach partnerships and say,
23 here is our gap, what can we do to try to match it. Is
24 there some donor who will do some of it, a city or
25 county that might do some of it, private sector. It's

1 hardly a business opportunity done quickly because of
2 the contracting process for concessions require
3 legislative approval. That's not fast.

4 So I don't have a lot of optimism that they'll
5 be able to get a lot of new businesses in, and then
6 contracting out, there are certain legal issues and
7 constitutional issues. So that's a little challenging.
8 It doesn't mean we're not going to look at it.

9 We've been talking to the National Park Service.
10 They've offered to send a letter making it clear that
11 they may have to take some of the parks back, and so if
12 there are some parks that they can manage. We already
13 co-manage some parks with them. Redwood, it's all
14 jointly managed, Redwood State National Parks. We have
15 several large parks that are within the National Parks'
16 boundary. And so in all of those places, they are
17 expressing a willingness to help us out. And so I'm
18 hoping that they can take on some of our costs.

19 So it just depends on what is the magnitude of
20 the cut we're dealt. If it's an 87 percent budget cut,
21 that is so huge. That is going to be very difficult
22 for to us establish partnerships because the truth of
23 the matter is when you start issuing layoff notices to
24 everybody, everybody scatters. There is nobody at the
25 other end of the phone to put together a deal. It's

1 just game over.

2 But if it's a lesser cut, then I'm optimistic
3 there's been enough attention to this and the
4 Californians feel like you do, that there's going to be
5 a lot of people willing to step up to the plate,
6 certainly a lot of volunteers, but also I think of
7 donors and corporations. If there is a corporation who
8 could fund a \$50,000 gap and that would be the
9 difference of keeping that park open, like, for
10 example, I'm thinking of Point Cabrillo, that's a
11 lighthouse station up in Mendocino County. It is 365
12 days a year kept up by volunteers. It's a nonprofit
13 volunteer group that does all of the staffing there
14 already, but we provide the drinking water, and the
15 waste water treatment, and the bathroom cleaning. I've
16 got to tell you, you can't get volunteers to clean
17 bathrooms; it's not fun. I've done it for a day as a
18 park aide. I worked one day in a park in 103 degree
19 heat. You've got to pay somebody to do that work, you
20 really do.

21 But the interpretation and all of the cleaning
22 of the lens and all of that is all done by these
23 passionate volunteers. So it's about a \$50,000 bill to
24 empty waste water, bathroom cleaning, and the drinking
25 water. If we could get a company to pay for that, they

1 could get credit saying this park is kept open by, fill
2 in the blank. So we might be able to get that kind of
3 support for a year or two. And so we're certainly
4 going to be putting out the word for that and trying to
5 get that as much as possible. That will work as long
6 as our institution exists.

7 It's just with a 87 percent cut, the institution
8 kind of disintegrates rapidly. So I'm really kind of
9 challenged because I just don't know what kind of
10 organization we're going to have. But I totally agree,
11 I think that there's a lot of interest and capacity in
12 California to keep these places open because they mean
13 a lot to people.

14 CHAIR WILLARD: I understand that there are some
15 parks that the land was given to the state by the
16 federal government, and if those parks are closed, then
17 by the agreement, the land reverts back to the federal
18 government. Is that still on the table? And if it is,
19 I want to just remind you that our program funds the
20 federal government, U.S. Forest Service and BLM, to a
21 significant amount.

22 DIRECTOR COLEMAN: Exactly.

23 CHAIR WILLARD: So can we put that on the table
24 somehow?

25 DIRECTOR COLEMAN: It is the law. I mean that

1 is the agreement in part, like portions of Mt. Diablo,
2 Angel Island, there are six parks that do have that
3 reversionary clause. The scary thing about it is the
4 reversionary clause doesn't mean, okay, it just goes to
5 NPS and then they'll pay to take care of it. Then you
6 go, cool, maybe that's a good thing because NPS does a
7 great job of stewarding. But, in fact, what it does is
8 it puts it onto the federal surplus list. So literally
9 Angel Island could get sold, and that's a frightening
10 proposition. So we have a great concessionaire at
11 Angel Island and a strong nonprofit organization. It's
12 an expensive unit to run, but, you know, times are
13 tough, and there are a lot of people who live in that
14 area who just might be motivated to help make sure that
15 that doesn't happen.

16 So that's my hope because it is a real threat.
17 None of this is idle threat. This isn't the Governor
18 trying to rattle cages or stir people up. He's dealing
19 with an unimaginable list of impossible choices. I
20 don't think anybody should take this as a gratuitous
21 action or as some sort of our just trying to get your
22 attention. This is real, and it's really bad right now
23 for everybody.

24 CHAIR WILLARD: Commissioner Van Velsor,
25 question.

1 COMMISSIONER VAN VELSOR: I just wanted to thank
2 you as well for coming and giving us this very
3 depressing information.

4 DIRECTOR COLEMAN: You can see why my daughter
5 calls me that, don't you?

6 COMMISSIONER VAN VELSOR: That's good, a real
7 fun sucker.

8 DIRECTOR COLEMAN: Usually, what I say is you
9 can't go do that.

10 COMMISSIONER VAN VELSOR: I wonder, have you
11 given this presentation to the legislators?

12 DIRECTOR COLEMAN: No.

13 COMMISSIONER VAN VELSOR: Maybe they need to
14 hear this.

15 DIRECTOR COLEMAN: There wasn't a forum for it.

16 The proposal made went straight to conference
17 committee, and conference committee departments don't
18 testify. And during the budget subcommittee time
19 earlier in the fall or in the spring -- well, actually
20 they did the budget in February. So it was fine. It's
21 just when they amended that we get in trouble. So, no,
22 I've not made that presentation to them.

23 CHAIR WILLARD: Commissioner Silverberg.

24 COMMISSIONER SILVERBERG: Director Coleman, I
25 just didn't quite get clear on what happens if there is

1 an 87 percent budget cut for the OHV.

2 DIRECTOR COLEMAN: You stay open, and we keep
3 enough rebar in the department to make sure that all of
4 the administrative functions continue. All of the
5 SVRAs stay open. It really doesn't affect the OHV
6 program because it's fully funded from non-general
7 fund. It also doesn't affect the reservoirs for the
8 same reasons because those are now funded from the
9 Harbor and Watercraft Fund. Much to the chagrin of the
10 voters in this city, they were very unhappy that
11 Finance shifted our funding source. We didn't ask for
12 it. We used to be funded from general fund for our
13 reservoirs, but Finance, in the last economic downturn
14 about three years ago when things were starting to get
15 rough, they did a complete fund switch. So now all of
16 our reservoir costs are covered by the Harbors and
17 Watercraft Fund, which is very analogous to your OHV
18 fund. It is taxes on gasoline used in boats.

19 CHAIR WILLARD: The OHV program, as you probably
20 know, is much more than just the SVRAs. We have a very
21 substantial and important grant program. That would
22 also stay in place?

23 DIRECTOR COLEMAN: Yes, basically the cut is to
24 the general fund. So it's affecting the general fund
25 portion of the department.

1 CHAIR WILLARD: Good. Commissioner Slavik.

2 COMMISSIONER SLAVIK: I, as well, am not as
3 clear as I think I should be on this situation where
4 there was a budget passed in February, and then we had
5 this election process, and then there were initiatives
6 on the ballots, and the State was asking for money and
7 the voters to pass all of these initiatives. Everybody
8 I talked to said we're not giving them any more money.
9 That was obviously a simplistic way to look at it.

10 You kind of present a little different aspect
11 from being on the inside of this. Can you explain that
12 a little bit more of why -- because the voters said no
13 more money, that this created this crisis after the
14 fact?

15 DIRECTOR COLEMAN: Well, because the voters said
16 they weren't willing to fund those activities, they
17 weren't willing to pay for those additional taxes.

18 COMMISSIONER SLAVIK: But that was more money
19 out of pocket, right?

20 DIRECTOR COLEMAN: Yes.

21 COMMISSIONER SLAVIK: Isn't that what that
22 really meant, more money out of the taxpayer's pockets?

23 DIRECTOR COLEMAN: There were some tax proposals
24 on the ballot, and they failed. But they also had
25 spending limits imposed on the ballot, and those also

1 failed. So the interesting thing is there weren't any
2 exit polls done on this one because the newspapers
3 don't have any budgets anymore, so there were no exit
4 polls done. And so we have different polling groups
5 now trying to interpret what that message was. And
6 it's kind of like a Rorschach challenge, if it is a
7 more liberal group, they say, well, clearly, the voters
8 didn't like the spending cap, and that's why they voted
9 no. And the main funder of the "No on 1A" was actually
10 a union and they wanted more money, not less. But
11 there's others who say, no, what this tells you is the
12 voters said no more taxes. So it just sort of depends
13 on who's doing the interpretation as to what
14 interpretation they're saying it is. The Governor has
15 interpreted it as being no more taxes. He's very clear
16 on that. He said the voters said no taxes, and that's
17 the message we got from that election.

18 So based upon that interpretation, he is
19 proposing to deal with this hole that has come about,
20 partly because they didn't vote for the taxes, that
21 would have been, I think, \$6 billion, and partly the
22 continued decline of the economy give us the other
23 \$20 million. So the budget is out of whack from what
24 they thought it was in February because their estimates
25 were wrong.

1 We started getting the tax receipts because
2 people pay their taxes on April 15th. That's when you
3 start getting the real numbers. That's why they always
4 call it the May revise is because you revise the budget
5 so now you know really what's happening. You're due in
6 April, by May you know what the story is. In May they
7 discovered it was way worse than we thought it was in
8 February. That's how fast the economy is kind of
9 spiraling.

10 So you have the hole that comes from two
11 sources. One is the voters voting no on some of those
12 tax parts and also the continued decline. So the
13 budget that they passed in February, would have been
14 balanced had their estimates been right and the voters
15 approved those initiatives. But neither of those
16 things happened, the voters said no and the estimates
17 were wrong. Does that help?

18 So it's not about me saying people want taxes or
19 do not want taxes. I don't want to give that
20 impression. We're now dealing with a bigger hole. So
21 we've got to amend that budget, because you have a
22 budget in place for July, but it's wrong. It's wrong
23 by \$26 billion, so you've got to fix it. Because it's
24 out of whack and Wall Street knows it, they won't loan
25 us money. That's why we're in the IOU program. That's

1 why we defaulted in September because everybody knows
2 we are \$26 billion in the hole. We've got to get out
3 of that hole. And there's two ways you can get out of
4 it. You can either raise your rates or you can cut
5 your programs. And the Governor said no raising rates;
6 it's only cuts. So that's where we're going. So it's
7 just of question of what you cut and how much.

8 CHAIR WILLARD: Well, hopefully they are going
9 to get this all figured out. Maybe they're doing it
10 right now, who knows.

11 DIRECTOR COLEMAN: Yes. It's not easy. I know
12 people are really throwing a lot of arrows at the
13 Governor and the Legislature. All of us should imagine
14 ourselves in that position. These are all good people
15 of good faith. I don't think it's fair to vilify them.
16 I don't think we do ourselves any favors by trying to
17 vilify and say throw all of the bums out. You throw
18 them out every six years anyway. That's the rule, you
19 throw them all out. Whether they're good or bad, you
20 throw them out. I don't think doing that is the
21 solution. We have really a tough situation here.

22 CHAIR WILLARD: And we are concerned about the
23 potential for some hit to the OHV program.

24 DIRECTOR COLEMAN: You should be.

25 CHAIR WILLARD: Yet it requires them to pass

1 some new laws, but, hey, that can happen.

2 DIRECTOR COLEMAN: Yes. I don't think it's
3 likely, to be honest. If they can do it by borrowing,
4 they'll do it by borrowing because it's easier than
5 doing a law change. I think you're more vulnerable to
6 a borrowing than a law change. I think the fund is
7 vulnerable. I mean you already know it's vulnerable.
8 You already lost \$90 million.

9 CHAIR WILLARD: Borrowing might have the same
10 impact. If they suck all of the money out of our
11 program, say it's a loan, but you guys can't operate in
12 the meantime, then it has the same impact on us. We're
13 very concerned.

14 Again, looking for advice from you. Is there
15 anything that you would recommend that the Commission
16 can do to be an advocate for the program? There's been
17 some information put out there, some suggestions that
18 perhaps the program should be gutted or the money
19 should be taken away. Do we need to do a better job of
20 educating the decision makers on what the program
21 really does?

22 Some of the information that I read sort of
23 painted a picture that all of the money goes to
24 furthering the hobby of a few recreationalists on OHVs.
25 But, in fact, a lot of the money is used, as you well

1 know, for law enforcement, restoration, safety, a lot
2 of other things that makes sure that we have a program
3 that does take care of the environment, and that we
4 have a sport that's done appropriately. So does that
5 message need to be conveyed? And is that something
6 that the Commission can do?

7 DIRECTOR COLEMAN: I think that the OHV message
8 always has to get communicated because it's not an
9 intuitive message to those who don't do OHV. I know
10 Daphne and I were really discouraged in the recent
11 press that came out about Oceano. It just drives me
12 insane when we're beat up for snowy plovers. We have
13 the best snowy plover numbers anywhere in the state,
14 federal or state owned, it's at Oceano. The best
15 fledglings rates, the highest rate of success, the most
16 plovers. And we find it very hard to get that story
17 out.

18 So I think you constantly have to be vigilant.
19 That OHV phrase, "sacrifice zone", is something that
20 gets Daphne and me going. Don't you dare call these
21 places sacrifice zones. It's a tremendous education we
22 have to do that OHV and environment are not mutually
23 exclusive, and a tremendous amount of money is spent
24 for preserving the environment, that it is not a place
25 that is all about destruction. And you should never

1 underestimate the lack of understanding of the nature
2 of who does OHV. It's not viewed as a family program.
3 You all know it is a family program. But a lot of
4 people don't see it that way. So there is just a
5 tremendous I think marketing kind of -- I don't mean it
6 in a dishonest way. We need to be honest about who's
7 doing it and what we're using the money for and what
8 happens with the parks.

9 I get very discouraged, especially at Oceano, of
10 how it's portrayed. It's not to say there aren't
11 effects, but there's a lot of other sports like skiing
12 that have environmental impacts, and I don't see people
13 beating them up. So I really feel like there is a
14 double standard. So I think you should always be
15 educating. My experience, we really try to just stick
16 with facts, and just keep telling the truth, and
17 eventually -- you know, without drama. That's the only
18 thing you can do, really. That's what we've been doing
19 with the budget cuts. I'm not trying to be dramatic
20 about it. I just want to be really matter of fact.
21 I'm not angry at somebody for cutting it. I get where
22 we are at, but I want everybody to be clear on what
23 that means.

24 So I think the same thing, you've got a story to
25 tell, but I don't think that it's all well understood.

1 And that to some extent means talking to people you
2 don't normally talk to. But I think that's true
3 always, not just because of this crisis. And I want to
4 emphasize it's a continuous process because the
5 turnover is so high.

6 CHAIR WILLARD: Okay. Thank you so much for
7 coming.

8 DIRECTOR COLEMAN: Sorry to be so down.

9 I just have to share with you. I did get an
10 offer for funding yesterday if I was willing to change
11 the name of a beach. The letter came to me from PETA,
12 and they asked that they would be willing to give us
13 money if we were willing to change the name of
14 Pescadero State Beach, and Pescadero means place to
15 fish in Spanish. If we would name it Sea Kitten State
16 Beach, because they want to convey that fish have
17 feelings, and if people thought of them as kittens,
18 they would understand them better and understand the
19 trauma that they experience when people fish, so they
20 wanted us to prohibit fishing and rename it Sea Kitten
21 State Beach. I haven't responded to their letter yet.

22 COMMISSIONER SLAVIK: I want to be clear, are
23 you saying chicken or kitten?

24 DIRECTOR COLEMAN: Kitten as in meow. Now you
25 can pet the fish.

1 So we still have fun and the executive team is
2 holding together. State Parks staff is worth millions.
3 You know the story of State Parks is each park was
4 created from people who had a wild idea and used their
5 imagination and pushed against all the naysayers, and
6 that's our history. So I think that's all I have to
7 say on it. I think that there will be ways that we
8 keep these places going. So I'm always optimistic at
9 the end of the day we're going to come out all right.

10 CHAIR WILLARD: That's great. And hang in there
11 and keep fighting.

12 DEPT. DIRECTOR GREENE: Director Coleman, I know
13 you have to leave, but, Manuel, can you stay for a few
14 minutes while we go to public comment?

15 CHAIR WILLARD: Don't be a stranger. Please
16 come back and do it again.

17 DIRECTOR COLEMAN: I go to the other ones. I'll
18 come to yours.

19 (Whereupon Director Coleman leaves the meeting.)

20 CHAIR WILLARD: There you go.

21 Public comment period.

22 JOHN STEWART: Good afternoon, John Stewart,
23 California Association of 4-Wheel Drive Clubs. I want
24 to thank Director Coleman for the enlightening
25 presentation about the budget issues facing the State

1 of California and how, while it looks like the OHV
2 Trust Fund may be semi-protected and I'll stress
3 semi-protected, it seems like we're still at risk.
4 When the program is at risk, and I guess one message to
5 carry away is we need to ensure that the program is
6 well defined, well articulated, and that all of the
7 legislators up and down the State realize the
8 importance of this program to the State.

9 Financially, it is a big money getter for the
10 State. The companies that support the recreation
11 marketplace are many. They range from small businesses
12 to large businesses, from family-owned operations to
13 people doing part-time work. And these types of
14 businesses are a major economic boon to the economy.
15 And if the recreation program itself should falter, it
16 would have a reverberating effect on the entire economy
17 as these people making their living from supporting the
18 OHV community, they start falling and all of a sudden
19 people are now out of jobs, increased unemployment,
20 increased welfare dependency and whatnot as they move
21 forward. So aside from just what is shown within the
22 budget side, there is an overall economic impact from
23 the OHV program for the State which is an extremely
24 important part of the State's overall economy. And it
25 should be kept whole to make sure that the economy is

1 healthy. Thank you.

2 TOM TAMMONE: Tom Tammone, too bad the Parks
3 Director Ruth Coleman left because I hate to be accused
4 of putting words in her mouth. But listening to all of
5 this, I think that anybody that supports the
6 non-motorized side of the parks would be better served
7 by following the example of the OHV as far as its
8 funding source and as far as its partnerships, and
9 perhaps even ask for our help in developing those,
10 rather than making suggestions to divert our funding,
11 which tends to get people very aggravated in our
12 community.

13 And as far as the comment I heard from the
14 Commissioner that we fund this federal program so they
15 don't cut our state program, well, I kind of get the
16 feeling that that's kind of what's behind some of the
17 talk about the RTP program wanting to be changed by
18 Congress to Fish and Wildlife and some of the National
19 Park stuff. I've heard several rumors. There is a tit
20 for tat going on with the Governor and some people in
21 the Governor's Office as to, well, if you cut this
22 funding, we're going to cut that funding. Well, as far
23 as our program, most of our opportunity comes from
24 grants program, which does -- the bulk of it goes to
25 the federal government. That's where our opportunity

1 is, so we don't want to play that game. That's where
2 our funding goes, for federal government, and that's
3 where the bulk of our opportunity is realized. As far
4 as that tit for tat stuff, as far as we are not going
5 to cut that funding, we're going to cut this funding,
6 my word to the Commission, to the legislators, to the
7 Governor, and everyone, we don't want to hear about it.
8 It's our money. We want to use it for our opportunity.
9 Thank you.

10 CHAIR WILLARD: Ed Waldheim, Karen Shambach.

11 ED WALDHEIM: Ed Waldheim, California City. I'm
12 very saddened, Mr. Lopez, that the Director left. I
13 think it's unfortunate that she has not been present.
14 She's the Secretary of this Commission. Past directors
15 have come and they've given the respect for which you
16 are appointed. I want to convey to her my greatest
17 disappointment that she left here. I'm not happy about
18 it.

19 Ms. Coleman could have reached -- she's been
20 around a long time, two, three administrations now.
21 She should have foreseen what has happened, and she
22 should have used the OHV as a model to try to solve her
23 problems in the State Parks. She still should do that.
24 We voluntarily told the Republican legislators we will
25 double our fee so we can keep our program maintained.

1 And we promise you, Republicans, we will not attack you
2 for adding a tax. That's the only reason we had it
3 pass, because we went as a body to that group and told
4 them. The Democrats were okay with it, but the
5 Republicans were not. We got it passed, SB 742. We
6 doubled our fee.

7 So if we can do that and set the example of how
8 we are dedicated to preserving our access to public
9 lands for all users, regardless of how you recreate,
10 why then haven't we in State Parks and other recreation
11 done that thing? Why hasn't Mrs. Coleman and the Parks
12 Commission and the Parks Foundation taken the
13 leadership and developed the programs that they should
14 have done? I stated before, I told Director Murphy in
15 his office, let's put three dollars onto the license
16 plate. They didn't do it. Had they done it 20 years
17 ago, we wouldn't be having this conversation right now.

18 But I would say to you right now, Ms. Coleman
19 has the ability double the fee of the entrance to State
20 Parks. City of Needles is now charging to launch your
21 boat. It used to be free. I went and launched my
22 boat, 15 bucks. You go back in, \$15 every time you
23 come in; unless you get a pass, \$100. Obviously, I
24 bought the \$100 pass. So cities are charging and
25 people are paying. The place is packed. You can't get

1 into it. Castaic Lake, \$24 to launch your boat. I was
2 in there only two hours, \$24 to launch my boat in
3 Castaic. What's State Parks doing? Why aren't you
4 becoming more self-sufficient? And I think Ruth
5 Coleman needs to open up her eyes. She needs to get
6 real. She needs to manage her resources and use the
7 people that she has at her disposal to get the job
8 done. We have proven that we have done it.

9 OHV Division since 1972 has set a record. We
10 are the best in the nation, and I am really upset that
11 now we have lost \$150 million in projects that we have
12 on line to take care, and it's yanked from underneath
13 us. It is unfair. It's stealing. It is
14 unconscionable, and it should be illegal. And anybody
15 who does not support our program 100 percent, shame on
16 them. Come up with your own program, and leave me
17 alone, and let us do our job. Thank you.

18 KAREN SHAMBACH: Karen Shambach, PEER. As Fred
19 just said, why do I have to follow him?

20 CHAIR WILLARD: Somebody does. I guess I can
21 put him last.

22 KAREN SHAMBACH: First of all, I am sorry Ruth
23 has left, but I would also like to convey my gratitude
24 for her being here. I know she has a very full plate,
25 and I appreciate the fact she took the time to come.

1 For me, that was the best explanation I've heard of
2 exactly what is happening with the state budget. I
3 never really understand why the May revise is in May,
4 now I get it.

5 Anyway, I have been asked some questions about
6 the proposals that some of you referred to about
7 sharing OHV funding with State Parks, and I want to
8 explain why I am making those proposals. When SB 742
9 was being negotiated, it was relying originally on the
10 fuel tax survey. And the fuel tax survey, when it came
11 out finally, and I'm not a CPA, but from what I could
12 understand of it, it showed that this program had been
13 highly over funded in the past with regard to transfers
14 from the fuel tax program because of the multipliers
15 that they used. For instance, they said, well, for
16 every motorcycle that's registered, there are five that
17 aren't, so this multiplier. Jump in, if I'm wrong, but
18 this is the way I understood it.

19 And so what the new fuel tax survey that was
20 done in 2006 found was that the program was getting
21 about twice what it was entitled to in fuel taxes based
22 on off-road vehicle use. And it was kind of
23 unanimously determined or decided -- not unanimous, but
24 there was a consensus -- that, well, the program needed
25 all of that money that it been getting for it to

1 continue to operate because it costs a lot of money to
2 run this program. But it was also determined, that was
3 my understanding in the negotiations, that this was
4 going to be more of a recreation program and not
5 limited to green sticker vehicles. And that's why the
6 language in SB 742 said that it would fund both
7 motorized and access to non-motorized. But the program
8 hasn't done that, and Phil and I have had some back and
9 forth on this.

10 But the decision has been made within the
11 Administration that if it doesn't benefit green sticker
12 vehicles, that it's not going to be funded. And our
13 understanding during the negotiations was that, for
14 instance, this money would be available to maintain
15 dirt roads -- in the grants program, for example, dirt
16 roads that accessed non-motorized recreation. It could
17 be used to maintain dirt roads in State Parks that
18 weren't necessarily available to green sticker
19 recreation, but that's not been the case.

20 So in my opinion, there's been sort of a bait
21 and switch, and I know that's harsh, but that's just
22 how I see it. And so because the program is getting
23 much more money -- it's not totally user funded as
24 advocates like to say. It's not. It's getting a lot
25 of money from the fuel tax program that could be going

1 to other uses.

2 State Parks is in dire straits. The last survey
3 in 2007 showed that 73 percent of Californians had
4 visited State Parks -- should I stop -- in the previous
5 months. That's 12 out of 17 Californians. One in 17
6 households has an OHV. I think that we need to stop --
7 you know, we need to look at the bigger picture, and
8 they need the money. We have plenty, and that's where
9 I'm coming from. Thank you.

10 CHAIR WILLARD: Thank you. Fred Wiley.

11 FRED WILEY: Thank you. Fred Wiley from the
12 Off-Road Business Association. I want to echo what
13 Ed Waldheim says. Sometimes he follows me and echos
14 me, but this time it's my turn to echo what he said.
15 I'd like to go one step further. I'm not sure of the
16 technicality on this.

17 But maybe an agendized item, maybe the
18 Commission should take a position and send a letter,
19 either individually or as a group, to not only the
20 legislators but to the committees and tell them about
21 who we are and what we do. We're doing that with our
22 legislative advocates. I know that the Division is
23 doing it, as well. But I think it may help if the
24 Commission were to send that letter, as well. Thank
25 you.

1 CHAIR WILLARD: That's it for the public
2 comment. Dave, did I miss you? I'm sorry. Dave
3 Pickett.

4 DAVE PICKETT: Dave Pickett, District 36,
5 Motorcycle Sports Committee. Angel Island, that would
6 be an interesting SVRA, wouldn't it?

7 Director Coleman cited the history of funds that
8 had been taken from this program over its lifespan that
9 never seem to get repaid. So my first comment or
10 question here is directed to Mr. Lopez. Perhaps, you
11 can help me understand this.

12 On the Governor's Order, EO 909, I believe it's
13 the eighth paragraph, there's some exemptions for
14 projects to be funded, and that is those specifically
15 mandated by a court order. If there is a lawsuit that
16 was won where the State agreed, by settlement, to
17 reimburse the OHV Division, this goes back to the
18 early '90s, would that kick in to this Division if we
19 ran into financial straits, or do you know?

20 MANUEL LOPEZ: I think I have to look at the
21 statute. More than likely if we have a court mandate
22 that required us to fund that, we would honor that
23 mandate. For instance, we have right now an ADA
24 program that basically is a court mandate. We have a
25 settlement consent decree that we're operating under.

1 That particular program has been exempted from the
2 freeze. That is one that is allowed to continue,
3 despite the crisis that we're in.

4 DAVE PICKETT: Thank you, Mr. Lopez.
5 Commission, I would ask that there be follow-up on that
6 answer that was just given, so we can totally
7 understand if they denude the fund, we have a court
8 order in place that replaces the money that was just
9 denuded. That's the way I'm interpreting it. I would
10 like to have an answer on that, if possible.

11 DEPT. DIRECTOR GREENE: Dave, for clarification
12 purposes, are you talking about the particular lawsuit
13 under the Wilson administration in which the language
14 articulated that when the fund gets to a point of zero
15 balance, the fund will be repaid? The reality is, in
16 all honesty, the Legislature would never let that
17 happen. They're going to keep some amount of funding.
18 That's just a reality. That isn't pleasant, but that's
19 the reality.

20 DAVE PICKETT: Thank you, Deputy Director
21 Greene. I concur with most of what you just said, but
22 our legislators seem to forget about money they owe
23 each year that goes by. Well, these are very trying
24 times. I think Director Coleman made that very, very
25 clear. I wanted this on the public record. I wanted

1 the Commission that's currently sitting to know that
2 this is out there, and there are many of us that
3 haven't forgotten.

4 CHAIR WILLARD: Do you have the specifics on
5 that lawsuit?

6 DAVE PICKETT: I can get them to you.

7 CHAIR WILLARD: Yes.

8 DAVE PICKETT: Division may have the suit and
9 the settlement in their records. It may be in the
10 archives, but we can get it. I can work on it, see if
11 I can get you a copy.

12 CHAIR WILLARD: Thank you.

13 DAVE PICKETT: While we're at it, we're talking
14 money, there is also a State Parks -- I heard the
15 number \$140 million is owed to us after the \$90 million
16 that was taken in February. It's actually
17 \$142 million. Then director Henry Billerbeck back in,
18 I believe, '71, early on -- Mr. Waldheim might be able
19 to help me on this -- there was a state bond issued,
20 \$2 million, that was specifically earmarked by the
21 voters for OHV. State Parks absorbed that money. You
22 can get that from the Bureau of State Audits or I can
23 provide you with copies of that. There are funding
24 sources out there that the OHV community has paid, and
25 as Mr. Waldheim said, and Fred supported, I support

1 that also as District 36. Use our program as a model,
2 and the boating -- what was it called, Harbors and
3 Watercraft Funds that was recently enacted? And they
4 are also solvent now by the user fee being created.
5 There are solutions. Thank you very much.

6 CHAIR WILLARD: It's almost one o'clock.

7 DEPT. DIRECTOR GREENE: I have a few questions I
8 would like Manuel to answer. Manuel, if you could just
9 reflect on the fee issue because I know that's come up
10 a number of times today. If State Parks could simply
11 increase their fees, that would solve it.

12 Another issue which has come up is also why
13 there is this disconnect between an estimate of the
14 budget and what truly happens.

15 And finally, will there ever be an opportunity
16 where perhaps the OHV Division and Commission could
17 partner with some of the other State Parks should there
18 be the need to close them.

19 MANUEL LOPEZ: We've looked very closely at the
20 issue of fees, and to see if there was some opportunity
21 for us to raise fees to the point where we could
22 basically offset any of the general fund. And probably
23 at least since the time I've been with the department,
24 for three years now, we've been constantly pushing to
25 increase fees. Finance has been on us to increase fees

1 as a way of offsetting the general fund. I think last
2 year we took a million-and-a-half reduction to our
3 general fund, and we increased our fee authority by a
4 million and a half.

5 To put this in context, we would have to triple
6 all of our fees and assume no loss of visitation in
7 order to cover the general fund loss. What that would
8 mean is that folks wanting to launch a boat which
9 currently is \$15, that would now be \$45 for a day to
10 launch a boat. Huntington Beach, to park your car at
11 Huntington Beach is currently \$10, would now be \$30.
12 Camping, anywhere from a premium basic site would be
13 over a hundred dollars a day, upwards of \$270.

14 And you're assuming no loss of visitation. That
15 truly is not realistic. There is no way we can
16 increase fees and be able to offset the loss of the
17 general fund. And that is something that the
18 department has analyzed thoroughly. And if we had an
19 option to solve that on our own, we would have done
20 that. We have the authority to increase our fees. But
21 we also have a responsibility to ensure that we are
22 able to maintain public access, that our park system is
23 not run purely for the rich, but for everybody. So I
24 think when we look at these, we also have to be clear
25 on what the department's mission is. And at this

1 point, we just do not believe we can offset the general
2 fund loss to increase the fees. It's just not
3 feasible.

4 In terms of projections versus reality, I don't
5 believe anybody has ever experienced -- we haven't had
6 an economy such as this since the Great Depression.
7 And so the best minds at Finance are trying to do their
8 best to project what revenues are, but nobody was
9 expecting the loss of the sales tax revenue, as well as
10 the personal income. This is an unprecedented crisis
11 that we're in. And so there are going to be
12 discrepancies between projections and reality.

13 Part of the problem, too, the \$26 billion is
14 also contingent upon the fact that the budget did
15 include short-term tax increases. What the initiatives
16 we were proposing was basically an extension of those
17 short-term increases. That did not occur. And so we
18 have to basically -- we were assuming a long-term tax
19 increase. That doesn't exist now. So we have a
20 structural deficit that needs to be fixed, and that's
21 what the Governor is proposing to do. And he's
22 proposing to do it through purely costs without any
23 increased revenue. So, yes, there are some
24 opportunities for us to increase revenue. The VLF, I
25 think is one of those options that's being discussed.

1 DEPT. DIRECTOR GREENE: VLF again?

2 MANUEL LOPEZ: The vehicle license fee, excuse
3 me. I'm a bureaucratic. I get caught up in acronyms.
4 I apologize.

5 But in this environment, there is not a
6 willingness to embrace a tax increase. And it's not
7 just a small community that would be willing to support
8 it, we're talking the entire state willing to support a
9 tax increase. You folks were lucky enough to get 742
10 passed. The risk, though, with 742 is that it was an
11 action by the Legislature that can always be overturned
12 by the Legislature.

13 The VLF proposal, the vehicle license fee, park
14 access fee, there are a number of different names for
15 it, if that was passed by the Legislature, more than
16 likely if there are additional revenues being
17 generated, that can also be swept. Any time you have a
18 decision being made by the Legislature, there is always
19 an opportunity to have that overturned by the
20 Legislature. The one exception to that would be if it
21 was approved by a vote of the people. Then it would
22 take a four/fifths vote by the Legislature to be able
23 to sweep monies. And so any program that is special
24 funded that is not created by a vote of the people is
25 always subject to sweeping.

1 I came from Caltrans, and there was at times
2 \$300 million being swept away from local assistance
3 programs the last time we had that. There is no
4 program in this environment that is exempt from a
5 sweep. I know there are a lot of folks talking about
6 the \$90 million. To be honest with you, the
7 \$90 million fund balance sitting out there with no
8 commitment against it, from a budgetary perspective, is
9 ripe for the taking.

10 And so I'm not sure if I answered the question
11 in terms of the legal mandate accurately or not. I was
12 specifically talking about a given program, for
13 instance, our American Disabilities Act lawsuit that
14 was filed against the department, it put us on the hook
15 for basically \$114 million worth of Public Works
16 improvement to maintain our facilities and basically
17 make our parks accessible to the disabled community.
18 That is a legal mandate that needs to be funded. I'm
19 not sure if that is an apples to apples comparison to
20 the question that was being asked of me, but I'm hope I
21 addressed the question adequately.

22 DEPT. DIRECTOR GREENE: Thank you.

23 CHAIR WILLARD: Thank you, Mr. Lopez.

24 Deputy Director, I think we should probably
25 break for lunch, come back after lunch, and then we

1 will pick up with this continuation of this business
2 item and have discussion amongst the Commission and
3 continue with it.

4 (Proceedings reconvened 2:08 after lunch break.)

5 CHAIR WILLARD: So I'd like to conclude
6 Item V(A) of Business Items, which was a report on the
7 State budget situation, and I think we've listened to
8 public comments. I think at this point we'd like to
9 open it up to the Commission to have a general
10 discussion and perhaps get some further input from
11 staff, and then we can decide if there is anything or
12 something we might want to do. So with that, does
13 anyone, any Commissioners have any comments on what we
14 heard from Director Coleman or any other comments in
15 general on the budget situation and the OHV program's
16 fate?

17 Commissioner McMillin.

18 COMMISSIONER McMILLIN: Good afternoon, just to
19 keep it short, I don't want to get into my personal
20 opinion about the State budget, but I hope this
21 Commission can draft a letter to the Governor and
22 everybody involved stating our position here as a
23 Commission and reiterate the fact that we are mostly
24 self-funded, and we should be kept hands off like some
25 of the other self-funded commissions and agencies in

1 the State, and that's simply put. But to do nothing as
2 a Commission, I wouldn't be in favor of staying on this
3 Commission and watching us lose some funds without
4 taking off the gloves and putting up a good fight.

5 CHAIR WILLARD: Commissioner Van Velsor.

6 COMMISSIONER VAN VELSOR: This is certainly a
7 very difficult situation. As we've heard today in
8 several different aspects of the budget situation, we
9 have State employees that are being furloughed looking
10 at 10 to 15 percent reductions in their salaries.
11 We're hearing that the State Parks may be cut by close
12 to 90 percent and as a result, closing all of those
13 parks. Very dire situations, a lot of folks are
14 suffering certainly, and I think it's important to
15 consider that as a Commission in how we think about
16 managing our funds. I'm torn between I think my
17 responsibility as a Commissioner to further the goals
18 of the OHV Commission and support OHV recreation, but
19 also my responsibility as a Commissioner to promote
20 non-motorized forms of recreation.

21 The fuel tax that supports probably 75 percent,
22 roughly, of our budget is not entirely funded by
23 off-highway vehicles. A good percent of that, at least
24 50 percent, is from highway legal vehicles, passenger
25 vehicles being used to go to places for non-motorized

1 forms of recreation. So I think it's fair to say that
2 we could use that money for supporting some of the
3 goals of the State Park and possibly give them a hand
4 in their current need for funding.

5 So I feel I would like to propose to the
6 Commission that we consider the option to make some
7 percentage of our funds available to State Parks to
8 help them in this very tough situation to possibly keep
9 some of the State Parks open for the folks that are
10 using them, and certainly we've heard that they're in
11 very, very high demand in this difficult time of
12 economic downturn. So I guess I would like to hear
13 further discussion on that before I may make a motion
14 to that effect, but I think we could recommend lending
15 50 percent of the fuel tax money to State Parks to try
16 and keep some of those State Parks open.

17 CHAIR WILLARD: Well, I think I have a comment
18 for that. I mean I, for one, am also very distressed
19 that it looks like we're on the verge of closing any
20 State Park. I think that's a travesty in such a great
21 state as ours to even be considering closing down
22 parks. That's just a very sad state of affairs.
23 However, this program has already lent, given a
24 considerable amount of its resources to help the State
25 with their budget situation over the years, and most

1 recently the \$90 million. I think we have done more
2 than our fair share, and I don't think it's fair to ask
3 those that have been paying into the system, into the
4 program to subsidize another part of the overall
5 system.

6 There seems to be some misinformation, and
7 therefore misunderstanding, as to the way our funds are
8 derived via the fuel tax and this fuel study that was
9 done a few years ago. Chief, I'm sure you are well
10 versed on this topic and perhaps can shed some more
11 light on it, if you would please do so.

12 CHIEF JENKINS: The language that was suggested
13 that would purportedly support the notion of being able
14 to support non-motorized recreation in the State
15 Parks -- Ms. Shambach, who was here earlier, in her
16 letter proposed that, and she put that out as a news
17 release so it was widely available -- had quoted the
18 Public Resources Code to say that SB 742 had put
19 language into the Public Resources Code that said that
20 the program, the OHV program, should support both
21 motorized recreation and non-motorized recreation. The
22 full sentence actually reads, and this is in the Public
23 Resources Code, this was a section that was added when
24 SB 742 was passed, in Section 5090.02(c)(3), if you
25 wanted to look it up later, "The department should

1 support both motorized recreation and motorized
2 off-highway access to non-motorized recreation."

3 So it's not supporting the non-motorized
4 activity itself. It's the motorized off-highway access
5 to recreation. And if you were to say, what does that
6 mean in practical terms, compare, if you would, two
7 jeep trails. For instance, let's say, you had two jeep
8 trails, perhaps two jeep trails in the Forest Service
9 setting. And if one kind of just went up a canyon,
10 across a ridge, came back to the starting point, a nice
11 loop trail, that's a great motorized recreation trail,
12 so that would be supported. And if it were competing
13 against another proposal to fund work on another jeep
14 trail that essentially did the same thing, same length,
15 pretty much the same situation, but that second jeep
16 trail took you to a great fishing spot or a great
17 hiking access point, then that one also provides
18 motorized off-highway access, as mentioned
19 specifically, which means if it's off-highway, then
20 green sticker is allowed because it's off-highway. So
21 motorized off-highway access to non-motorized
22 recreation.

23 Language was referencing back to preexisting
24 language that's in the Revenue and Tax Code, and this
25 is where you would run into an issue if you were to

1 implement Commissioner Van Velsor's idea. In the
2 Revenue and Taxation Code, and, like I said, this
3 language has been there all along, it references
4 allowable uses of fuel tax money that's collected into
5 the program. Fuel tax transfers into the Trust Fund
6 are restricted, and this is in Revenue and Tax Code
7 8352.6, Section D, and it says that the fuel taxes can
8 only be used for recreation, for the pursuit of
9 recreation. And so you can see where the language was
10 picked up and kind of rewritten in different words to
11 do the legislative intent about motorized recreation,
12 motorized access to non-motorized recreation. So this
13 original language is for recreation and the pursuit of
14 recreation on surfaces where vehicles registered under
15 Division 16.5 may occur. So in other words, you can
16 only use the fuel tax money to pay for access to
17 recreation on routes where you allow vehicles
18 registered under 16.5, that's a green sticker vehicle,
19 where they're also allowed to operate.

20 And so I know that the statement was made
21 earlier that the decision has been made by the Division
22 to only support funding those routes, those roads,
23 trails that support green sticker. That's not a
24 decision that we've made. That is what the law says in
25 the Revenue and Taxation Code as it relates to fuel tax

1 money.

2 And then 742 took that same concept, made it the
3 legislative intent in the Public Resources Code, so it
4 now applies not only to the fuel tax money but also to
5 the gate fees that we collect and to the green sticker
6 revenues that we collect. I know that's a lot of
7 technicalities, but I think that frames it, hopefully.

8 CHAIR WILLARD: Yes, thank you for that
9 explanation. I also wanted to get a clearer
10 understanding -- or clear up some misunderstandings, I
11 guess, on the way the fuel tax dollars work, and this
12 notion that perhaps we're being over funded. That's
13 still out there for some reason, and I don't believe
14 it, but I'd like to hear an explanation of the whole
15 fuel tax revenue source to the program.

16 CHIEF JENKINS: Absolutely. There was a fuel
17 tax study that had been done in 1991 that had found
18 that there were a lot of non-registered vehicles
19 operating in the population. And they did a statewide
20 survey and tried to estimate how many of those vehicles
21 existed per registered vehicles. So there was this
22 conversion formula.

23 A more recent study that began in 2003, which
24 was published in 2006, estimated that there was a
25 smaller population of non-registered vehicles than we

1 had estimated in the past. That's a good thing because
2 that shows that the program is working.

3 In other words, one of the stated goals -- I was
4 in the program back when that first fuel tax study came
5 out, and the program took quite a lot of hit for not
6 being able to enforce registration more effectively.
7 So we went out and enforced registration with our
8 partners, sheriffs and federal agencies, et cetera.
9 And so the current fuel tax study that was done more
10 recently found that that had been successful. There
11 were less non-registered vehicles out there. So that
12 brought into question the formula that had been used.
13 That fuel tax study was criticized quite heavily when
14 it came out, because there was a wide margin of error
15 in that study.

16 When the negotiations were going on, when the
17 author was working on the legislation for SB 742, they
18 made the decision that -- they knew what the program
19 looked like in California, the OHV program looked like
20 in California, and what was written into the law at
21 that time was not that we would use the fuel tax study
22 to estimate how much monies was appropriate to come
23 from the fuel taxes to the program any longer, but that
24 the transfers would be based on the current year's
25 transfers. So in other words, our funding is now based

1 on how much money was transferred from the Motor
2 Vehicle Fuel Account to the OHV Trust Fund in 2007, and
3 they said that's our baseline. This is what an
4 effective program looks like for California. That's
5 the number from here on out.

6 And then it put in some language where every, I
7 think, five years you would go back and reevaluate.
8 There are certain factors that they wrote in that you
9 would use to evaluate the number to see if it needed to
10 be adjusted up or down as a percentage of the Motor
11 Vehicle Use Account. So our transfers will still go up
12 or down based upon how many gallons of fuel were sold
13 in California, but it's a constant percentage right now
14 of Motor Vehicle Fuel Account.

15 CHAIR WILLARD: To make sure I'm clear on this,
16 the information that was put out by PEER that
17 referenced the fuel tax survey and it used that as a
18 basis for coming to the conclusion that we were over
19 funded and therefore we should give up \$49.8 million,
20 that whole premise then is really looking at a past, a
21 historical method for generating revenues to the
22 program, not the current method?

23 CHIEF JENKINS: That's looking at that old, you
24 know, just taking the most recent fuel tax study at
25 face value and looking at those numbers. But even then

1 when -- I think that was also in Karen Shambach's
2 letter, the reasoning she used there was the percentage
3 of highway vehicles operating on off-highway routes
4 that pay into the fund. There again, earlier today
5 somebody mentioned that we need a better definition of
6 what's an off-highway vehicle.

7 There is a very clear definition of what's an
8 off-highway vehicle in the Vehicle Code, and it's
9 defined as anything that's registered under Division
10 16.5, and anything that's registered as a highway
11 vehicle when it's operated on roads and trails that are
12 under the jurisdiction of Division 16.5. So that's the
13 roughly graded roads and trails, et cetera. So once
14 you're off-highway in any kind of vehicle, regardless
15 of how it was originally registered, you're considered
16 an off-highway vehicle, and you pay into the
17 off-highway vehicle fund.

18 The way we try to explain it sometimes to new
19 staff that are coming on board, if you're on a trip
20 from home to say Rubicon Springs, on the section of the
21 road of your trip that you're driving on the highway,
22 you're paying to maintain the highway surface. And at
23 some point you cross over onto an off-highway section
24 of the Rubicon Trail, and now you're paying into the
25 Trust Fund. Your gas tax is going to the Trust Fund to

1 maintain that dirt section of road. And so when you're
2 driving on pavement, you're paying for pavement. When
3 you're driving for dirt, you're paying for dirt.
4 That's a very clean operation. The money goes to where
5 the impact is.

6 CHAIR WILLARD: Commissioner Van Velsor.

7 COMMISSIONER VAN VELSOR: Even though there was
8 some question about the fuel tax study, there still is
9 a significant amount of money generated by that from
10 passenger vehicles that are involved in non-motorized
11 forms of recreation.

12 And to your earlier point that it might not be
13 within the regulations to use fuel tax money for
14 supporting non-motorized forms of recreation except
15 access for non-motorized forms of recreation, one could
16 argue that if a State Park is closed, then access is
17 not available.

18 But aside from that, I don't think that the
19 State Parks would refuse our offer of money to help
20 them through this difficult time, and I think that it
21 would be good of us to be willing to share some of the
22 consequences of the economic downturn. Everybody is
23 going to be experiencing some pain from this. And I am
24 just wanting to show off the opportunity for us to
25 contribute to reduce some of that pain and then also

1 share some of it with some of the money that we have
2 budgeted in the fuel tax.

3 CHIEF JENKINS: And if I could point out, we do
4 currently, where it's appropriate and allowed by law,
5 give money to non-SVRA units of the State Parks system.
6 So, for instance, at Red Rock Canyon State Park, Red
7 Rock Canyon meets the test back in the Revenue and Tax
8 Code section of providing for off-highway access to
9 non-motorized recreation -- that's the key always is
10 the off-highway access. So they allow green sticker,
11 red sticker vehicles to operate in Red Rock Canyon
12 State Park, and so we support them with funds. We help
13 them with projects. We help them with repairing trails
14 and maintaining their system. Also, at Mammoth Bar,
15 which is part of Auburn State Recreation Area, once
16 again, not part of the OHV Division, not one of the
17 SVRAs, but they have green sticker available on their
18 tracks and trails, and so once again that's considered
19 off-highway access. You can take some great trails
20 there to get down to the places by the river,
21 et cetera. And since that's off-highway access,
22 they're eligible. We give them money every year to
23 operate. We've done that for many, many years. It
24 also happens there's a little riding area over by
25 San Luis Reservoir where we do that. And then, of

1 course, the Freeman properties, which is currently
2 undesignated, so we support that heavily with non-OHV
3 Trust Fund dollars.

4 So wherever we can, we certainly do support
5 their operations. The problem would come -- you
6 mentioned that the park was closed, then that would be
7 access to non-motorized recreation. The problem is
8 that wouldn't be off-highway access to non-motorized
9 recreation, so that's where we run into the bump in the
10 road.

11 CHAIR WILLARD: I think there may be
12 opportunities for us to help out some of the
13 traditional parks. Should they need to close, perhaps
14 we can lend some our resources to -- I don't know to
15 keeping them open, but certainly to help with
16 caretaking. And there may be some parks that are close
17 by to some of our facilities that we can lend a hand
18 to. So I don't know if you have some thought.

19 CHIEF JENKINS: There has been the question
20 raised about other units that might not have OHV
21 opportunity that might go into caretaker status that
22 might have illegal OHV incursions into them. And in
23 that case, we could use some of our funds and staff to
24 go out and prevent illegal OHV use. But that would be
25 more in protecting the boundaries and preventing

1 illegal use because we're charged with enforcing the
2 OHV laws. So we could help in that way. We couldn't
3 operate the unit because it's not an off-highway
4 vehicle opportunity unit, but we could certainly help
5 if it were in a caretaker status to protect that unit.

6 CHAIR WILLARD: Commissioner Slavik.

7 COMMISSIONER SLAVIK: I'd just like to comment
8 on Commissioner Van Velsor's comments about lending
9 money to keep the parks opened. I just want to remind
10 the folks here that the RTP funds that are essentially
11 a model of the California state funding program only on
12 the federal side, that the majority of that money is
13 going to non-motorized recreation. And that's not the
14 intent of the law. There was some backdoor
15 negotiations that happened when that fund was being
16 distributed, and State Parks operations basically took
17 the lion's share. So essentially for maybe the last
18 ten years non-motorized folks here have been getting
19 the majority of that share of that fund, and I don't
20 know if you knew that or not.

21 COMMISSIONER VAN VELSOR: What's RTP?

22 COMMISSIONER SLAVIK: Recreational Trails
23 Program, the federal gas tax fund. So you
24 non-motorized are getting 70 percent of that, if I'm
25 correct. Is that right? And you should be getting 40

1 percent by the intent of the law.

2 CHAIR WILLARD: Well, this is definitely a
3 difficult time, but I would like to try to do something
4 to -- you know, as I asked Director Coleman, what can
5 we do as a Commission to protect the program, and the
6 advice was, well, there is a certain perception of what
7 OHV is and perhaps we need to do a better job of
8 addressing that.

9 And so I'd like to kick around the idea of
10 maybe -- I don't know if it's a letter, or position
11 paper, or a white paper or something that just sort of
12 explains the program that can be given to the
13 decisionmakers, the lawmakers so that they have a
14 better understanding. I'm sure that this is happening
15 through various entities, lobbyists, but perhaps also
16 coming from the Commission might be an important thing
17 to undertake. So I'm not sure what that would look
18 like, but if the Commission was interested, that's
19 something we can put forth as a motion.

20 COMMISSIONER SLAVIK: Is that possible that that
21 could be on the website so it's available to the
22 public? In other words, they go to our website, they
23 want to go talk to their legislator, they can pull it
24 off of there.

25 CHAIR WILLARD: I think there are a lot of

1 people that are creating their own format type letters.
2 I'm thinking something more from us, from the
3 Commission. This is the Commission's position, and
4 this is what the Commission is recommending, and this
5 is how we see our program, and just trying to provide
6 information to the lawmakers. So I'm not sure it would
7 be something -- I don't think it would be appropriate
8 for individuals to then copy that and send that in.
9 Maybe we can do that; we can certainly talk about that.
10 But the concept I have is just as a Commission, we are
11 a body that is involved in this program, and who better
12 to provide information to the decisionmakers that
13 affect this program.

14 COUNSEL LA FRANCHI: Just kind of lost track
15 procedurally, if I can just interrupt for a second. I
16 didn't want to interrupt your chain of thought.
17 Commissioner Van Velsor, did you have a motion on the
18 table or were you just making comments? No motion was
19 on the table? I kind of missed it.

20 CHAIR WILLARD: Not yet. We are just sort of
21 kicking around ideas. And if Commissioner Van Velsor
22 wants to make a motion, certainly still willing to
23 entertain that. I think we're still in the discussion
24 mode right now.

25 COUNSEL LA FRANCHI: I will hold my interpretive

1 comments; but at the time the motion is made, I may
2 make some comments to get a little better perspective.

3 COMMISSIONER SLAVIK: What I was thinking of --
4 I understand what you're saying, and maybe it's two
5 separate things -- is it legal for us to provide
6 information on the OHMVR website that is an outline or
7 a white paper of the program, if you will?

8 DEPT. DIRECTOR GREENE: Of which program, the
9 OHV program?

10 COMMISSIONER SLAVIK: The OHV program, right.
11 In other words, kind of what we're talking about, but
12 maybe there are two different versions of it, but a
13 version for the public that they are able to pull of
14 the program and take to their local legislator, sit
15 down at their offices, and say folks this what we're
16 all about here. They don't have those talking points
17 generally in their hands.

18 DEPT. DIRECTOR GREENE: Right. I think we could
19 provide that, but what we can't do is essentially take
20 a position on the website counter to what the
21 Administration has.

22 COMMISSIONER SLAVIK: Just the facts, ma'am.

23 CHAIR WILLARD: There are two things, we've got
24 the Division and you've got the Commission. The
25 website is a tool of the Division.

1 DEPT. DIRECTOR GREENE: Correct. If I may,
2 looking at the politics of the matter right now, and as
3 we look at California, exactly as we've talked about
4 here today, we need to do a better job of talking about
5 the OHV program in California. And if you look back to
6 1971, it spoke specifically about the state and the
7 partnerships that we have with the locals, the
8 counties, and the federal agencies, now with the
9 nonprofits, educational institutions. But I think the
10 key for the OHV program is that it is a statewide
11 program. And that point I think has been lost perhaps
12 with members of the Legislature. So I think that's an
13 important message to get out there. Because, quite
14 frankly, if I see a vulnerability, and we are seeing it
15 all across the board, it would be with the local
16 assistance programs.

17 I think that we have a bit of a challenge to
18 state clearly how it is, and this is no disrespect
19 whatsoever to our federal partners, but certainly as we
20 look at federal stimulus money coming into both the
21 Forest Service and BLM, if I were a member of the
22 Legislature in California, I would say, wait a minute,
23 do they have money, California State Parks is in a
24 precarious position.

25 I think it would help the OHV Commission to get

1 a message out about the importance of a statewide
2 program.

3 CHAIR WILLARD: I think I'd like to make a
4 motion just to get something out to talk about, then if
5 you want to make a motion.

6 But I'd like to make a motion that the
7 Commission, through its chair, write a letter that's
8 then used to send to the Governor and the legislators,
9 committees that are involved in making decisions that
10 potentially could impact the fund. The letter would
11 basically outline the program and give information on
12 the sources of our revenue, our expenditures, including
13 the SVRAs and the grant programs. The purpose of the
14 letter would be to just better inform the
15 decisionmakers on the program, so that's a motion.

16 COMMISSIONER McMILLIN: I'll second that with
17 the addition that we -- what was your final statement,
18 to inform them of the program and ask them to please
19 not pick our pockets. I want to make sure that's
20 crystal clear.

21 CHAIR WILLARD: That's an amendment to the
22 motion, and the maker will accept that amendment that
23 we also include some sort of language that requests
24 that they leave the program intact and perhaps that we
25 also point out the fact that we recently lent the

1 general fund \$90 million out of the program.

2 COMMISSIONER SLAVIK: Not to mention the money
3 from before.

4 CHAIR WILLARD: There is a second, so
5 discussion. Commissioner Van Velsor.

6 COMMISSIONER VAN VELSOR: I would like to
7 recommend that we could add to that that the
8 Legislature pass the \$15 license fee to support State
9 Parks.

10 CHAIR WILLARD: Any other discussions.

11 COMMISSIONER SILVERBERG: I don't think that's
12 such a great idea. I don't want to have the Commission
13 looked upon as if it were in the business of increasing
14 people's taxes.

15 CHAIR WILLARD: Yes, I appreciate the spirit in
16 which that's made, and I think that would serve to
17 disserve the purpose of the letter, and so I think I'd
18 rather have that out. Any other discussion on the
19 letter? Commissioners?

20 COMMISSIONER SLAVIK: Personally, I thought the
21 \$15 addition to everybody's license fees around the
22 state would solve the problem, but I understand that.
23 I think this Commission is not appropriate for us to
24 make that recommendation.

25 COMMISSIONER VAN VELSOR: We have heard from

1 several of the public today the value of this program,
2 the OHV program, the fact that it is supported by the
3 OHV community, and that State Parks should develop
4 their own form of long-term support, and this would do
5 that. This would provide that support. And I think
6 coming from this Commission would be a significant
7 statement in that respect.

8 CHAIR WILLARD: Well, as the maker of the
9 motion, I'm not willing to accept that as an add on.
10 If you want to make a separate motion later, you're
11 allowed to do that, but I don't think I -- personally,
12 I was okay with the \$15. I don't think it would be
13 appropriate for us to be doing that, and I think it
14 would dilute the message that we're trying to send, and
15 that is that the OHV program is an important program.
16 We do a lot of good things with the money that we have,
17 and we need to keep it intact.

18 COUNSEL LA FRANCHI: I was just going to add
19 that I think that gets into an area that maybe crosses
20 the line in terms of this Commission's jurisdiction.
21 Because this Commission's jurisdiction is to look at,
22 be aware of, all implications that are affecting the
23 OHV program, and make recommendations provided by --
24 sort of be a catalyst for new ideas that would improve
25 this program. Certainly \$15 may improve or help out

1 the State Parks program, but as an aside, you could say
2 we've been made aware of other possibilities but you're
3 not taking a position on those, but we certainly have
4 some ideas about how the funding program could be
5 structured to help the OHV program in your perception.
6 So I just kind of have a jurisdictional problem moving
7 into that area too strongly.

8 CHAIR WILLARD: Thank you for your advice on
9 that. Commissioner Silverberg.

10 COMMISSIONER SILVERBERG: The purpose of the
11 letter that you're describing, it seems to me, is to
12 illustrate the success of the OHV program in order to
13 facilitate that conversation going forward with
14 Director Coleman, with whoever she's going to be
15 speaking with, to see if they can maybe mimic some of
16 the same success that this program has had versus the
17 idea that somehow asking them not to dismantle
18 something that's working properly, the one part of the
19 system right now that's still functioning.

20 CHAIR WILLARD: Well, where I'm coming from is
21 just down the street there are people deciding what to
22 do to get the budget figured out, and potentially one
23 of the things on the table is our program. And I'm
24 afraid that there are some misconceptions on our
25 program, on how it's funded, how we use our money. And

1 I just want to make sure that they've got the right
2 story, that they've got it straight.

3 And since there has been some misinformation out
4 there, I just want to do what we can do to sort of set
5 the record straight and, therefore, help them make an
6 informed decision. At the end of the day, they're
7 going to do what they're going to do. But I at least
8 want to make sure they're going to do it with the
9 benefit of having the most accurate information that we
10 can give them.

11 And also along the way, while we're doing that,
12 we might as well toot our own horn on what a great job
13 we're doing and how valuable the program is to the
14 state, not only to those of us that recreate, but also
15 to protecting our natural resources. The program does
16 both, and we need to stress that, and they need to know
17 that. And I'm afraid that under these very stressful
18 times, they're being forced to make decisions, it might
19 be very easy for them to look at our program as
20 something that maybe isn't quite as important or
21 valuable to the State as it is. So I just want to make
22 sure that we're doing what we can do to make sure that
23 the decisions they made are with 100 percent good and
24 accurate information, so that's kind of where I'm
25 coming from with it.

1 COMMISSIONER SLAVIK: Also, additionally, I
2 would say that if money was somehow taken away from
3 this program and there was some kind of a motion that
4 the federal stimulus money was going to come in behind
5 it and backfill it -- Kathy Mick or Jim Keeler can
6 address this, I'm sure better, but I'll bet that most
7 of that stimulus money has already been spoken for.

8 CHAIR WILLARD: I don't think anyone is saying
9 that.

10 COMMISSIONER SLAVIK: It's not going to end up
11 on trails, I pretty much guarantee you.

12 DEPT. DIRECTOR GREENE: And I wasn't suggesting
13 it was. What I was saying is that there is a
14 disconnect. That disconnect needs to be clearly
15 articulated that federal stimulus money is not being
16 used for OHV projects, and so, therefore, the money we
17 do have is very much needed.

18 CHAIR WILLARD: Is there any more discussion?
19 I'm going to call for a vote. All those in favor, aye.
20 Any opposed?

21 (Commissioners simultaneously voted.)

22 CHAIR WILLARD: Hearing none, the motion passes.
23 So, Deputy Director, you and I can work on
24 drafting something hopefully in the next day or two. I
25 think the sooner we get something done, the better.

1 DEPT. DIRECTOR GREENE: I'll remind you that
2 tomorrow is a furlough Friday.

3 CHAIR WILLARD: There is always Saturday.

4 DEPT. DIRECTOR GREENE: Of course, and if I may
5 clarify something that was said earlier, state
6 employees have already experienced a 14 percent pay
7 cut. At this time there is a discussion about a fourth
8 furlough which would result in a 20 percent cut. There
9 has also been a discussion about a fifth and six, so
10 just for clarity.

11 CHAIR WILLARD: Commissioner Van Velsor, did you
12 want to make that motion you had been talking about
13 earlier; is that sort of behind us now?

14 COMMISSIONER VAN VELSOR: I'm not sure I have
15 much support on the Commission. I'm not sure I'm going
16 to go there.

17 CHAIR WILLARD: I appreciate the thought and
18 where you're coming from in trying to help out the
19 State Parks. I think we're all dismayed that we're
20 talking about closing State Parks. It's ridiculous,
21 and a very sad state of affairs. I think that's it.

22 Moving right along, U.S. Forest Service, could
23 you please give us your report.

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

25 KATHLEEN MICK: I think this is the first time

1 that I've actually given an update in the afternoon, so
2 interesting meeting. My name is Kathleen Mick. I work
3 for the U.S. Forest Service in our Regional Office in
4 Vallejo, and it's a pleasure to be here with you this
5 afternoon, Commissioners, Deputy Director Greene,
6 Chief Jenkins, and the rest of the Division staff and
7 members of our public.

8 The report that we have is in your binders, so
9 as Jim Keeler did, I'm going to try to, for the sake of
10 time, just kind of run through some of this stuff. And
11 if you have questions, you can certainly go ahead and
12 ask them.

13 The first thing, though, before I start into the
14 report that I wanted to go back to was the meadow
15 intrusion on the Stanislaus National Forest. And our
16 agency, the Forest Supervisor on the Stanislaus,
17 Susan Skalski, did do a press release admonishing the
18 behavior of the unknown individuals and the destruction
19 that they did to the meadow. And as earlier stated, I
20 did contact the Division, Don Amador, and also
21 Amy Granat I had connected when I learned that she was
22 now the representative for Cal 4-Wheel Drive.

23 I guess what I would like to emphasize, or
24 perhaps more reemphasize, is the need for encouragement
25 to get messages out to the media. We can do that. We

1 did that. But there's nothing like a message coming
2 from those who belong to the same group. And not to
3 say that anyone in this room would purposefully go and
4 tear up a meadow, but there is a participation in the
5 same activity, so there is nothing like policing your
6 own. And so as much as the clubs in the local area did
7 step up and say that they wanted to help and have kind
8 of been put off because they're waiting to see if the
9 species that were in the meadow, actually the tadpoles
10 turn to frogs kind of a thing. So they're waiting to
11 see what actually needs to be done to the meadow. And
12 I commend those groups for wanting to step up, but I
13 guess I do have to also voice a bit of disappointment
14 that I don't recall seeing -- and maybe I'm wrong and
15 I'd be happy to be corrected -- that any of the groups
16 or organizations did come out with a press release, a
17 media blitz, an advertisement in the local newspaper
18 admonishing this type of behavior. I think that's the
19 piece that we all spoke of, the educational piece, it
20 needs to be more visible. I think we can use this one
21 incident as a lesson of how we can do things better.

22 So with that, I'll go ahead and finish with the
23 report and start with the Rubicon Trail. The efforts
24 on the Rubicon by the Eldorado National Forest
25 continue, and they're working closely with the county

1 to work on any of the issues that are associated with
2 the Rubicon and the Regional Water Quality Control
3 Board's order to clean up and abate some of the impacts
4 that are occurring. And so the Forest Service is
5 working closely with the county to move toward
6 resolution on a lot of different issues.

7 In terms of travel management, we have a whole
8 host of Motor Vehicle Use Maps out now, and those are
9 listed there for you. Just to highlight, in the next
10 30 to 45 days, we'll have four more, and those are the
11 San Bernardino, Cleveland, the Summit Ranger District
12 of the Stanislaus, and the Gasquet Ranger District of
13 the Six Rivers, which most people know better as the
14 Smith River, NRA. The maps can be found on the
15 individual forest's websites, as well as on our
16 national website.

17 And then just moving to the travel management
18 current schedule, we're going to talk a little bit
19 later about travel management pretty in depth and clear
20 up what I think is a large amount of misinformation
21 around that particular project and process. But we are
22 pretty proud of the fact that we have moved an entire
23 region, 18 national forests, through this process, not
24 to say without its bumps along the way, but as of
25 July 31st, we will have all of the DEISs out on the

1 street. We do in our region have them all out now, but
2 the Humboldt-Toiyabe, the Bridgeport Ranger District
3 which have slopover lands in California will be issuing
4 their Draft Environmental Statement at the end of the
5 month. We just found that out the other day. That's
6 why it's not included in your report.

7 So now that we're closing the phase of the Draft
8 Environmental Impact Statements, we are in the phase of
9 working toward final documents and records of decision,
10 and it's likely that you'll see those start to come to
11 fruition probably at the end of September, and then
12 you'll see RODs kind of start to come out all the way
13 through realistically the fiscal calendar year for
14 2010.

15 The other thing that I wanted to mention is that
16 most of the national forests up north that have
17 received a request for extension of public comments,
18 although it may not have been the exact number of days
19 that a particular public or group requested, they have
20 extended the comment period to allow people more time
21 to respond to the lengthy documents.

22 And then moving to the forest plan revision, we
23 had some meetings planned to start with our forest plan
24 revisions. Much like the BLM and their RAMPs, we have
25 land management plans that guide the future condition

1 of each of the national forests, and there were
2 basically the Sierra block of forests that were going
3 to undertake forest plan revision. But our 2008
4 planning rule, through a recent court decision, has
5 been vacated, and that rule has been remanded back to
6 our agency. So right now we're evaluating whether
7 we're going to go forward with our 1982 planning rule
8 or the 2000 rule. But in the meantime, we're still
9 slowly moving forward, but you'll see more later on
10 that, but we just really don't know. We don't have a
11 definitive answer yet as to what set of rules that
12 we're going to do that planning under.

13 The next thing is something that has kind of
14 been in the works for a while, although much like with
15 the State and their budget, we hear about budgets, but
16 our fiscal year changes in October, but a lot of times
17 we don't typically get final budget language until much
18 after the calendar year changes. So we start a new
19 fiscal year in October, and a lot of times, it's not
20 even until March or April that we get final budget
21 language, and then we scurry around through the summer
22 months trying to get things done.

23 So we did receive some 2009 appropriations
24 language in our final report from the Appropriations
25 Committee, and it's specific to travel management. And

1 what it is is that the travel management rule has three
2 parts. It's got a subpart A, B, and C. Subpart A
3 deals with identification and minimization of a
4 transportation system on the national forest that is
5 basically decided on by the responsible official and is
6 determined to in general be the system that the forest
7 needs in order to operate, taking in all
8 considerations, that's public, private, permits, fire,
9 all of those things.

10 Then there's subpart B which deals with the
11 motor vehicle designations. That's the part that we're
12 dealing with now, making designation for motor vehicle
13 use on roads, trails and areas.

14 And then there's subpart C, which really nobody
15 wants to talk about right now, which is doing the same
16 thing, but for snowmobile use. And even though, at
17 least me personally, I have been at this for eight
18 years, I'm not at the least in the near future excited
19 about taking on snowmobiles right now.

20 So at any rate the appropriations language has
21 basically asked the agency to move forward and
22 implement fully the regulatory requirements of the
23 travel management rule, with specific attention being
24 paid to subpart A, which is the minimization of the
25 road system identifying unused roads and then

1 determining a course of action for either
2 decommissioning or conversion to another use.

3 So we're just now starting to talk about that,
4 what that means. This has national implications. It's
5 not just for California, and so we're working closely
6 with our Washington office for guidance of what this
7 means, how we do it, the expectations, that kind of
8 stuff. So as that begins to kind of take on a life of
9 its own, we'll be sure to update all of you as we move
10 forward. But it's certainly something that would have
11 effects on the people that come and visit the national
12 forests.

13 And then new projects, and I'll address this in
14 a few minutes, we are working on some guide maps, and I
15 think one of the commissioners, although I wasn't here,
16 at the last meeting brought out a Mendocino OHV guide
17 map and was referring to some numbers and things on the
18 maps. What we're basically doing is doing a second
19 generation of those maps that would basically take our
20 Motor Vehicle Use Maps and those maps and try to
21 harmonize them, make them a more user-friendly map with
22 a lot more information. Because we've all kind of
23 realized in the Forest Service that the Motor Vehicle
24 Use Maps are probably not our most user-friendly maps,
25 but their design is for information and legal

1 enforcement, and not necessarily to be an educational
2 or informational tool. So we're trying to deal with
3 that.

4 And then as a sidenote, because most of the
5 forests throughout the nation, including here in
6 California, are working toward their designation, we're
7 making comment on the National OHV Implementation
8 Guide, which is a project that's being led by our
9 Washington office, and it's kind of a toolbox full of
10 ideas and techniques on how to do successful
11 implementation once you have a motor vehicle use map.

12 And then for some of the folks in the audience,
13 and I think at least a couple on the Commission, you'll
14 remember that we had a Deputy Regional Forester a
15 couple of years back whose name is Tom Tidwell. He's
16 now been named by the Secretary of Agriculture Vilsack,
17 as our 17th Chief of the Forest Service. So I think
18 it's an extraordinary move. It will certainly help us
19 here in California because Tom has been here and
20 understands our issues, and more importantly he spent a
21 lot of time sitting with me in the front row at many
22 Commission meetings and understands the complexities of
23 motorized access and the motorized program. And so
24 personally and professionally I think it's a neat thing
25 to see that he has now become our chief.

1 Then I guess an addendum that would be in your
2 package is that we did receive a lawsuit on the
3 Eldorado National Forest in regard to their travel
4 management effort. We haven't been served with the
5 suit yet, but it's been filed by Public Lands for the
6 People, and they typically have mining interests,
7 although there were I think about eight individuals
8 that also hooked on with that group. They have about
9 226 different issues in the filing, and so when we
10 actually receive that filing and aren't just pulling it
11 off of an OHV blog, we will be able to address more
12 about that lawsuit and keep you up to date on what we
13 are allowed to talk about.

14 And then just a couple of other things quickly
15 that aren't in the report. The Government
16 Accountability Office, the GAO, did a report on OHV
17 that was mandated by one of the congressional
18 committees. So we're anticipating a release of that
19 sometime at the end of July.

20 On a positive note, we've got some new modes of
21 communication with the public, and that's where we're
22 starting to do podcasts now. So you can go to our
23 Region Five website to recreation, and right now there
24 is a podcast from Randy Moore, our Regional Forester,
25 talking about recreation in general, and then there is

1 one from Marlene Finley, our Recreation Director,
2 talking specifically about recreation as well as a
3 little bit about travel management. So we're testing
4 those to see how we can reach out deeper into our
5 public within the state. We are also on Twitter now,
6 and you can pick up a lot of press releases on Twitter.
7 So if you're interested in fires or things that may be
8 going on, you can subscribe to that as well, as we're
9 looking at seeing if we have the ability to have a
10 Facebook site, which seems to be popular these days.

11 Then I wanted to turn to a couple of things that
12 I guess were holdovers from the last meeting when
13 Garrett Villanueva was here, and talk about some
14 follow-up on those. Before I do, I also wanted to
15 introduce Keaton Norquist. Keaton is a presidential
16 management fellow. He just finished law school in
17 Boston, and he is in a program with the Forest Service
18 where he will work with me for the next two years and
19 then be converting into a permanent position somewhere
20 in the country. I'm very excited to have Keaton
21 onboard. I guess there were a lot of questions and
22 comments about Garrett leaving and Keaton kind of
23 coming as though we were just going to throw some new
24 guy, who has never worked for the Forest Service a day
25 in his life, into the program and let him run it, and

1 that's simply not so. Keaton is going to work closely
2 with me receiving training on all aspects of the Forest
3 Service, the OHV program is just one of those, although
4 he will be eventually in the next couple of weeks
5 becoming the lead on dealing with the OHV Division on
6 matters of the grants program and being kind of the
7 liaison between the Forest and the OHV Division on
8 grants questions and those types of things as we start
9 to indoctrinate him into more of our work.

10 So I'll go back to the Mendocino and the
11 question that was raised about the MVUM numbers, and
12 the MVUM numbers not matching the numbers on the OHV
13 guide maps and the signs on the ground. The OHV guide
14 maps and the signs on the ground match. What doesn't
15 match is the OHV guide maps, the signs on the ground,
16 and the MVUM. The MVUM does match but there isn't
17 anything to let the public know that because if you
18 look at the MVUM and look at Trail 18N32 or 85402, and
19 you don't know that 02 is the last two numbers of the
20 trail identification that we use for our system, those
21 are the two numbers that are on the sign on the ground,
22 02, and 02 is also the indication on the map.

23 So we're working to rectify that. We're well
24 aware of it and trying to figure out how we can address
25 that because our MVUM only allows for certain things to

1 be put on there. So we're trying to work on how we can
2 get that information out, but we are well aware of it
3 and taking care of that problem. So I wanted to let
4 you know about that.

5 Also, there was some discussion I think at the
6 last meeting or the meeting before about looking into
7 future identification of rights of way and easements
8 and how the Commission could help in either identifying
9 money or identifying priorities on how to go about
10 getting some of those easements. I've been working
11 with our lands folks to try and determine an easy
12 process for the forests to identify their host of right
13 of way issues that they have, and then looking at a way
14 to prioritize them and then bring them forward so that
15 we can take a look at some of those unauthorized routes
16 that may cross over public land and look into dealing
17 with some of the possibilities of eventually in the
18 future adding them to our system, but looking at the
19 right of way issues.

20 Because what we have found out on the ground is
21 that in the past, landowners weren't particularly
22 worried about a few people going across their land or
23 they let a certain segment, but now that trails are
24 going to be on a map and we're going to kind of cull
25 them out, they have sort of backed off from where they

1 were in the past of wanting to allow that type of use.
2 So we've got all different scenarios, but we're looking
3 into it, and hopefully we'll have at least some list of
4 priorities that we can at least talk about.

5 And then I guess there was some talk about
6 digitizing maps in the GPS, and it's actually ironic
7 that that came up because we have a Geospatial
8 Technical Center in Utah, and they are actually working
9 on a pilot project of how we can take a road and trail
10 data, our MVUM data, and put it somewhere on the
11 website where people can download it into their
12 handheld GPS units. It's just something that's in the
13 developmental phase, but it is a project that has made
14 it through at least the beginning stages and they're
15 starting to look at that.

16 There's another thing that we're working on,
17 that same group, is an interactive MVUM where you can
18 actually go onto a website and do trip planning and
19 bring up different layers and plan a trip and know that
20 all of the routes that you're dealing with would be
21 legal routes. So that's something that we're working
22 on nationally, as well.

23 And then the last thing is I guess the asbestos
24 issues came up, and we have had a lot of interest from
25 our public and the EPA on asbestos on national forests,

1 and the way that we are starting to deal with that is
2 we've had some meetings with some of the state
3 agencies, EPA, they've got a working group together.
4 So for right now for our system trails, those are
5 trails that are legal to ride today, system roads and
6 trails, we've got some educational information that
7 we've given to the forests and that they can put out to
8 make the public aware of the potential dangers of
9 asbestos and where those areas are in the national
10 forests, so they can make the personal chose to decide
11 whether or not they want to go and operate their motor
12 vehicle there or hike there or not.

13 And then for any new routes that we're adding to
14 the system, you'll see that dealt with in the
15 environmental analysis for that particular area. In
16 some cases, if a trail is going to go through
17 serpentine soil, or I believe what's called ultramafic
18 rock, then the forests may be doing a more stringent
19 analysis on that particular trail to see is there
20 asbestos there, and if so, what kind.

21 For instance, the Shasta-Trinity has had to
22 undertake that with some of the use that's occurring
23 when the lake draws down because there has been
24 asbestos found in the lake bed, so they've been doing
25 some more stringent analysis to make that

1 determination. That's kind of where we are with
2 asbestos, but I think that as we move forward in the
3 next couple of years, I think that issue will probably
4 come a little bit more to the forefront when we start
5 to learn what that means and what the public health
6 risks are.

7 I think that about covers it. One more thing, I
8 guess somebody mentioned that the BLM has a special
9 uses booklet, and this is Dave Pickett, HR 2930-1, and
10 so I'm talking to our special uses folks to see if they
11 can get ahold of that BLM document and see if there is
12 anything we can do to kind of reproduce that, but with
13 the Forest Service rules and regulations.

14 I think that covers everything that I wanted to
15 cover. If you have questions, I'd be happy to answer
16 them.

17 CHAIR WILLARD: Thank you, Kathy, for a very
18 thorough report. That was excellent, really good,
19 thank you. I was going to have a couple of questions,
20 but you already answered those, you did such a thorough
21 job. So perhaps if the Commission has any questions,
22 it might make sense to hold off on any questions that
23 might have to do with travel management since we are
24 going to be getting into that as a business item. So
25 at this point, anything that doesn't have to do with

1 travel management. Commissioner Slavik.

2 COMMISSIONER SLAVIK: The question I have is
3 about the National OHV Implementation Guide. That's
4 been around for a long time, at least the genesis of
5 that. I'm not sure what it's all about. Can you give
6 more detail?

7 KATHY MICK: There were some versions. It's a
8 project that Deidra St. Louis, our national OHV program
9 lead, has been working on. And what it is is there was
10 an implementation guide -- and this may be what you
11 were thinking about -- but it was an implementation
12 guide about how to implement -- about how to let go
13 about the designation process. But this really is
14 about life after the MVUM. So what are we going to do,
15 how are we going to do it, what are some tools in the
16 toolbox from templates on volunteer agreements to how
17 to do a proper sign plan, resources on how to evaluate
18 and maintain your trails, kind of more fundamental nuts
19 and bolts kind of stuff, how to improve your law
20 enforcement, those kinds of things.

21 So they're taking that on nationally. They've
22 been working on it kind of like a section at a time.
23 And as those sections come out, we in the regions have
24 the ability to make comment on those and hopefully
25 improve them. And then at some point in time they will

1 be posted on the websites. They're not policy.
2 They're not regulation. It's just going to be
3 guidelines, kind of a toolbox, so to stay.

4 COMMISSIONER SLAVIK: Thank you.

5 CHAIR WILLARD: Thank you, Kathy.

6 So same thing, we'll open it up to public
7 comment. But if I could ask the public to keep these
8 questions to anything except travel management because
9 travel management is an actual business item we're
10 going to be hearing, not the next item, but the item
11 after. So if you've got specific comments or questions
12 on that, you can hold them until then.

13 So John Stewart.

14 JOHN STEWART: Good afternoon, Commissioners,
15 John Stewart, California Association 4-Wheel Drive
16 Clubs. MVUMs, I'm glad to see and hear that the forest
17 is taking a look at revamping for the next generation
18 of MVUMs, and I just hope that they take something into
19 account, so from making it instead of a legal document
20 focus, maybe something that is user friendly, something
21 that the average recreationalist can actually read, and
22 hopefully use it and make it usable.

23 So technology, it's encouraging to see that the
24 Forest Service is stepping up and starting to use
25 technology and the various needs of technology to

1 communicate. And it's encouraging that they're even
2 now considering adopting or putting out route
3 information that people can download to a GPS track.
4 It's a little late on that now because the new
5 technology that people are getting into is actually
6 using the full GIS layers and carrying a laptop with
7 them when they go out.

8 So now is the time for the Forest Service,
9 seeing how they've got the information available, why
10 not make all of your data layers and various
11 information you can available, so that those who are
12 actually experimenting with the new technology can
13 actually have this new information and start fine
14 tweaking it or finding out where some of the pitfalls
15 are. Full disclosure of this data that you have that
16 you have collected would be appreciative to a great
17 segment of the public, so thank you.

18 KAREN SHAMBACH: Karen Shambach, PEER. I don't
19 have any comments on Kathy's testimony. I would like
20 to point out that the motion that was just passed was
21 done without public comment.

22 CHAIR WILLARD: Thank you. I don't know what
23 that means.

24 DEPT. DIRECTOR GREENE: Yes, I'm trying to
25 recall that. I thought that you took public comment

1 prior to making the motion.

2 CHAIR WILLARD: Prior to our discussion, yes,
3 there was public comment on the item.

4 DEPT. DIRECTOR GREENE: Counsel, I would have to
5 ask when a motion is made and a second, then is there
6 public comment on that particular motion?

7 COUNSEL LA FRANCHI: No, there is no
8 requirement. In fact, it's not appropriate. Once the
9 Commission has heard the public comment, then it closes
10 the public comment period, then it goes into their own
11 deliberation.

12 CHAIR WILLARD: That's what I thought. So we
13 did it right?

14 COUNSEL LA FRANCHI: Yes.

15 DEPT. DIRECTOR GREENE: However, if I may,
16 counselor, I believe the Commission has the
17 flexibility, if it so chooses, to hear public comment
18 or no?

19 COUNSEL LA FRANCHI: The Commission could reopen
20 the public comment portion in the middle of its
21 discussion of a motion if it chose to do that. But I
22 think that would need to be clear for the record so
23 that you'd know when you're closing the public comment.

24 CHAIR WILLARD: That's good to know. Thank you.

25 FRED WILEY: Again, thank you for the

1 opportunity. Fred Wiley with the Off-Road Business
2 Association. You know it's not often as I get as
3 frustrated as I have today to have to sit in the
4 audience and listen to people talk about the OHV
5 community being not responsive or not responsible when
6 it comes to an issue of destruction with meadows or
7 whatever it happens to be. I happen to represent over
8 500 businesses, and represent over 275,000 end users
9 across this country. We are members of Tread Lightly,
10 the manufacturers of businesses have provided
11 opportunity for education. We have provided millions
12 of dollars and plenty of things for education. I have
13 personally sat on a committee to propose law changes
14 for the court systems and provided the time and energy
15 and testified for grants that have to do with
16 purchasing of equipment to stop intrusion. And I'm
17 getting pretty resentful about the fact that they say
18 we don't do enough. There is no one in this room that
19 can control everyone, but I think it is quite clear
20 that this community has stepped up and is doing its
21 job.

22 Now, with reference to what Ms. Mick said about
23 that particular meadow, she didn't contact any other
24 groups other than Division and I believe two groups.
25 She has met with the ten groups that represent the OHV

1 community in this state. She didn't contact any of
2 those. So for the most part most of us didn't even
3 know about it. So it's a little tough to address
4 issues when you're unaware of them. Thank you.

5 DON AMADOR: Don Amador with the Blue Ribbon
6 Coalition. Welcome, Commission and staff. I was going
7 to spare you all from any comments today, but since
8 Kathy mentioned my name, Blue Ribbon, I wanted to
9 respond to that meadow incident.

10 She did contact me. I want to thank her for
11 that, and we will respond to it at the appropriate
12 time. But one of things Daphne mentioned earlier about
13 this horse issue, I was the one in Blue Ribbon that
14 actually crafted the original news release to deal with
15 that issue. But we don't want to get into a situation
16 where we're responding to the sort of have-you-quit-
17 beating-your-wife syndrome, just as we don't call The
18 Wilderness Society and ask them to respond every time
19 ELF burns a car or some other eco-terrorism attack
20 occurs.

21 Blue Ribbon doesn't want to get into the
22 responsibility or situation where we're contacted every
23 time somebody up in Eureka takes a four-wheel drive and
24 runs through a marijuana garden up there, or somebody
25 goes out to Comanche Lake and takes his four-wheel

1 drive and pulls the gate out. We don't want to get
2 into that situation where we're asked to respond to
3 that. So Blue Ribbon is acutely aware of it. We
4 supported SB 742 funding for enforcement. On our
5 website, we support a strong trail ethic.

6 So I just want to let the Commission know that
7 at the appropriate time -- we've been in contact with
8 the Forest Supervisor -- we will respond to it, but we
9 don't want to get into a fool's errand situation.
10 Thank you.

11 CHAIR WILLARD: Ed Waldheim.

12 ED WALDHEIM: Ed Waldheim, California City.
13 Many moons ago, we started down the route of the
14 inventory of the Forest Service. Don Amador wasn't too
15 happy with me when we did it, but it was a good idea to
16 get the inventory. And now we're going to have the
17 maps coming out. The maps by themselves are totally
18 useless unless we do something on the ground, and I
19 know Daphne Greene has been working for months on the
20 route designation signing in there.

21 I would like to encourage the Forest Service and
22 BLM for that matter to come up with a list of the big
23 picture of the routes that need signing. I am not
24 interested in signing every single route because we
25 will be buried and dead before we ever get that done.

1 What we do need to do is identify those routes --
2 encourage routes, those routes that we feel are
3 important to us as land managers, that we want the
4 public for the most part to take. Those of who you are
5 adventurous and want to go on off-route travel, you
6 will have your GPS and you'll figure it out.

7 The average person needs to know how to get from
8 point A to point B and have an enjoyable trip. That is
9 basically what we've done on the El Paso. It's not
10 what we have in Jawbone Springs, there's 100 percent
11 brands there, 100 percent.

12 So I would like to see if Ms. Greene can get the
13 agencies to give her a list of the areas, the big
14 picture of what are your important routes that we need
15 to identify and zero in on those routes and get them
16 signed once and for all. And then we, CTUC, will then
17 come out with the routes, and only show those routes.
18 I'm not interested in an inventory of routes. I'm
19 interested in how to get the public out there to
20 recreate in a responsible manner. So this is one way
21 we can probably get the most bang for your bucks before
22 we move forward. Thank you.

23 CHAIR WILLARD: Thank you. Close the public
24 comment period on Business Item V(A).

25 (Proceedings reconvened after a 16-minute break.)

1 **AGENDA ITEM - BUSINESS ITEM V(B)**

2 CHAIR WILLARD: Business Item V(B), and this is
3 pursuant to the Public Resources Code 5090.24(b). This
4 is about giving the public the opportunity to provide
5 their comment on our grants program, and so this will
6 be a fixture once a year at a Commission meeting, to
7 give the public the opportunity to let Division and the
8 Commission know how they see their grants program
9 going, and any problems, any suggestions. And
10 obviously you can communicate with Division or the
11 Commission at any time you want via the website. But
12 this is an official venue that's provided by the
13 statute to allow the public the ability to provide
14 those comments prior to the start of the next cycle.

15 I don't have any comments myself on this. I
16 guess I should ask fellow Commissioners if anyone has
17 got anything to say before we just generally open this
18 up to the public. Does staff have any words of wisdom
19 or guidance on this, or is it just inviting folks up to
20 the podium?

21 CHIEF JENKINS: I think we have some information
22 that will give a little structure to the discussion, if
23 you want. So Dan.

24 CHAIR WILLARD: Thank you.

25 OHMVR STAFF CANFIELD: Good morning,

1 Commissioners. Dan Canfield, California State Parks
2 OHV Division. I'm a grants administrator with the
3 Division. And if you might remember from earlier
4 today, we're going to combine the agenda item from
5 earlier, updates on the grants program, along with this
6 business item. So I'll be providing a report on the
7 status of the 2008/2009 OHV grants program, and then I
8 will pass the torch to my associate who will talk about
9 what we're looking at in the 2009/2010 grants program,
10 which we're so desirable to get input from the
11 Commission and public on possible changes, what have
12 you.

13 When last this Commission met, I reported that
14 the Division was in receipt of the final applications
15 for the 2008/2009 OHV grants program. As you might
16 remember, we had 98 applicants, and a total of 214
17 proposed projects as part of that final application.
18 Subsequent to that meeting, Division staff reviewed the
19 proposed projects for compliance with all of the
20 applicable statutes and regulations. All of the
21 applications were found to be compliant.

22 Following that, the proposed projects were
23 evaluated by Division staff. This entailed a needs
24 assessment for law enforcement requests, and all other
25 projects went through the evaluation scoring process by

1 Division staff. Once the Division staff concluded this
2 evaluation process, our findings were posted in a form
3 of a notice of intent to award. This occurred on
4 June 1st, 2009. I think it's important to note that on
5 this notice for intent to award the proposed projects,
6 for the proposed projects there was an 89.5 percent
7 success rate as for the competitive segment of our
8 program. So if you take out law enforcement, which is
9 noncompetitive nowadays, all of the other project types
10 of all of the projects received, 89.5 percent were
11 successful. I'm not sure about the half a percent, but
12 I think that's important to know since that's a fairly
13 high success rate.

14 Following the notice of intent to award being
15 posted, we had a statutorily mandated 30-day appeal
16 period. We did receive one appeal during this time
17 period. The appeal was resolved, and it did not result
18 in any changes to the notice of intent to award so
19 there were no changes to the scores.

20 Commissioners, in your binders you have the
21 spreadsheet of the final awards. It's behind the tab
22 that's labeled grants program cycle and is broken down
23 by various funding categories and funding types. So
24 we'll see one for restoration, one for law enforcement
25 local, et cetera. So those spreadsheets, which were

1 also available to the public today, identify the
2 successful projects from the evaluation phase.

3 Currently, grant staff is working with those
4 successful applicants to draft project agreements for
5 those successful projects. And if you are keeping
6 track, we have 198 successful projects, hence Division
7 staff is tasked with drafting 198 project agreements.
8 Grant staff is utilizing our online grant application
9 system, or OLGA system, to aid in the production of
10 these project agreements.

11 That ends my portion of the grant program
12 update. Before I turn it over to my associate, Kelly
13 Long, I'll certainly do my best to answer any questions
14 you have.

15 COMMISSIONER McMILLIN: This was the winners,
16 and then you've got to draft grant agreements, so
17 what's the timeline for that, and then what's the
18 timeline for getting the money out?

19 DAN CANFIELD: Well, we're trying to draft the
20 agreements just as quickly as possible. A main
21 component of the project agreement, each one of the
22 agreements, is the performance period, a start date and
23 an end date. So one of the first steps that Division
24 staff is handling is contacting the successful
25 applicant and finding out when they want their project

1 to start.

2 COMMISSIONER McMILLIN: Wouldn't that be part of
3 the application?

4 DAN CANFIELD: Many of the project types do
5 require a timeline, but not specifically a start date.
6 For example, a lot of our successful applicants are
7 federal agencies.

8 COMMISSIONER McMILLIN: I see most of them are.

9 DAN CANFIELD: Yes, sir. They may desire that
10 the start date of their project coincide with the
11 beginning of their fiscal year, which is October 1st
12 for accounting purposes. Some of our customers are
13 local, on a fiscal year similar to ours, they may well
14 prefer to have a July 1st start date.

15 COMMISSIONER McMILLIN: Maybe next time we can
16 incorporate that into the actual application process.

17 Assuming we get through that step, when will the
18 money get out?

19 DAN CANFIELD: That's exactly the type of
20 feedback that we are looking for in the second half of
21 this presentation from the Commission and the public,
22 is ways to fine tune the program.

23 COMMISSIONER McMILLIN: So assuming that
24 happens, 60-day period or 30-day period, forget about
25 the budget for a minute, the State budget, when does

1 the money get out?

2 DAN CANFIELD: So an applicant could decide to
3 have a project start effective July 1, which is when
4 the appeal period wraps up.

5 COMMISSIONER McMILLIN: That would be part of
6 it.

7 DAN CANFIELD: Very good. Under that scenario,
8 on July 2nd, that applicant could have gone out and
9 started work on the project. They can then start
10 tracking the costs, and they have the opportunity, as
11 they desire, to request reimbursements for those costs,
12 which is available as of today.

13 COMMISSIONER SLAVIK: Dan, do you typically
14 round up or round down these figures? I just happened
15 to look here from the amount requested to the amount
16 awarded, is that just done for expediency or what?

17 DAN CANFIELD: It's been the historical way in
18 which grants were awarded in certain categories. If
19 you'll notice in the law enforcement categories,
20 they're still odd numbers, so they're not rounded. And
21 that was due to the law enforcement grants were handled
22 a little bit differently.

23 But under the other project types, development,
24 restoration, acquisition, what have you, the project
25 request amount for accounting purposes was rounded to

1 the nearest thousandths.

2 CHIEF JENKINS: That was done in the past.
3 You're talking about in this case \$27.1 million. If
4 you started having grants for \$10,369.36, the math gets
5 a little weird.

6 COMMISSIONER SLAVIK: Well, it's a little bit
7 more than a couple of bucks. Some of them are \$200 to
8 \$300.

9 DAN CANFIELD: It could have been theoretically
10 a \$499 increase or decrease, depending on how their
11 budget works.

12 COMMISSIONER SLAVIK: So \$500 one way or the
13 other?

14 CHAIR WILLARD: They're rounding it to the
15 thousand. Commissioner Lueder.

16 COMMISSIONER LUEDER: Just a quick question. On
17 the law enforcement grants, those are noncompetitive
18 now, so how do you evaluate those grants, briefly, to
19 make sure that they are in compliance?

20 DAN CANFIELD: Excellent question. It was a
21 two-step process, the first step is that all of the law
22 enforcement applicants and the proposed projects are
23 reviewed for compliance based on the program
24 requirements, did they have all of the forms that were
25 required, all of the data, was it there. That was the

1 first step.

2 The second step was conducted by our public
3 safety staff at the Division in which case they
4 reviewed the applicant's needs assessment, which was a
5 required document. The needs assessment was a tool for
6 the applicant to indicate to the Division the unique
7 services of their jurisdiction, why it was they needed
8 certain equipment or certain staff time, and so that
9 was their way to communicate to the Division their law
10 enforcement needs, the jurisdiction. That accompanied
11 a budget where they detailed staff, contracts,
12 equipment costs.

13 Those two documents in conjunction were reviewed
14 by our public safety staff, and utilizing the
15 regulatory tools that we have available to us, a needs
16 assessment determination was made. In many cases the
17 determination was made that the request for the
18 applicant was justified, there was no change. In some
19 instances, based on the needs assessment review, a
20 request amount was reduced, and there might have
21 been -- I'm not sure of any instances where it was
22 increased, but there were some instances where the
23 needs assessment resulted in a reduction in the request
24 amount. That is detailed on the spreadsheet you have.

25 CHIEF JENKINS: If I might, just for example,

1 many of the law enforcement applicants requested ATVs.
2 And we were looking at all of the applications, the law
3 enforcement team went through these, and if the average
4 price of an ATV through all of the applications was one
5 number, but one applicant came in and was asking for an
6 ATV that was 50 percent higher than that amount, they
7 would make the determination, no, pretty much this is
8 the standard ATV that law enforcement programs
9 throughout state are using, you are asking too much.
10 They would axe that down to the average price. Those
11 are the types of adjustments we're talking about.

12 COMMISSIONER SLAVIK: Total project score, is
13 that totally automated to OLGA?

14 DAN CANFIELD: Yes, OLGA assisted greatly in
15 this whole process. There's a formula behind it that's
16 not terribly complicated. Luckily, OLGA did the math
17 for us.

18 For the second half of the grants presentation,
19 I'll turn the microphone over to my associate,
20 Mr. Kelly Long.

21 OHMVR STAFF LONG: Good afternoon, Commission,
22 I'm Kelly Long with the OHV Division. My presentation
23 here will essentially constitute Item B under the
24 Business Items there addressing the requirements
25 included in the Public Resources Code Section

1 5090.24(b), which, among other things, directs the
2 Commission to include a public meeting before the
3 beginning of each grant program cycle to collect public
4 input concerning the program, recommendations for
5 program improvements, and specific project needs for
6 the system. So since we are facilitating that, I will
7 discuss how we can integrate the input and
8 recommendations that might be incorporated into the
9 program regulations. I will also identify some of the
10 items the staff has encountered through this first
11 cycle of grants program.

12 Just by way of a little background, obviously
13 SB 742 made significant changes to the Grants and
14 Cooperative Agreements Program, and what we have now is
15 a completely new restructured grant program. This
16 program includes a complete set of regulations to
17 complement the program. These regulations were
18 developed in accordance with the Administrative
19 Procedures Act, which is administered by the Office of
20 Administrative Law, and the regulations are the product
21 of substantial staff effort and considerable amount of
22 public participation. There were lengthy series of
23 focus groups and meetings, and all of this combined to
24 give us the program that we have now.

25 The new program also introduced OLGA, the Online

1 Grant Application Database. I would say in general
2 this new, improved program has been very well received,
3 and obviously with the information that Dan just
4 provided you, it is effective. Seemingly through this
5 first cycle, it's proving to be effective.

6 Relative to input that the Commission might
7 receive or suggestions that the Commission might make,
8 the input that could affect the program regulations, I
9 would like you to bear in mind three points. What
10 we're talking about or what we currently envision is a
11 much smaller undertaking than what we went through last
12 year when the entire program was being developed.
13 Right now we are looking at fine tuning the existing
14 program. We're anticipating adjustments that will
15 increase the clarity and efficiency for both applicants
16 and staff.

17 But also I want to remind the Commission and the
18 public that this is a public process. There is public
19 opportunity to comment on this process. We're doing it
20 again consistent with the Administrative Procedures
21 Act. Timely submission of this input and what we're
22 trying to gather today is going to be very important.
23 That will allow us to consider the discussions,
24 incorporate any changes into the regulations prior to
25 the next funding cycle of the grants program.

1 There was included as a loose sheet a timeline
2 for development and submission and approval of the
3 permanent regulations for 2009. I believe that each of
4 the Commissioners received that, and there are copies
5 available on the table. You will see that it is a
6 fairly aggressive timeline. I believe the submission
7 of this regulatory package with any changes would be
8 going to the Office of Administrative Law by August 11.
9 That would allow us, with the appropriate comment
10 periods and necessary time to review, to perhaps have a
11 secondary period. That would still allow us to get any
12 changes in place prior to the beginning of next year's
13 funding cycle.

14 Also, I would like to remind everybody that any
15 changes, suggestions that could be made here relative
16 to the program regulations are strictly that, related
17 only to the regulations. There are components in the
18 statute that we cannot change through the Office of
19 Administrative Law, the distribution of funds, types of
20 appropriate applicants, things like that.

21 So with that said, with the completion of the
22 2008/2009 grant cycle, the grant staff has identified
23 several areas in the regulations that may want to be
24 revisited. I have a few topics and would at least
25 throw those out, sort of as what we're looking at, and

1 then having to consider any other input or questions.

2 Some of the things that we're looking at under
3 the general application requirements, we're looking at
4 documentation necessary at the preliminary application.
5 You'll recall there is a preliminary application that
6 is reviewed, and then there is a final application.
7 There are some situations where we encountered where it
8 would be beneficial, both to staff and the applicant,
9 to have seen additional documentation such as the
10 agreement between the applicant and the land manager,
11 if it is a nonprofit, if they don't have the ownership
12 of the land but they need to have an agreement to do
13 whatever their project is.

14 Additionally, there was some statuses regarding
15 the 501(c)(3) or nonprofit status, that would have been
16 beneficial and save some time to get that information
17 upfront. In both of those instances, there were
18 applicants that were scrambling, trying to get the
19 information in place.

20 Similarly, we are looking at perhaps changing
21 the time that we would receive the necessary CEQA or
22 NEPA documentation, considering is it appropriate to
23 give this at the time of the preliminary application.
24 Currently there are two separate review periods going
25 on, the grant staff is looking at the application

1 itself, our specialists are looking at the CEQA, NEPA
2 documentation to determine whether it meets the needs
3 of that application. Again, these would be ideas that
4 would be expediting the process I think.

5 For some of the project specific items, we are
6 also considering do we need to clarify what happens if
7 a grant request is adjusted. Specifically what we're
8 thinking, there were situations where the dollar amount
9 changed from preliminary application to final
10 application. I don't recall what the total dollar
11 amount was on any of these, and I don't recall it was
12 anything substantial. But in the future, it was
13 something you would conceivably want to avoid in part
14 to make sure that what the public is reviewing at the
15 time of preliminary application is the same project
16 that would be scored and awarded at the time of final
17 application.

18 Also, one of the specific items we're looking at
19 is the minimum grant that is available to law
20 enforcement applicants. In the regulations at this
21 time, there is a minimum amount that goes to any law
22 enforcement applicant per project. And if an applicant
23 submits multiple projects, that minimum amount is going
24 towards each project, shrinking the pot a little bit
25 from each instance. We're considering if it might be

1 more appropriate for every applicant to get a minimum
2 amount, regardless of whether or not you have one
3 project or five projects, ten projects. That's some of
4 the items that we've identified right now. And with
5 that, that essentially concludes my presentation.
6 Hopefully I can answer any questions.

7 CHAIR WILLARD: Thank you. Commissioners, any
8 questions of staff on the grant program before we open
9 up to public comment? Commissioner Van Velsor.

10 COMMISSIONER VAN VELSOR: I did have one
11 question. I may have missed it in your presentation.
12 Are you planning on having public meetings to get
13 public input?

14 OHMVR STAFF LONG: Well, part of the process
15 here would be to gather input from the Commission, also
16 we weren't anticipating having the meetings prior to
17 the submittal of the package to OAL. Again with the
18 idea this is a much smaller fine tuning. We've built a
19 structure, now we're deciding whether we're changing
20 out the light fixtures; poor analogy, but there is
21 definitely the possibility. If it is apparent we can
22 schedule a hearing, at the very least that would
23 coincide with that 45-day comment period, if we thought
24 it was necessary. Also, during that 45-day comment
25 period, anybody can request a hearing to be scheduled,

1 and that would extend the time frame.

2 Again, like I mentioned, this is pretty
3 aggressive time frame in order to hopefully get this in
4 place in time for the next funding cycle, further
5 complicated also by furlough days and things like that
6 which might affect the ability to keep it going.

7 CHAIR WILLARD: I think that's it. No other
8 questions from the Commission, so thank you.

9 And this now is when we open it up to the
10 public, so we give the public an opportunity to tell
11 Division all of their great ideas on how to make the
12 program better.

13 DON AMADOR: Don Amador, Blue Ribbon Coalition.
14 Just quickly want to again commend the Division and
15 staff for getting us back on track. I know it's been
16 seven, eight years of some pretty rough times, and
17 again wanted to commend everybody for their part of
18 getting us back on track. Thank you.

19 CHAIR WILLARD: Commissioner Van Velsor has a
20 question.

21 COMMISSIONER VAN VELSOR: I'm curious, are their
22 comments today official in this capacity towards the
23 Division?

24 COUNSEL LA FRANCHI: Yes.

25 CHAIR WILLARD: That's the idea.

1 FRED WILEY: Thank you. Again, Fred Wiley with
2 the Off-Road Business Association. As a person who has
3 been coming to these meetings for quite some time now,
4 I was one of the people who asked for the audit and for
5 many of the other things in support of SB 742. I want
6 to thank everybody involved for the hard work, and I
7 don't know how many years of time it took to get this
8 into play now. But it certainly is a pleasure to be
9 able to come up here and be listened to. That's very
10 important to all of us, so thank you.

11 TOM TAMMONE: Tom Tammone, I was a little
12 concerned we had the one appeal in the education
13 category. There was a lot of confusion as to whether
14 it was going to be a public process or not. We
15 couldn't get any real information to the public. Maybe
16 they're worried that we were going to start forming
17 lynch mobs toward the people that were holding up all
18 of the money, but, well, it's a public process. And if
19 they want to step up and risk the wrath, then they're
20 going to have to deal with that. It's really only
21 supposed to be if they really have a legitimate gripe,
22 and they should be willing to make it public.

23 Second of all, they were holding up the whole
24 category over one appeal that may have only affected
25 one or two projects at the very bottom toward the cut

1 line. I guess we need to make it more clear in the
2 future that it is a public process, if you appeal, it
3 will be public, and you're only going to be affecting
4 your own score. But if there are any questions brought
5 up, it will be taken care of on the next cycle, but on
6 this cycle, it's only going to affect your score, it's
7 not going to consider the other grants. That's just
8 the way it has to be.

9 The thing about the budget situation, everybody
10 is really rushing, hey, let's get our money upfront
11 before they take it, so if it wasn't for that, we may
12 not have had this issue, but that's all I'm going to
13 say about that. Other than that, it looks like
14 everything went rather well. Thank you.

15 JOHN STEWART: Good afternoon, Commissioners,
16 John Stewart, California Association of 4-Wheel Drive
17 Clubs. Over the course of last few years, I've spent a
18 lot of hours reading through the criteria and providing
19 recommended verbiage corrections, and it looks like we
20 had a very good program, and actually we do have a very
21 good program.

22 Except I did come up with one little item that I
23 would like to propose a recommendation or proposed to
24 be looked at for change. I don't have a verbiage
25 recommendation at this point in time. But everybody

1 has heard mention about that one grant that was
2 appealed. That turns out to be a special case that was
3 not really accounted for, in that over the past few
4 years the BLM has been submitting statewide grants
5 en mass and then doling them out to other agencies or
6 other BLM field offices. And under this particular
7 grant, it involved an initiative that was started by
8 the Desert Manager's Group, under which BLM submitted
9 their grant, and this is for education for tortoise
10 outreach, education program. That's been going on for
11 several years, BLM submitting the grants each year.
12 But this year the National Parks Service is the one who
13 submitted the grant. And even though it was recognized
14 as being an ongoing grant, the National Parks Service,
15 who had been doing the work for a number of years,
16 really did not receive full credit for their ongoing,
17 and in effect they were termed more or less a new
18 applicant, and lost a few points for them. It kind of
19 hurt them on their standing on the grant.

20 I would like to see that particular issue looked
21 at and the verbiage addressed so that this particular
22 unique situation can be taken into account so that
23 somebody who has been working faithfully and diligently
24 within the ongoing grant, even though the project has
25 shifted from a different agency, that they do receive

1 full credit for their past history. Thank you.

2 CHAIR WILLARD: Thank you. Bruce Brazil.

3 BRUCE BRAZIL: Bruce Brazil, California Enduro
4 Riders Association. I've got three items I would like
5 to comment on. First, I'd like to see maybe a lower
6 cutoff point in the way of percentage or points; below
7 that the project would not get funded. And after
8 looking over the grants, a score of 50 looked like it
9 would be a pretty good point. There are only two out
10 of over 200 projects that scored below that. Now,
11 after an applicant has put in their draft, has gotten
12 public comment, and this year had some comments from
13 Division, then to only score between 30 and 40 points
14 on it and yet get fully funded, that doesn't sound like
15 a good thing. That sure wouldn't cut it in school, I
16 know.

17 Secondly, the studies and monitoring grants that
18 were awarded came out of the operations and maintenance
19 out of the -- I think there's five that I can remember,
20 four of which had no sort of ground disturbing
21 activities involved in the grant. So nothing happened
22 there, so it's a complete scientific study. According
23 to the Public Resources under restoration, that is
24 where scientific studies are supposed to be funded, not
25 out of operations and maintenance. So I'd like to see

1 some sort of clarification or something for our next go
2 round on that. Let's get the money going from the
3 correct sources.

4 And last, during this round, after the draft
5 projects were submitted, the Division came back with
6 comments, and I saw nothing in the regulations that
7 stipulates that the Division is supposed to make any
8 comments at that point. Public comment, yes; Division,
9 no. I think that could not necessarily cause a bias,
10 but it could be interpreted the wrong way. I think
11 they're supposed to stay neutral on that. They're kind
12 of asking for additional information, or you did not
13 clarify this, or whatever. Most of these grants are
14 supposed to be competitive, and so I think that part of
15 the process was not called out for in regulations and
16 should not occur in the future. Thank you.

17 CHAIR WILLARD: Ed Waldheim.

18 ED WALDHEIM: Ed Waldheim, California City. As
19 echoed before, we've come a long way, and I'm really
20 glad about that. The suggestions on the preliminary
21 grants, the qualifications for the 501(c)(3) and
22 agreements for the agencies for the non-profits
23 upfront, probably is a good idea, saves us a lot of
24 trouble and a lot of headache. I could agree on that.

25 I can't agree on requiring the CEQA and NEPA

1 documents at the beginning because these type
2 documents, as these grants are being developed, most of
3 the time the federal agencies and the Forest Service --
4 I mean the BLM and Forest Service are working on their
5 NEPA documents to get them going. So I don't really
6 see any particular reason to have to put that upfront.
7 They know perfectly well about a month ahead of
8 submitting these documents, unless they have the
9 documents it's a dead issue anyway when the final
10 button comes to do the sending. So I wouldn't go along
11 in requiring that at the beginning.

12 One of the things I found that when you develop
13 the grant, and it's a working document, you go and you
14 work on it on OLGA, when the time came to send the
15 preliminary work out, the public made its comments on
16 that. When the closing period occurred, you went dark.
17 There was no way for even the applicant to get into the
18 program anymore, much less the public. So there is no
19 way to review anything. There's got to be a mechanism
20 where at least you can look at it, not change it,
21 because that wouldn't be fair, but at least be able to
22 look at it.

23 I personally would like to -- and Sexto says
24 there is a way to do it, but I haven't found it yet.
25 But I would like to be able to pull up the document

1 even after it was closed and review the awards that
2 were given. These documents should really be available
3 for us to be pulled up in print for us to look at.
4 Right now you can't. The only way I know now what I
5 have is because on most of the grants I made copies
6 before we sent them, and I have a hard copy. I want to
7 go back now and find out the ones I didn't get, and I
8 didn't make a copy of those for some reason, I didn't
9 have them. So I'm at a loss of exactly what did I
10 submit at that time. So we need to do that. It would
11 be easier for us to be able to find.

12 The last question I have. As a nonprofit, the
13 staff tried very hard to figure out how we can deal
14 with the NEPA documentation, the soil standards, and
15 the WHPPs, and all of those documents, that we, as a
16 non-profit, do not produce those. Those are done by
17 the federal agencies who produced these documents. We
18 were forced to have to take the entire documents and
19 transcribe it line by line by line back onto our grant.
20 That seems like a ridiculous exercise where we could
21 probably by reference to the existing agency or a cut
22 and paste. You couldn't even cut and paste. You had
23 to line by line the item. And it was so bad that the
24 fellow I had working on the grants, he was getting a
25 heart attack, and I found somebody else who was willing

1 to type everything over again. So that's something
2 that's just insanity that doesn't need to be done.

3 The nonprofits use the federal agency's NEPA
4 documents, and the WHPPs and all of that. We don't do
5 that. It's their line, they do it. So there's got to
6 be some mechanism where the non-profits who have an
7 agreement with the federal agencies can just use it by
8 reference and save ourselves a lot of time. When your
9 auditor goes through the documents, they're not going
10 to go over ours and the federal agency's. Let them go
11 through one document. If it's not good on the fed
12 side, then it definitely is not going to be good on the
13 non-profit side. So if we can solve that one.

14 Other than that, it's pretty good. I understand
15 right now that as we go through to the actual issuing
16 of the grants and getting the money and so forth, right
17 now I hope we have it very clear, very simple where we
18 can get our monies, where we can send in the reports,
19 we can send in the receipts, and whatever program that
20 comes in OLGA makes it simple so we can process these
21 things online, if not hardline to at least get them
22 going. So we're real excited about it. Thank you.

23 CHAIR WILLARD: Thank you. I'd like to make
24 sure that we've got all of the public comments. Does
25 anyone else have anything else to say about the grants

1 program?

2 I guess that's an indication that the program is
3 pretty finely tuned because I didn't hear too many huge
4 issues. Deputy Director?

5 DEPT. DIRECTOR GREENE: Thank you for the
6 comments. They're very useful for us.

7 Just to clarify for Commissioner Van Velsor, we
8 have not yet begun the regulation process. That's the
9 reason we are taking these comments now.

10 CHIEF JENKINS: If I may, slight correction.
11 That's where the confusion lies. So the company that
12 gave us OLGA, somehow that part of the program doesn't
13 let you look at it once the program goes dark.

14 So what we did this year in order to accommodate
15 people that want to go back and look at them -- correct
16 me if I'm wrong, one of the grant team members, but we
17 PDF'd the grants, so they're available on the web page.
18 You can go look for the grant by number; is that
19 correct? Can you tell us how to do that.

20 DAN CANFIELD: Dan Canfield, Department of State
21 Parks, Off-Highway Division. Exactly correct. The
22 OLGA or the source program, which is called EGrAMS,
23 which is the company that we contracted with, took and
24 then modified it to fit the OHV program. They did an
25 excellent job. It had several elements that they never

1 anticipated a grants program wanting to do. And I
2 think we pride ourselves in having a grants program
3 that strives to be the most responsive and the most
4 open program possible. So the off-the-shelf EGrAMS
5 program did not account for that. So in many cases,
6 some of the comments we heard were items that were
7 built in or hardwired into the OLGA system.

8 DEPT. DIRECTOR GREENE: Dan, it's okay. How do
9 we get to them right now? If the public wants to go to
10 the website, they can go to grants?

11 DAN CANFIELD: Grants page, on the left-hand
12 column you click on, it says 2008/2009 Final
13 Applications, and you can review everything except the
14 attachments.

15 CHAIR WILLARD: Commissioners, any comments?
16 Well, I think we're done with that business item. And,
17 again, I want to commend staff for an excellent job,
18 and I remember three years ago when I signed up to
19 serve on the Commission that we had to go through for
20 the grants program, it's just a huge, huge difference.
21 And it's just really a pleasure to see a program that
22 was thought up and then implemented and implemented so
23 well. It seems to be working great. So, again, my
24 thanks to staff, and you guys have done a great job.
25 Thank you.

1 Moving onto Item V(C), U.S. Forest Service.

2 **AGENDA ITEM - BUSINESS ITEM V(C)**

3 DEPT. DIRECTOR GREENE: I'm going to provide
4 just a quick background, given the constraints on time,
5 and then Kathy Mick will follow up.

6 Essentially the emphasis on finding a way to
7 ensure a sustainable system of OHV opportunity on
8 Forest Service lands began to take form nearly a decade
9 ago. Members of the OHMVR Commission, Forest Service
10 personnel, and members of the OHV and environmental
11 communities all agreed that in order to sustain
12 opportunity for the long-term, you have to know what
13 you have. This would require the Forest Service to
14 perform an inventory of its existing roads and trails,
15 and then designate those which would be maintained for
16 long-term OHV recreation.

17 In August of 2001, the OHMVR Commission awarded
18 \$2 million to Region Five to collect data on system and
19 non-system trails and unclassified roads being used by
20 OHVs and convert them into Forest Service GIS. In
21 2002, the Commission committed another \$1.8 million to
22 continue the work that began in 2001. California has
23 always been known as the state that sets the trends,
24 and its OHV program is no exception. Recognized around
25 the nation as having a model program, the commitment of

1 State funds to a federal program of this magnitude
2 exemplifies the State's commitment to the OHV program
3 in California and the Forest Service commitment to
4 route designation. This commitment of State funds to
5 be awarded by the Commission represented one of the
6 first examples in the nation of a State organization
7 working closely with the Forest Service to designate a
8 sustainable system of OHV roads and trails.

9 In the fall of 2002, as chair of the Commission,
10 my fellow Commissioner Paul Spitler, and I spoke at the
11 Forest Service Regional Leadership Forum to forest
12 supervisors. At that time, the population of
13 California had increased from 20 million in 1971 when
14 the program was created to 34 million. Many of the
15 forests were still opened to cross-country travel. OHV
16 was booming, and it was evident that what we had was
17 not a sustainable model. We spoke about the importance
18 of the Forest Service inventorying and designating a
19 sustainable system that would ensure OHV opportunity
20 for our children and their children.

21 In addition, route designation in California was
22 supported by many interested stakeholders, including
23 the OHV Stakeholder Roundtable. Members of the OHV,
24 environmental, and non-motorized communities, law
25 enforcement, and fellow agency personnel supported this

1 process to provide a sustainable system for motor
2 vehicle use on Forest Service lands.

3 In 2003, a Memorandum of Intent was signed by
4 the U.S. Forest Service, California State Parks, and
5 the OHV Commission which memorialized the parties'
6 commitment and intent to fund route designation over
7 the next four years at a level of \$2 million a year.
8 By 2007, the OHV Trust Fund had supported route
9 designation travel management at that time, this
10 process, and awarded a total of approximately
11 \$11.8 million to Region Five. The task was massive,
12 18 national forests, 20 million acres, hundreds of
13 public meetings, and thousands of letters. An agency,
14 which by its nature is decentralized had to function in
15 a more centralized manner as it went through the
16 process from the top down.

17 Some of you may have heard of concerns raised in
18 past Commission meetings about how travel management is
19 being implemented, but I think the overall goal for all
20 of us to keep in mind is that original goal of route
21 designation, which was to achieve a sustainable system.
22 As I said before, we all want to preserve opportunity
23 for the enjoyment of OHV recreation so that our
24 children and their children can enjoy the years to come
25 collectively. I would encourage us not to forget our

1 end goal.

2 With that note, I'm going to turn it over to
3 Kathy Mick, Resource Program Lead for Trail, Motorized
4 Recreation, and Travel Management.

5 KATHLEEN MICK: Good afternoon, I'm Kathleen
6 Mick, Regional Trails OHV, Travel Management Lead for
7 the Pacific Southwest Region. And I appreciate Deputy
8 Director Greene's comments, and I think in order to
9 fully understand the route designation travel
10 management process, we have to go back to where we've
11 been before, we can understand where we are and where
12 we're going.

13 So it wasn't anticipated that this meeting would
14 go as late as it has to the end of the day, no pun
15 intended, but I'm going to zoom through this, and I'd
16 appreciate if you could perhaps take notes and write
17 your comments down or questions down and then we can
18 answer them at the end. If you see a slide that you're
19 particularly interested in, I would be happy to go
20 back. But just for the sake of time, I'm hoping to get
21 through the presentation. That would, I think, help.

22 So with that said, where we've been. In order
23 to understand how we're going to move forward, we need
24 to understand where we, as an agency, came from in
25 terms of OHV management and route designation. It

1 started actually back with Nixon and Carter and their
2 executive orders. And the basic purpose of those
3 orders was to establish policies and provide for
4 procedures that would ensure use of off-road vehicles
5 on public lands, and that that use would be controlled
6 and directed basically to protect the resources and
7 also minimize conflicts. That order originally came
8 from Nixon, and then Carter amended that and added a
9 section to that that added some considerations that if
10 considerable adverse effects were occurring out on the
11 landscape, that the Forest Service could close those
12 areas until the time that those resource impacts could
13 be dealt with.

14 So what you essentially had, as Deputy Director
15 Greene described, is you had some forests that were in
16 various different places. You had designated zones of
17 use that were popular. Typically those zones were
18 open, restricted, and closed, and that those zones were
19 required to be indicated to the public through
20 designations on maps and through signings. So in some
21 places, like on the Mendocino National Forest, they
22 went straight to a designated system very early. Other
23 forests stayed with the zone concept and had vast
24 acreages open with the idea that people could travel
25 across country, as long as resource damage wasn't

1 occurring. Not sure in any of the literature that I
2 found there was ever any thought given to when ten deer
3 go through the woods, they typically make a path, and
4 that if motor vehicles are doing the same thing,
5 they're going to do that, too. I don't know in any of
6 the literature that I've looked at if that was ever
7 really given a whole lot of thought.

8 So we're really talking prior to the MOI right
9 now. What we started with in 2002 was some pilot
10 inventories. We looked at existing information, and we
11 looked at what did we need to get where we wanted to
12 go. And we needed to look at data collection
13 standards. We needed to look at methodologies for
14 collecting data, the equipment, the labor, how would we
15 go about this.

16 So we started inventory work in the summer of
17 2002 in three pilot areas, the Tahoe, the Inyo, and the
18 Sierra. This is just one example of the things that we
19 found, and I thought that it would be helpful to kind
20 of demonstrate that to you. So this is an area on the
21 Tahoe in the Truckee District out by Prosser Reservoir.
22 This is what we knew. The green information are the
23 roads and trails that were ours. So we were testing
24 methodologies at that time. We did GPS, hence the red,
25 then we looked at aerial photos and Digital Ortho

1 Quads, which is actually the picture in the background,
2 and had a contractor also use technology to try and
3 pick up routes, hence the yellow. So we ended up with
4 three things, the known roads what we could pick up
5 quickly with GPS, and what we could do by looking at
6 Digital Ortho Quads, and doing things in the office
7 perhaps through GIS and other methods.

8 The other thing that we did was we looked at
9 off-route use areas. These were areas that either were
10 clay pits, gravel bars, things like that, or there were
11 so many trails in those areas, that you couldn't
12 discern one particular track. So instead they went
13 around the edge and collected them as a polygon showing
14 an off-route use area. In the current designations,
15 those would be things that would be designated as areas
16 that would still remain open. People could squirrel
17 around within them, but they can't get outside of them.

18 So as part of that process, we started to work,
19 again before the MOI, with a strategy of how we were
20 going to move forward and that morphed into what has
21 been known as the pyramid. And so starting from the
22 bottom and working toward the top, it outlined our
23 process that we were going to attack this project.

24 So then we get to the MOI, and Daphne covered
25 some of that history, but it was really then Deputy

1 Director Dave Widell who asked the Forest Service and
2 BLM how the OHV Division could help sustain long-term
3 recreation statewide. And it was through those
4 discussions through stakeholders and also discussions
5 with our Regional Forester at the time with some of the
6 environmental communities and also some of the OHV
7 communities and our office, that an idea of a
8 memorandum of understanding came up, and then later it
9 was morphed into a memorandum of intent because they
10 felt that "intent" had more umph than "understanding".

11 So the key points in the MOI was that it
12 established each agency's responsibility, the mutual
13 understanding. It did not obligate any funds. It did
14 not establish any rights. But what it did do, as
15 Daphne mentioned, was establish common goals and also
16 establish the State's intent toward \$2 million a year
17 for four years, obviously dependent on future funding.

18 So starting with the beginning of the pyramid,
19 we started with the inventory of routes. We had a
20 timeline, and off we went with the process. So we
21 began to map the roads and trails and areas. We
22 started to assemble that information. We had lots and
23 lots and lots of public meetings about the inventory,
24 and validating that inventory, and trying to work as
25 the best that we could with the public to make sure

1 that we had captured all of the routes out in the woods
2 that were being used that were not part of our
3 transportation system. In other words, the things that
4 may have been old logging roads that were out there,
5 people just picked up and used because they were old
6 temp roads or things like user-created routes or other
7 routes that perhaps were in our system at one point in
8 time in history and for whatever reason fell out of our
9 system and folks still kept using them.

10 Then we had a step two, which was basically what
11 we called the "Stop the Madness" Phase, which was an
12 acknowledgement that in some places throughout the
13 state, there was enough off-route impact happening that
14 we needed to basically curtail cross-country travel.
15 So we did that by issuing temporary forest orders on
16 only the forests or districts that needed it. So, for
17 instance, the Tahoe National Forest did a step two
18 order because they had areas where they were receiving
19 a lot of off-route travel, routes were continuing to
20 proliferate, and they wanted to stop the proliferation
21 because it's awfully hard to continue on with an
22 inventory when people are continuing to proliferate
23 routes, because it would end up to be a never-ending
24 process.

25 So we had to draw the line in the sand

1 somewhere, but we also wanted to acknowledge the fact
2 that because there had been no decisions, because the
3 forests were still open, it was a concession really
4 that the routes, the user-created routes remained
5 opened until decisions were going to be made on each
6 individual route. So that was the process that we did
7 and basically the due date that we set for ourselves.

8 Then we moved into step three, which was
9 proposing designations and gathering public input.
10 Again, lots of meetings, lots of workshops, really
11 starting to work toward a proposed action, looking at
12 the system that we already had and the unauthorized
13 routes and weeding through those and trying to figure
14 out which routes made sense to bring into the systems
15 and which ones may not. It included filtering routes
16 with our resource layers, our resource specialists, the
17 public, travel input, all of that. It's all left-sided
18 planning, non-NEPA planning. So what it kind of looked
19 at, as a graphic sense, you've got a big bucket, you
20 threw everything in the bucket, and then put in the
21 various filters, which were existing directions,
22 specialist analysis, public input. And what fell out
23 in the bottom were the things that potentially would be
24 analyzed for future inclusion into the system. There
25 was no guarantee that everything would be added at one

1 time, but that everything would be looked at and
2 filtered, and that's we did.

3 So then after that, the proposed actions were
4 put out to the public, and that was basically the
5 Forest Services' attempt at putting out what we felt
6 was the best action for that given area at that given
7 time. And that's what triggered the NEPA clock. So we
8 moved from left-side collaborative planning, to our
9 right side, which, on what we call our NEPA triangle,
10 is the planning phase that has tight timelines with
11 legal public comment periods, et cetera. And that's
12 the phase we're in now for at least a portion of the
13 region.

14 And it's in this phase that you develop your
15 proposed action. You ask the public to comment on
16 that, then you develop what is called the DEIS, or
17 draft environmental impact statement. Once you've come
18 out with a proposed action, it allows the public to
19 comment on that, and it's from that that you derive
20 issues and you develop alternatives to that proposed
21 action. So when you're looking at a DEIS, and you see
22 all of these alternatives, they're alternatives to what
23 we proposed as an action. And we're in the midst, as
24 most of you know, of concluding that phase. For the
25 most part that phase will be concluded by the end of

1 August. So again just an overview of what we're doing.

2 And then once we have all of the public comment
3 periods closed, we start to move toward a ROD or record
4 of discussion and an FEIS; that's a final environmental
5 impact statement. That's where we take all of the
6 public comments that people are making now on the
7 drafts, and we weight it, incorporate it, and address
8 it, or talk about why we didn't address it, and we move
9 to a final document and a decision.

10 In some cases we release the FEIS first, and
11 then RODs. In this case we'll be releasing the FEISs
12 and the ROD at the same time. Once all of the RODs,
13 the records of decisions, which are the Forest
14 Supervisor's decisions of which alternatives they're
15 going to pick, which is kind of the amalgamation of all
16 of the different types of routes and seasons of use,
17 that will show up in the ROD. They'll have a rationale
18 for why they made their decision. And then we will
19 move forward toward implementation. And what that
20 means is producing an MVUM, and then going into
21 full-blown implementation should there be no appeals or
22 litigation. So, again, step five is going to be to
23 implement the NEPA decisions, publish an MVUM, and then
24 begin the real work, which is signage, trail
25 maintenance, kiosks, the volunteers, all of that stuff.

1 So the end result of all of this was really to
2 stop the indiscriminate motorized use, to implement
3 travel management directions, and redirect motorized
4 use to sustainable roads, trails, and areas. So we
5 were happily working along on our merry way, and then
6 nationally, as the agency started to look around at the
7 increase in use, the increase in the power of machines,
8 then Chief Dale Bosworth said -- you know, basically he
9 summed it up that the national forest and grasslands
10 across the country had four major threats to them and
11 their sustainability, and that is unmanaged recreation,
12 which OHV is just a portion of what's considered to be
13 unmanaged recreation -- it's not the sole ownership of
14 unmanaged recreation. There are lots of other
15 unmanaged recreation that we deal with besides OHV.
16 That was the largest component, and they felt that it
17 was time to take another stab at dealing with it. As I
18 mentioned before, we've been at this since the '70s.

19 So they developed a need for the rule, which was
20 basically the proliferation of routes, the need for
21 consistent terminology processes across the nation, and
22 really to, again, prohibit that indiscriminate use, and
23 just basically overall have a better, more managed,
24 well-managed system that would allow people good
25 recreation opportunities and also protect resources.

1 So why the change: Increase in sales, powerful
2 machines, lots of damage. Lots of good stuff going on,
3 but lots of bad stuff, too. So we ended up in 2005
4 with the travel management rule, so that changed things
5 for us here in California. We kind of went from this
6 OHV route designation to travel management, which isn't
7 just about OHVs, it's about all of the motor vehicles
8 that go on the national forests. And basically what
9 that rule told us was that we're going to designate
10 roads, trails, and areas by motor vehicle class, and if
11 appropriate by time of year, and that it required
12 public involvement and coordination, and that it
13 basically prohibits motorized vehicle use off of the
14 roads, trails, and areas, and that the enforcement tool
15 is the MVUM. So the ultimate goal of the MVUM is that
16 once it's published, use that's inconsistent with that
17 map is prohibited.

18 So where are we now? Again, as I mentioned,
19 we're in steps four and five, depending on where you're
20 talking and which forests across the state. There's a
21 chart in the back, which the Division was kind enough
22 to put on a beautiful poster board and blowup for us.
23 It's the same chart here. It basically gives the
24 status. The status, as requested by the Commission and
25 the public, was also updated on our website as of

1 yesterday. What's missing from that is the fact that
2 in the midst of getting all of this material together
3 for the Commission meeting, several of the forests have
4 extended their public comment period, which isn't noted
5 there because we just didn't have time to modify the
6 products.

7 So with all of this, where are we going? Well,
8 once we get MVUMs and we start to have a life after
9 MVUM, and we start to look at these systems and really
10 manage them, as I said, that's the real work. We need
11 to educate the public. We've heard a lot about that.
12 There's lots of good happening, but there's also lots
13 of bad. So how can we all come together, OHV Division,
14 Forest Service, BLM, OHV community, and the
15 environmental community together and educate people not
16 only about the importance of maybe motor vehicle
17 recreation, but the importance of why you wouldn't go
18 into a meadow and tear it up, why you need to stay on
19 designated routes, why it's important, and why you need
20 to protect the national resources. Because if you
21 remember, you know, most the water in this state comes
22 off of Forest Service land. So it's not just about the
23 resources like wildlife and cultural heritage and that
24 preservation, but it's also about water quality. So
25 what does water quality mean? What it means to you is

1 every time you pour that pitcher or turn on your
2 faucet, that really is what it means. It's about
3 educating the people about the importance of why they
4 need to do the right thing. Also, what comes with that
5 for those that don't want to do the right thing, then
6 we have the enforcement tool to teach them how to abide
7 by the law.

8 We need to implement the designation through
9 maintenance, signs, and kiosks. As you know, we
10 participate in the OHV grant program, and that's a
11 wonderful thing that allows us to leverage the money
12 that we have. And we want to continue to take
13 advantage of that, but even with that money and the
14 money that we get, it's still not enough, and I know
15 that's hard to believe, but it is just so.

16 And so what we need to do is we need to start
17 working with volunteers on the concept that we really
18 have in our agency of citizen stewards. It's great to
19 have volunteers, and nobody would ever turn away a
20 volunteer, somebody that wants to come one or two times
21 a year and volunteer on a Saturday or Thursday. It's
22 great, and we can't live without our volunteers, but we
23 are really looking to ratcheting it up to the next
24 level.

25 As budgets decline, we're starting to do less,

1 and we're asking the public to do more, if the public
2 wants more. So what we're really looking at is
3 fostering a citizen stewardship of people that really
4 care about the land, not just for their sole purpose
5 but for future generations, and how do we work toward
6 creating and fostering that kind of idea, where people
7 want to come out and not only work on a Saturday, but
8 help us plan and help us to implement and think of new
9 ideas to address issues.

10 And as part of this, there is always the other
11 hard work of testing how we have done doing the
12 monitoring, did we do the right thing, was our analysis
13 good, how is our maintenance, and what are we doing in
14 terms of environmental impacts, what is happening now
15 that we added routes or took away routes, what are the
16 effects.

17 So part of our regulations tell us, as well as
18 the OHV Division's grant regulations, is that we have
19 to monitor the natural resources. And so that's soil,
20 water, hydrology, wildlife, plant, cultural resources.
21 And then the other thing is we want to improve what we
22 already have, not just the things we're adding, but the
23 things that we already have that in some cases are in
24 disrepair. And then we do want to get at closing
25 illegal routes -- and that is not a photo of the

1 recently talked about Stanislaus meadow, by the way --
2 but just get out there and prevent these things from
3 happening. And when they do happen, note it, and take
4 care of it so that we can keep these kinds of eyesores
5 off the landscape.

6 And then another component is restoration. We
7 do have unauthorized roads and trails out there that is
8 part of the inventory that were not included, and they
9 probably never will be because of the effects to the
10 environment are such that we just can't continue to
11 allow the use in a particular area. So what do we want
12 to do? We want to go in where appropriate and we want
13 to restore. So here is an example of where they did
14 some restoration on the Plumas National Forest next to
15 a disperse campsite, and you can see the high-cut bank
16 in the picture to the left where the channel was
17 eroding, and they went in and narrowed the channel and
18 created a floodplain and have dealt with the issue. So
19 where it's appropriate and also responsible, we want to
20 take these actions because restoration is an important
21 component to what we're doing, as well.

22 So in implementation of the designations, how
23 can the public participate? Well, again, through
24 assisting through citizen stewardship and volunteerism;
25 educating individuals, groups, and clubs; assisting

1 with signing, maintenance, and restoration, and
2 monitoring; providing input for future planning which
3 is important, get in on the ground floor instead of at
4 the back end; and then also with the enforcement
5 efforts, do volunteer patrols.

6 So our overall goal is providing opportunity for
7 motor vehicle use while protecting and improving our
8 natural and cultural resources. So with that, I'm
9 happy to entertain any questions.

10 CHAIR WILLARD: Thank you, Kathy.
11 Commissioners, any questions, comments? Commissioner
12 Slavik.

13 COMMISSIONER SLAVIK: Going back to that letter
14 we were talking about sending to or creating for the
15 legislators to give them an understanding of our
16 program, I would ask possibly if maybe we entertain a
17 motion to ask the federal agencies if they could also
18 create a letter. Obviously they can't do a fraction of
19 what they've done without the funding sources coming
20 from OHMVR. And I wonder, Kathy, what is the
21 percentage of federal dollars that could be allocated
22 to recreation or OHV or whatever numbers we could use
23 in contrast to what you get from the state?

24 KATHY MICK: Well, for travel management,
25 although it seems, at least in the history based on

1 what folks have seen, that the OHV Division has funded
2 the lion's share of travel management, but that's not
3 the case. Not to say that \$11.8 million didn't come in
4 handy, because it did, and it would be a lie to say
5 that it didn't. But the agency just in travel
6 management alone has contributed as much or more, and
7 we're still working, so we don't have those final
8 numbers.

9 But in terms of travel maintenance and OHV
10 management, we don't have a separate line item. We
11 have a BLI, a budget line item, that comes to us in
12 construction and maintenance of trail, CMTL. And so
13 that BLI is split between all types of trail use,
14 motorized and non-motorized. And then we have NFRW,
15 which is our recreation fund, that could be used for
16 cleaning of facilities, et cetera.

17 So I think, Paul, a lot of it depends on what is
18 going to happen with our budget situation right now.
19 It looks like in fiscal year '10, we actually may be up
20 in recreation and trails for the first time in I can't
21 tell you when. We can probably work with Francis, who
22 you know, and get some type of figures -- I don't have
23 them off the top of my head today -- in terms of how
24 much we put forth to OHV management in comparison to
25 how much we get through the grant program. We could do

1 that. Our system is a little hard to pin it down to
2 like the penny or even the dollar, but I think we could
3 get reasonably close, but it would take some time.

4 COMMISSIONER SLAVIK: Well, I guess my question
5 would be if you guys would be interested in writing
6 some kind of a white paper that could identify the
7 importance of OHV funding from State funding, I should
8 say, to the citizens of California from your
9 perspective.

10 KATHY MICK: Yes, I would have to check on that
11 because it sounds an awful lot like lobbying to me, and
12 we're certainly, much like the Division, not allowed to
13 do that. It doesn't mean that we can't publicly share
14 the importance of our partnership with the OHV
15 Division, which is more than just about money. It's
16 also about ideas and relationships, as well, which I
17 don't think you can actually put a dollar figure on.

18 But I could check into what we can do. I'm not
19 certain, but I know that we have probably stricter
20 rules than the OHV Division does around that type of
21 thing.

22 COMMISSIONER SLAVIK: It might be something you
23 could do, though, to somehow weigh in on this whole
24 subject of funding. And if the funding disappeared
25 from the OHV program, how would that hurt the citizens

1 that are going into the national forests, which is a
2 huge recreational opportunity for everybody.

3 CHAIR WILLARD: That's a very good point,
4 Commissioner Slavik. We're partners in this, and if
5 something happens to our funding, then ultimately
6 that's going to affect our partners, the U.S. Forest
7 Service, the BLM, and counties with law enforcement.
8 So everybody has a stake in this, so, yes, I guess you
9 should probably look into it and see if there is
10 something you can do to maybe not lobby but get the
11 word out that this program is doing some good.

12 KATHY MICK: I mean our Director Marlene Fiendly
13 sits on the California Roundtable with Ruth. I know at
14 the last meeting, they talked -- Marlene wasn't at that
15 meeting, but Daphne was and a representative from our
16 office was. So we're well aware in our office of the
17 situation and what it means. But like I said, I'm
18 happy to go back and see what we can do. But I would
19 venture a guess, it's probably not what you would like
20 to see.

21 CHAIR WILLARD: Understood.

22 COMMISSIONER SLAVIK: Possibly the roundtable
23 might be a venue?

24 KATHY MICK: Could be. I'm not as familiar with
25 what their operating norms are to say if that's

1 something they can take on or not. I would suspect
2 not, but I don't know.

3 CHAIR WILLARD: Anyone else have any other
4 comments before I open it up to the public?

5 COMMISSIONER McMILLIN: I've got one. Earlier
6 today, you commented on you don't look forward to the
7 snowmobile thing. I'm not going to question why or
8 whatever. Isn't route designation, what you're doing
9 here, because you mentioned if you can designate even
10 the time of year, you try to on the maps?

11 KATHY MICK: Yes.

12 COMMISSIONER McMILLIN: So is there a whole
13 another process for this for winterized sports?

14 KATHY MICK: Yes. The reason I say that is
15 because I've been at this personally since 2002, and
16 I'm really ready to move on to a new project, just
17 because this has really been kind of my life, so I'm
18 ready to be challenged in a different way. But if you
19 look at our CFRs, our A, B, and C, C is specific to
20 snowmobile designations, and I'm generally paraphrasing
21 here, but it basically says if the responsible
22 officials feel like they're having problems with
23 snowmobiles, then they can pursue restrictions on the
24 use, which would be designations.

25 Now, there is nothing that keeps a forest right

1 now from producing an MVUM on the use that they already
2 have and kind of memorializing that use. But since the
3 focus has been more on the motorized, the wheel side of
4 things, which could be a good thing.

5 We don't have a template for what an over-snow
6 vehicle use map would be. The process essentially is
7 the same. It's just you would be doing it for
8 snowmobiles, although you would have other
9 considerations because typically snowmobiles like to
10 operate in big, vast, open expansions. So how you
11 restrict that use is different than you would for for
12 roads, trails, and areas.

13 I don't ever anticipate -- can Fred Wiley hear
14 me? I don't ever anticipate in the near future in this
15 region that we're going to go strictly to snowmobile
16 use that's limited to roads and trails, at least not at
17 this time. I don't think I see that in the tea leaves,
18 although I might be drinking the wrong kind of tea, but
19 I don't think so.

20 CHAIR WILLARD: Thank you.

21 KATHY MICK: You're welcome. Before you start
22 the public comment, I guess the one thing I did want to
23 say, there's been a lot of perception or misperception
24 on what travel management is and hasn't been. And it
25 does I know feel for some folks when there is a lot of

1 DEISS or documents coming out at one time, it feels
2 like it's been a very rushed process because it's all
3 coming at once. But as you can see from the history,
4 we've been at this time for eight years. The chief
5 gave the rest of the nation four.

6 And we're still at it. We're not on time, but
7 we are doing everything we said we'd do. So I guess as
8 much as it feels rushed for some, for others it's been
9 a process long, long, long in the making. I think that
10 needs to be given consideration, as well.

11 CHAIR WILLARD: I'll make the comments, the two
12 concerns I had earlier, you addressed them, but I'll
13 just bring them up anyway. The maps, it sounds like
14 you're on top of it, you understand the need for maps
15 that are usable, so that's great.

16 Then also you touched on this, some of the
17 closures due to routes that cross private lands, and it
18 sounds like you're going to be looking into that. And
19 where we can have a new route that goes around the area
20 or solicit some sort of an easement from the private
21 property owner, that would be great.

22 KATHY MICK: Right. Our Regional Forester even
23 said -- I believe it was in op-ed piece in The
24 Sacramento Bee that getting to the MVUM and making
25 these first route designations is really the first step

1 in having managed use. And I know that there are some
2 theorists out there that would say, this is it, folks,
3 so hang onto your hats, this is the only time the
4 Forest Service is going to look at their system, if you
5 don't get your route in now, you never will. And
6 that's okay, and I understand why they think that way,
7 but I'll be happy when we prove them wrong.

8 And right now the Mendocino National Forest is
9 working toward the next step, the second step of doing
10 just that, proving to people that, no, we are going to
11 take a look at our system, we are going to modify them,
12 and in some cases we are going to add routes, or we may
13 change out routes, we may reroute routes, or there may
14 be impacts that we thought we analyzed really well and
15 we didn't and we have to close routes. It's a dynamic
16 process, and that's how we're going to operate.

17 CHAIR WILLARD: That's good to hear. Thank you.

18 COMMISSIONER SLAVIK: I'd like to thank the
19 Forest Service and staff for providing us with all of
20 that wonderful reading that we've had during the last
21 few weeks.

22 CHAIR WILLARD: So public comment period on
23 travel management.

24 FRED WILEY: Thank you. Fred Wiley with ORBA
25 and the California Nevada Snowmobile Association. Just

1 really quickly, I want to thank Kathy for the work that
2 she's done. She has been out on a snowmobile. Her and
3 her daughter have been out with us to look at the areas
4 and different things.

5 And to give a little bit more information on the
6 snowmobiles is that the Chief said the snowmobiles
7 would not be included in this process because there is
8 an ability for the local manager to control the use of
9 snowmobiles within their own levels. I only have one
10 concern there when the region begins to define the
11 policy, and whether or not we make sure that they allow
12 the local manager to take part in that decision-making
13 process.

14 But I want to go back a little bit on where we
15 started when I came into this and the MOI was put into
16 position. My understanding was that the first step was
17 going to be to map and map everything. So we provided
18 enough dollars over the past four years, I believe it's
19 \$11.8 million, which should have done the mapping. So
20 we went through the process, and we began to find out
21 that there was a thing called unauthorized routes.
22 Well, how is it unauthorized when it was open to begin
23 with, and then it was created? And now we're saying,
24 well, it was open, but now it's unauthorized. So a lot
25 of those routes did not get included. We wanted them

1 included knowing quite well that maybe some of them
2 were going to be left out because of resource issues or
3 whatever the problem was, but they're not included, and
4 that's a complaint.

5 The next thing that we started seeing, and this
6 was a recent order, I believe, in October of last year,
7 that the regional engineer was going to review any of
8 the suggested level three, four, and five roads that
9 would be reduced to level two that could have OHV use,
10 when that has already been reviewed by the local
11 engineer at the district level. So I have some
12 concerns as to why the Regional Office is now adding
13 another layer of their process to a process that was
14 understood to be one way in the beginning, so I get
15 concerned about those things. When we have concerns
16 like this, we begin to wonder how the money was spent.
17 When we don't see the proper mapping and the process
18 looks to be a little bit skewed at this point in time,
19 we begin to say where did the \$11.8 million go.

20 So many of the OHV groups who belong to a group
21 called Ecologic Partners issued a FOIA to Region Five,
22 and we furnished the FOIA to the OHMVR Commission in
23 the last meeting. We still have not received a
24 reasonable answer to that FOIA. So, again, I'm letting
25 you know that we're still waiting to find out where the

1 \$11.8 million went. And I know that Division is doing
2 some auditing and things like that, but within some
3 kind of a combination between the end user, and the
4 Commission, and the Division, and the Forest Service,
5 we'd like to see where the money went. Thank you.

6 DON AMADOR: Don Amador, Blue Ribbon Coalition.
7 I won't reiterate what Fred went over, but simply say
8 that Blue Ribbon, we have been part of this thing since
9 2001, 2002, and I just wanted the Commission to know
10 that we've been extremely frustrated with Region Five
11 inserting itself into the decision-making process. In
12 our opinion, when the 2005 rule came out, it made
13 sense. It empowered local line officers to take into
14 account the input from localities, riders, and other
15 stakeholders. I have shared this with Kathy our
16 concern that they created sort of a hybrid process,
17 moving goalposts, new memos and directives coming out
18 almost every month. I just wanted to share that with
19 the Commission, the Blue Ribbon has been concerned with
20 that, shared it with Region Five.

21 But in the end, I do want to agree with Kathy.
22 I think we're looking forward to getting beyond this
23 thing. I think we can all agree it's been about eight
24 years of hell. It's been eight years of confusion. I
25 think we are ready to go on and start planning some

1 campgrounds and trails, some new projects. I do share
2 with Kathy the hope that some day we can move beyond
3 this and get on to getting some good stuff on the
4 ground. Thank you.

5 SYLVIA MILLIGAN: I'm Sylvia Milligan. I'm
6 chairperson of Recreation Outdoors Coalition, and I
7 wanted to thank you for listening to me today. I've
8 been involved in this process since the inception. ROC
9 has a management team consisting of three people
10 besides myself. One of them is a retired Forest
11 Service engineer who helped write the guidebook, and
12 the handbook when he had a stint in D.C. Another one
13 is a NEPA expert, a retired Forest Service NEPA expert.
14 The third one is a recreation manager who managed the
15 Chappie OHV area in Redding for about 17 years. We are
16 very up on what is going on. We know this process
17 inside and out.

18 What we found is that the people that are doing
19 this process at the Forest Service had been
20 insufficiently trained. They really didn't understand
21 what it was that they were supposed to be doing. Most
22 of them, we found, have never been out in a jeep, on a
23 quad, on a dirt bike, so they didn't understand what is
24 a good managed trail, a good sustainable trail. Then
25 they would bring people in, one on the enterprise team

1 came in from Pennsylvania and was the head of the route
2 designation process on one of the forests. Let me tell
3 you, forests in Pennsylvania are a whole lot different
4 than they are in California.

5 What we found, the biggest problem that we're
6 having, and I can tell you that most of the forests
7 that we work with have been really good. We've had a
8 good working relationship, once the forest realized the
9 expertise that ROC had, and the fact that we didn't ask
10 for anything that was not rational. We've done a real
11 good job in selecting our routes. But I want to show
12 you, this is a map of the Lassen Forest. And you can
13 see all of these red lines, and they tell you, oh yes,
14 there's all kind of opportunity on the forest. There's
15 thousands of miles.

16 However, look real close at those. Where did
17 they go? There's just all these fingers that go out to
18 nowhere. That's not an opportunity. That means that
19 you have to trailer up, go to the road, unload, ride
20 the road which has no services, no loops; come back,
21 trailer up, go to the next one. So the big problem
22 that we're having is getting from one area to the
23 other.

24 We look at the unauthorized route. ROC did an
25 alternative for the Lassen, and I'm using that as an

1 example. In it we asked for the level three roads,
2 because without the level three roads, we can't
3 basically go anywhere. Out of 1,176 miles of
4 unauthorized routes on the Lassen, all we asked for was
5 a little over 100 miles of them, that's all we need if
6 we can have the level three roads.

7 I've gone out or ROC has gone out now and worked
8 with the counties. The county recognized the fact. We
9 showed them what dent that this is going to make in
10 their resources and revenues if there is no recreation
11 on the forest. And if you're going to trailer to every
12 route, there's not going to be any recreation on the
13 forest.

14 So the county said, what are you talking about.
15 We said the route designation process, and almost every
16 one of them that we talked to really did not have a
17 clue. They had not had any kind of outreach to tell
18 them that this process was going on and what it
19 entailed. So I've been working with 14 counties in the
20 state. I've got almost all of them now willing to
21 designate their unpaved roads. They're asking, why
22 isn't the Forest Service doing that?

23 Let me show you, let me give you an example
24 here. They say that there is a safety issue on the
25 level three roads. Well, we asked for, under FOIA, a

1 list of all of the accidents in the last 15 years. It
2 took us months to get one because they simply didn't
3 have one. They finally came up with in the last 15
4 years there were 11 accidents. Three of them were from
5 Forest Service personnel running into an OHV, and one
6 of them was a deputy sheriff running into an OHV.
7 Other than that, they just didn't have the history.

8 Without these level three roads, there is an
9 incredible disconnect. Counties are designating
10 theirs, but we still can't go anywhere. We can't get
11 from county road to county road.

12 Region Six, which is in Oregon, recognized the
13 fact that -- we talked about the California Vehicle
14 Code and how it does not apply to unpaved roads. They
15 have some forest in the Siskiyou National Forest, which
16 is in California. They're designating their roads.
17 They said California Vehicle Code doesn't apply.

18 Also, they talk about having the public involved
19 in this process. ROC also wrote up an alternative for
20 the Shasta-T. We met with all of these different
21 groups, all of these different people and said, okay,
22 we'll do this for you, you give us the information.
23 They gave us the information, we turned the alternative
24 in, not one single public route is in any of their
25 alternatives, not one, and no level three roads.

1 CHAIR WILLARD: Sylvia, thank you. Your time is
2 up.

3 AMY GRANAT: Hi, my name is Amy Granat from
4 California Association of 4-Wheel Drive Clubs. I was
5 so engrossed listening to Sylvia, and I'm going to try
6 to finish what she started.

7 First, I wanted to say a couple of words, which
8 actually Don Amador alluded to. When this whole thing
9 started, it made a lot of sense to a lot of us. None
10 of us disagree I think with the overall principals of
11 travel management. Chief Bosworth gave a speech in
12 San Diego in 2005 at the OHV Collaborative Summit that
13 made a lot of sense to me. He said most OHV users
14 don't come out just to ride. A lot of them don't come
15 primarily to ride at all, but rather to hunt, camp,
16 fish or hike. We've got some great partnerships with
17 users group. We wouldn't be able to maintain much of
18 our trail system without support from our volunteers
19 and partners, and we will continue to need all of that
20 support. Most importantly, he said, I think people are
21 tired with topdown approaches, management driven by
22 conflict. We should ask not how many routes or areas
23 we close or open, but rather how well we serve future
24 generations.

25 Region Five has chosen to define maintenance

1 level three roads according to the California Vehicle
2 Code. Last week in the Tahoe National Forest, Terry
3 Brennan, who is a road engineer there, told me that
4 they believe that mixed use and combined use are
5 synonymous. What that means is that maintenance level
6 three roads from now on, even if they are designated
7 for mixed use, will exclude families, will exclude
8 children, will exclude anyone without a driver's
9 license, and the appropriate gear depending on their
10 green sticker vehicle. Of course, it doesn't apply to
11 highway legal vehicles. The excuses we hear are --
12 there's a myriad of excuses, safety, liability, and yet
13 there is no concrete evidence that they can give us
14 that those things really exist.

15 If you look at your picture that Sylvia gave you
16 that is a maintenance level three road according to the
17 Forest Service, it's in their handbook, maintenance
18 level two roads and level three roads, as you can see,
19 look very similar. They're virtually
20 indistinguishable. If you come across one, you would
21 be hard pressed to tell the difference in the forest.
22 And yet we're being told that one is fine and safe and
23 other is not. It is rather an arbitrary decision. And
24 what it does, it cuts out the loops. It cuts out the
25 family experiences. It cuts out the range of

1 opportunities available for OHV recreation. And it
2 really does border on the absurd in some cases. Not
3 every road should be designated for mixed cases, but
4 certainly to allow the loops, to allow the family to
5 recreate in the forests. This has to be an absolute.
6 We're being told that it's an impossibility, that the
7 road engineers will not designate it.

8 And last time I asked the Commission to act
9 because of the glut of DEISS that were out at the same
10 time, and I really think the Commission took a stand,
11 asked very pertinent questions, and it made a
12 difference. It made a difference to community, and it
13 made a difference to the Forest Service. And we were
14 able to get comments done on all of these forests.

15 Now, I'm asking the Commission to look into this
16 because the issue of mixed use is not going to go away,
17 and if we don't serve to create a recreation plan now,
18 we will never have that recreation plan. Thank you.

19 CHAIR WILLARD: Thank you.

20 DAVE PICKETT: Dave Pickett, District 36,
21 Motorcycle Sports Committee. Kathy Mick's little
22 presentation was very good. Concise, tight, to the
23 point, appreciate that. But if I ever see another one
24 of those Forest Service pyramids again, I'm going to
25 throw up, sorry.

1 My comment, I'm not going to beat up the Forest
2 Service, but I'm just going to remind again that we
3 need to stay focused on motorized permitted events,
4 special permitted events and cost recovery. It still
5 is rearing its ugly head on a ranger district by ranger
6 district basis, but progress is being made. Some more
7 face-to-face meetings are yielding better understanding
8 by both sides.

9 But the big question that keeps coming up with
10 the travel management plan, and this is a tricky
11 sentence, so pay attention, all of these new trails
12 under the TMP have been approved, certified, been
13 identified, authorized, scrutinized, vilified and
14 reviewed, and finally given a sustainable system route
15 status for motorized recreation. Got that?

16 That's important because four-wheel drive clubs,
17 motorcycles, ATV, what have you, are using approved
18 Forest Service's system routes and trails. If you do a
19 motorized event, permitted, one time a year, maybe two
20 times a year, you still have to go through the EA
21 process, okay, which is applied towards the cost of
22 recovery expense. And they have something called a
23 50-hour rule, which is almost impossible to meet, when
24 one item is on your recovery sheet is arch site review
25 by employee. It takes 40 hours. They won't tell us

1 where the arch sites are, but they're real close
2 somewhere to a certified trail that's designated by the
3 travel management plan that's sustainable for OHV. So
4 that particular line item was brought up because there
5 is a cost, \$25 an hour, \$30 an hour, \$40 an hour, what
6 have you. But then you start going down this sheet,
7 earlier when you mentioned something about the handbook
8 that I gave to Kathy, understanding permit process and
9 cost recovery, we, the community, have already paid for
10 all of this stuff. And when I got a quote the other
11 day from a forest for a 250-person event of \$36,000
12 over a period of years, that's over the top for public
13 lands that aren't even paid for.

14 So we've got a problem. If we're going to
15 addressed motorized permitted events in our forests
16 that we help pay for, again, got to figure something
17 out. This is unfair or it's going to cost \$100 a head
18 to ride a dirt bike on a trail you could ride the day
19 before free. Thank you very much.

20 TOM TAMMONE: I've had those concerns that 36
21 has about the permit process. It is a little too
22 complex. In the Southern California forest, it looks
23 like everyone ran out on the process years ago, most
24 events are now staged off forest, which actually had a
25 very bad effect because while they're riding on public

1 lands, they're going to ride anyway whether they stage
2 on the forest or not; they stage off forest. Also, it
3 helped initiate a whole slew of county regulations
4 about staging off forest and started this NEPA war of
5 regulations from different governments to deal with the
6 issue. You know, I kind of wanted everybody to stand
7 fast and let's deal with the Forest Service on this
8 permit issue back then. But what they did was they
9 started staging off forest, and now the counties are
10 drafting their own regulations, which is causing its
11 own level of problems.

12 One thing we used to do was sound checks on
13 motorcycles when they would have running, permitted
14 events on the forest. And we had a good -- you know, a
15 good tool to keep after the guys, test their bikes and
16 keep the noise down. Well, since they were staging off
17 forest, we have Chris Wheeler, our own volunteers
18 there, who are offering sound tests, but they are not
19 mandatory. But the human effects -- the bikes have
20 gotten considerably louder since they don't have to
21 pass the sound test to be on the forest. So one
22 example of how we have no cooperation with the agency
23 and the riders that are going to use the forest anyway.
24 They'll only stage somewhere else and ride across the
25 forest.

1 So it's really beneficial for the Forest
2 Service, BLM, or whoever to work the permit process and
3 work with the users, rather than having this game of
4 staging off forest. It would be better for everyone to
5 do it this way. It needs to be done.

6 JOHN STEWART: Good afternoon, John Stewart,
7 California Coalition of 4-Wheel Drive Clubs. I enjoyed
8 the presentation that Kathy Mick gave and wish I could
9 believe that that's the way the reality was, but now
10 for the rest of the story.

11 This one statement that Ms. Mick mentioned was,
12 good look at roads, trails, and areas. They looked at
13 roads. They looked at trails. They looked at areas,
14 and they said, oh, this is an area? We will designate
15 routes within this area and limit you to only these
16 designated routes within this OHV area.

17 Then you step onto the existing routes and the
18 inventory which, geez, they were all supposed to be
19 looked at and evaluated. When we started receiving the
20 information for the draft EISs as they were coming out,
21 we were finding that mile after mile of routes were
22 omitted from that, even though they were on an
23 inventory, because they were not a previously
24 identified system road, and that they were an
25 unauthorized road, and therefore as unauthorized, they

1 were not going to be evaluated. Some of them we
2 managed to get back into the system, but it was almost
3 as if the rules were changing on a weekly basis.

4 The big bone of contention over this time frame
5 here has been routes that cross agency boundaries.
6 Forest Service was working through the designation
7 process, and they would come up to their boundary and
8 the adjacent land manager would be BLM. There was very
9 lax coordination between the two agencies to ensure
10 that both had a route that continued. So in some cases
11 you had the Forest Service actually closing the route
12 on a forest that ended up into a BLM area, where the
13 BLM had a designated route, and vice versa. You had
14 the Forest Service bringing the route up to a BLM
15 boundary where the BLM had no route there.

16 So, yes, there are problems. Hopefully we can
17 work through them. And, yes, at this point in time, it
18 is probably best to move on and let us look at phase
19 two of getting around and correcting the deficiencies
20 that we have come across. And hopefully this next go
21 around, we will have a more consistent guidance and not
22 have definitions and rules and regulations that are
23 changing on a weekly basis. Thank you.

24 ED WALDHEIM: Ed Waldheim, California City. I
25 echo everything that's been said by the speakers before

1 me. The only thing I would like to ask the Division,
2 who has been the caretaker of the \$12 million that we
3 have doled out, that all of the comments that have been
4 brought up, that we put some teeth to it so that Region
5 Five starts listening and starts doing some of the
6 things that they are saying are deficiencies. At this
7 point it's almost like it's going in one ear and out
8 the other ear, and they don't really care anymore. And
9 that feeling is a very, very weird feeling when you're
10 out there in the field.

11 We need to rectify the areas. As they come up
12 with the maps, have to redefine the areas that are
13 wrong. They need to have a way of them fixing it. We
14 can't go through a management plan revision to come and
15 fix the errors that they developed themselves because
16 they wouldn't listen to the public as the process was
17 taking place. We need to take this very seriously.
18 Thank you.

19 CHAIR WILLARD: Thank you. Okay. No other
20 comment. Commissioners, have any final thoughts on --

21 KATHLEEN MICK: Excuse me, Chairman Willard, I'd
22 like to respond to a couple of things. I just can't
23 let some of it go.

24 I guess in respect to the unauthorized routes, I
25 guess in general I'll say that, you know, this process

1 has not been perfect, and I don't think anybody could
2 devise -- whether it be a grant program or any other
3 thing -- a process that was perfect.

4 So that said, I think myself and the Regional
5 Forester or anyone that's been involved with travel
6 management would clearly upfront admit that we started
7 one way, and we had a national framework that came
8 along, and we had to adapt when things changed. And
9 change isn't easy for anybody to grab ahold of, but we
10 have done our best.

11 And I think there are still a few
12 misperceptions, and so what I'd like to get at and
13 suggest is that instead of speaking in generalities,
14 which have a tone that's probably not as productive as
15 we'd all like, that I'm happy to sit down and listen to
16 anybody that spoke today and get specific on a map.
17 Show me where there is, say, unauthorized routes that
18 weren't included, or some of these other things that
19 apparently there are perceptions that things have or
20 haven't taken place, or that routes haven't been
21 evaluated, or even that during the inventory phase that
22 routes weren't included. Because as I mentioned
23 before, there may be some routes out there that weren't
24 included, but we did our best to work with the public
25 to validate those routes. And at a certain time, we

1 had to draw a line in the sand. And if people didn't
2 want to -- we missed a route or somebody didn't want to
3 divulge a route system that was hidden that we didn't
4 find, then, sure, it went unincorporated. In some
5 cases those route systems were brought up to the forest
6 supervisor, and they made the decision to go backwards
7 and allow those unauthorized routes to be added in, but
8 there's a difference between an unauthorized route and
9 moving forward and becoming part of our system, to an
10 unauthorized route being evaluated. And so I'll take
11 some time, and I'll try and put something together that
12 helps to explain that process a little better.

13 And then in terms of the mixed-use policy, I'm
14 happy to provide the Commission or anyone in the
15 public -- and we've met with Sylvia, and I think we've
16 had good discussion. We may just be in a place where
17 we agree to disagree or there's differences of
18 interpretation. But I'm happy to provide anybody with
19 our national policies on mixed use and the regional
20 policy.

21 And the Regional Forester Randy Moore has been
22 very clear that when it comes to maintenance level
23 three, four, five roads, the first consideration is
24 safety. Yes, there are some aspects of our policy in
25 the mixed use guidelines that talk about looking at

1 accident history, but that's just one of the many
2 aspects, and it's not just about accidents that may
3 have already occurred. It's about preventing future
4 accidents. And so he has to weigh all of those things
5 for a region when he's trying to make policy. But I'm
6 happy to give that policy and our interpretation of
7 that policy and also the Vehicle Code to anyone that
8 would like it. They're in the form of letters.
9 They're available to the public, and I'm happy to
10 provide those.

11 And then I think, too, I would be happy to
12 continue also to meet with Sylvia Milligan to get a
13 little bit more of an understanding of what it is that
14 she's talking about. And, of course, we do have a
15 regional -- the 2005 rule was to provide a national
16 framework for local decisions. Local decisions are
17 still being made, and we do have still a national
18 framework. In addition to that, we also started out
19 with regional consistency with a regional process that
20 was put under the MOI, and we have continued to move
21 forward with trying to have regional consistency that
22 allows flexibility, given the various local areas. And
23 so, you know, maybe people don't like top down, maybe
24 they like bottom up, but the policy kind of is where it
25 is, and we feel that we're implementing as it was

1 written.

2 So I guess in closing, I'd just like to say that
3 I'm happy to look at anybody's specific concerns that
4 they had, particularly when it comes to routes, to work
5 with them and to talk with that forest that they have
6 those concerns on, and try and work through some of
7 these issues. And again at the end of the day, it may
8 be that it's just an agree to disagree, or a difference
9 in interpretation or perception.

10 CHAIR WILLARD: Thank you. It seems to me that
11 the level two, level three road issue is an important
12 one, and I would encourage you and Sylvia and her group
13 to maybe get together, just try and revisit that one
14 more time just to try to see if there is some common
15 ground where Forest Service can kind of facilitate
16 meeting their needs somewhere.

17 KATHY MICK: We have talked with her. We have
18 answered letters, and we have met with her in our
19 Sacramento office, and our Director Marlene Fiendly
20 wants to continue to meet with Sylvia and her group and
21 have that dialogue.

22 But, again, I can provide you with our policy
23 direction that would disagree with some of the
24 statements made by folks that says that the Forest
25 Service in general is not allowing any mixed use on

1 level three roads because it's just not true. I don't
2 want to get into the I'm-more-right-than-you-are kind
3 of a situation. We want to work through where is a
4 specific issue where you have a level three road that
5 isn't being proposed or perhaps maybe it can't be this
6 time, but maybe next time. But I think the policy and
7 the policy letter will help to provide the clarity of
8 what we are doing.

9 CHAIR WILLARD: Have these conversations been
10 just in general terms or have they been with specific
11 roads?

12 KATHY MICK: No, I think because of the nature
13 of the discussions, they've been just general because
14 the last time we met with Sylvia and her group, it was
15 with some county boards of supervisors, Sylvia, our
16 Deputy Regional Forester, our director. And I'm sure
17 that you're savvy enough to politics that when you get
18 enough people in power in the room, a lot of the
19 discussion stays at the 10,000-foot view as opposed to
20 getting down to the nuts and bolts because that's just
21 the general nature of the discussion. So were maps
22 flopped out and roads and routes looked at, no.

23 But the other thing I think is important, does
24 every level two road in our region make a loop? No, it
25 doesn't. In some cases, it makes a loop within a

1 system trail or another system road or an unauthorized
2 road. But we have almost 45,000 miles of level two
3 road that's currently open to opportunity, and the
4 level three road system, which is the one that's
5 primarily focused on, is about six to 7,000 miles, and
6 so it's a small portion of that.

7 And so, again, when you go back to the intent
8 and the purpose of what we're doing, there has to be a
9 balance there, and it's not all about the environment,
10 and it's not all about the recreation. Somewhere there
11 is harmony in the middle, and that's really what we're
12 dealing with when you get to the nuts and bolts and the
13 struggle of it all.

14 CHAIR WILLARD: Thank you. Commissioners?

15 COMMISSIONER SILVERBERG: Kathy, I have a
16 question regarding what Mr. Pickett from District 36
17 was referencing on the special events. Can you
18 elaborate on that?

19 KATHY MICK: I cannot, and the reason I can't
20 is, you know, I've administered special use events. It
21 was a long time ago, over ten years ago. I'm not the
22 special use expert for our office. I have on occasion
23 put Dave Pickett in contact Bob Kate and Donna Gross
24 who are our specialists in the Regional Office. I have
25 the BLM publication that he gave me today. I have a

1 note down to talk with them about it.

2 I don't fully -- and I'm learning more about
3 cost recovery, so I don't understand all of the aspects
4 of it. It's complicated. But I'm happy to help him
5 get whatever answers that he can not only for himself
6 but for the groups that are part of District 36 to,
7 one, make the process more easily understood, but then
8 find out if there are any ways that we can be flexible
9 in the way that we're looking at things. I just don't
10 have enough info to answer that because it's not my
11 area of expertise.

12 CHAIR WILLARD: Commissioner Franklin.

13 COMMISSIONER FRANKLIN: Direct this to
14 Chief Jenkins. During this discussion with Forest
15 Service, the issues come up with respect to Vehicle
16 Code. I know you talked about it a little bit earlier,
17 Forest Service Vehicle Code, on-road Vehicle Code.
18 Could you address this again for us, kind of clarify
19 this issue?

20 CHIEF JENKINS: As it pertains particularly to
21 some of the things that --

22 COMMISSIONER FRANKLIN: Level two roads.

23 CHIEF JENKINS: As Ms. Mick was saying, the
24 Forest Service has adopted a policy that they are going
25 to consider the level three, four, and five roads to be

1 highways. We were talking earlier about the mixed-use,
2 combined-use, those two terms. The two terms are very
3 similar in nature, and the policy letter that came out
4 from the Forest Service said they were going to treat
5 the level three, four, and five roads as highways, also
6 has on there some direction about when they're going to
7 allow mixed use or not.

8 And it says in the letter that generally they
9 want to keep mixed-use designations on level three
10 roads to three miles or less. That would be parallel
11 to the Vehicle Code definition of combined use. But it
12 also says in the same letter that if the forest has an
13 overriding -- back up.

14 It says that then if they decide, that the local
15 engineer and the region engineer -- correct me if I'm
16 wrong on this. If the local and regional engineer
17 concur that that mixed use on that three mile or less
18 segment is okay, then you go to CHP for concurrence.
19 Because in the Vehicle Code under combined use, the CHP
20 would have to approve it. This is where combined use
21 and mixed use diverge at that point.

22 Because the letter goes on to state that if the
23 CHP doesn't agree to make it designated as mixed use or
24 combined use under the California Vehicle Code, then
25 they can appeal back to the Forest Service higher

1 levels -- I have to look at the letter for the exact
2 language -- and ask for it to be approved anyway under
3 their -- because they have the authority. They are the
4 federal government. They have the authority to do what
5 they want with the roads.

6 And then the letter goes on to say that when
7 they have a section of road that's longer than three
8 miles, if it's a rare exception, if they have a section
9 of road that's more than three miles, they can also
10 petition to have that designated as mixed use. So
11 mixed use is a broader concept. Under a strict
12 interpretation of the Vehicle Code, you couldn't
13 override the CHP, and you couldn't exceed three miles.
14 So mixed use allows a little bit broader
15 interpretation.

16 The key is that there's a flexibility in the
17 federal government. They can choose to follow the
18 Vehicle Code or in some instances they can choose to
19 use their own federal body of laws. So that's where
20 there's this confusion that often comes up that the
21 Vehicle Code says that or doesn't say that. And so,
22 correct me if I'm wrong. In any event, that's as I
23 understand it.

24 KATHLEEN MICK: That's why I want to share the
25 letter is because I hope that will hope clarify things

1 and also present a little bit better dialogue.

2 The letter says for the first step, when you're
3 thinking about mixed use, it tells the forest, do what
4 you can to downgrade the road. So it suggests to them
5 instead -- you know, look internally to see and
6 evaluate, do you really need to keep that road as a
7 level three road, which basically means that the road
8 is open for passenger car use. And so if the forest
9 decides, well, you know what, if it doesn't go to half
10 the population's favorite lake or something like that,
11 then they can make the decision to downgrade the road.

12 And many of the forests have already done that,
13 if not most. They've looked at their level three roads
14 and said, you know what, we're going to downgrade some
15 of those roads, so they've taken that step. So then
16 now that leaves the subset of roads they don't feel can
17 be downgraded.

18 As Phil said, there is two subsets. There is a
19 mixed use three miles or under, and there is a mixed
20 use over three miles. The mixed use under three miles,
21 based on our interpretation, and we've asked our
22 lawyers this question about our interpretation of the
23 Vehicle Code, and the way we have historically managed
24 our roads, our interpretation is that and our
25 management scheme is that we manage our level three,

1 fours and fives as highways. The reason is because
2 those are roads that are conducive to passenger cars.

3 So they're highways, great. So now we decide,
4 all right, the stretch of road that needs to be
5 proposed, is it under three miles or over three miles?
6 If it's under three miles, they do their analysis by
7 the book. I can provide you with the book that they
8 use to go through it, and then they send it in to our
9 regional engineer, which is part of our process, and he
10 says, yes, it looks good, off to CHP it goes.

11 The Modoc National Forest just finished that
12 process. They got a whole bunch of roads back from CHP
13 where CHP gave them the thumbs up, everything is great.
14 So they're going to move ahead with those sections of
15 road that are under three miles. So then now that
16 leaves us with the sections of road over three miles,
17 the thought being, basically talking to the engineers,
18 our law enforcement, and our attorneys is that the
19 greater the stretch of the road, the more likely there
20 is for an accident to occur based on the conditions of
21 the road. We're not looking at those as just a
22 blanket, yes, let's bring them all in. They are going
23 to the exception, not the rule. But nobody said that
24 they can't be added in. There's just a process that
25 has to be gone through.

1 So there have been forests that have proposed to
2 add mixed use on roads greater than three miles, and
3 the problem is that nobody has seen the results of that
4 process because the records of decision aren't out on
5 the street yet. And so we're working internally to
6 finish our documents, do all of that stuff. Most
7 forests did not have this work done by the time the
8 draft hit the street, so it's a mystery to the public.
9 It's very hard for them to understand, well, are these
10 roads going to in or out. Because there's language in
11 the documents that basically say, well, it will kind of
12 all be revealed to you in the final because we're still
13 working at it. And so they had to use kind of a worst
14 case scenario for appropriate analysis.

15 So in some cases will there be level three roads
16 greater than three miles that are allowed for mixed
17 use, absolutely. We're going to have signs and
18 different mitigations in place to help with the safety
19 aspect. In other cases, may there be somebody's
20 favorite road that makes a great loop over three miles
21 that does not get added in, absolutely. But that
22 doesn't mean that as we learn and look at the system,
23 that we can't change that over time.

24 But I also realize that there's not a whole lot
25 of great faith out there that we're going to take a

1 look and do this stuff. So there's not a lot of trust.
2 So how is it for us to say well, go ahead and trust us
3 because there's not a lot of trust there. But I think
4 that will grow over time when people see the change
5 over time. Nothing is going to happen today or
6 tomorrow. It's not going to happen that fast.

7 COMMISSIONER FRANKLIN: Thanks.

8 CHIEF JENKINS: If I might, it might kind of
9 help bring that altogether because I know that between
10 the two of us, we were talking three, four, or five,
11 two, Vehicle Code. It is very confusing. If it was
12 easy, anybody could do it, but it's not. And so people
13 like us continue to struggle for clarity.

14 I think the easiest way to maybe put it in a
15 nutshell is that the Vehicle Code defines a highway as
16 any place where you use public funds, and so any
17 roadway where you use public funds, where you allow
18 motorized travel and you use public funds. So if you
19 use that strict interpretation of the Vehicle Code,
20 virtually every place where we're operating these
21 vehicles, they're highways.

22 Then in the 38000s, Section 38001, it gives some
23 exemptions, and roughly-graded roads is one of them.
24 Since the Forest Service has decided as a policy matter
25 to decide that level three roads are treated as

1 highways, that's okay, they have that authority to do
2 that, but we need to remember that that's not a legal
3 imperative. That's a policy decision because they in
4 some cases have the ability to decide the level three
5 road won't be treated as a highway on those three mile
6 or more extensions.

7 And so that's where people get confused is they
8 try to say, well, what does the Vehicle Code say? The
9 Vehicle Code doesn't direct the Forest Service in this
10 case to do anything. It gives them the ability to
11 treat it as a highway, which they do by default, or in
12 certain circumstances it gives them the ability to
13 treat it as a non-highway to interpret it as a roughly
14 graded road.

15 KATHY MICK: And that's where really the paths
16 diverge is because we don't believe that the choice
17 we -- that's how we managed it, and we believe that's
18 the way our laws read and the USC Code and Vehicle
19 Code, that our management matches the interpretations
20 to a T. And so there is -- and Phil and I have had
21 these discussions. There is insufficient agreement on
22 our interpretation versus other people's
23 interpretation, but all we can do is deal within our
24 own laws and regulations and policies. And we feel
25 like we're doing that in a clear manner, but it is

1 difficult.

2 Yet do we, as the federal government, have the
3 ability to preempt state law, sure. But one of the
4 places, and I think you heard it earlier, where we are
5 not going to and we are told not to is when it comes to
6 vehicle operation, in other words, licensing and
7 insurance requirements. And we don't typically, as a
8 matter of business, kind of thumb our nose at the
9 state, and say it's great you have your little laws
10 over there, but we're the federal government and we are
11 going to just do what we want. We don't typically do
12 that as a course of business.

13 So we're trying to operate within our own norms
14 and use the Vehicle Code because we're not in the habit
15 of preempting state law.

16 CHAIR WILLARD: Thank you. I think we need to
17 take a very quick break, maybe a stand-in-place five
18 minute break.

19 (Proceedings reconvened after an 8-minute break.)

20 CHAIR WILLARD: So I just want to finish up on
21 the last item, this whole level two, level three road
22 issue. Obviously, there's some concern on our part as
23 to the various interpretations and the impact that it's
24 having on the users in the forests. So I'm not sure
25 there is anything we can do right now, but it is a

1 concern.

2 And I think what we're probably going to want to
3 do, Kathy, is probably going to want to get some more
4 information off-line after the meeting from staff, and
5 we may want to talk in the next week or two. I don't
6 want to wait until the next meeting, because this is an
7 important issue that we need to try to get a better
8 handle on now. So we may want to have some sort of a
9 dialogue on this and get further clarification. I
10 would hope that you can continue to have a dialogue
11 with ROC and see if you guys can work things out.

12 KATHY MICK: Well, I think the first thing is to
13 get people the policy. I could be wrong, but my sense
14 is -- and I'm happy to be wrong. But my sense is the
15 Regional Forester is not going to change his policy.
16 So I'll happy to provide the policy and all of the
17 backup materials for the policy, all of the letters
18 we've written --

19 (Reporter interrupted.)

20 CHAIR WILLARD: You need to come up. She can't
21 hear you, so it's hard.

22 KATHY MICK: So like I said, my sense is that
23 the Regional Forester at this point in time is not
24 going to change his policy since it took us several
25 attempts to get to where we are now with the level of

1 understanding that we have in the field units. And for
2 the most part, we have in the public, although we are
3 still working -- and as Sylvia pointed out, she's
4 overdue in having a response. And I think that letter
5 is somewhere stuck in our database because Marlene is
6 on vacation.

7 But I just don't get the sense that the policy
8 is going to get changed. So then looking at how you
9 work within the policy, I'm happy to have discussions
10 with anybody on it and answer questions about our view
11 and our interpretation and what our rules and
12 regulations are, starting with the USC Code. So
13 whatever you guys feel like you want to do or need to
14 do or what information you want, I'm happy to provide
15 it. Just send me an e-mail or call me.

16 CHAIR WILLARD: We will do that. At this point,
17 we're certainly not going to tell you we want to change
18 policy. At this point I'm wanting to learn more about
19 it. Obviously, there is a concern. We're concerned.
20 I want to get together with Division, get their
21 perspective viewpoints on it, and maybe it's all of us
22 putting our heads together and seeing if there is some
23 way that we can work within the existing policy to make
24 everyone happy.

25 KATHY MICK: And I don't discourage you having

1 discussions with the Division, but I think that part of
2 the problem has been that there has been a lot of
3 discussions with individuals or groups, but not a
4 collective discussion, and I think that there's a lot
5 more benefit in the collective discussion than there is
6 in the sort of fractured discussions.

7 CHAIR WILLARD: Maybe that's where we end up,
8 U.S. Forest Service, Division, Commission, CHP, some of
9 the user groups, get everybody together perhaps and
10 that's the best way to handle it.

11 KATHY MICK: One of the things I didn't mention
12 is we have met with CHP, and I know there is a
13 contentious letter floating out there from several
14 years ago that CHP wrote. Since then, we've met with
15 them several times, and if they didn't feel that they
16 had an obligation, they wouldn't be reviewing our
17 materials. They told us after meeting with us several
18 times that they do feel that they have an obligation,
19 and they are now working to fulfill that obligation,
20 and have provided us with the guidelines that they will
21 use to evaluate our proposals for combined use. For
22 the stuff above three miles, it's not in the Vehicle
23 Code, so they don't have any purview over it, and they
24 told us that's you're deal, Forest Service.

25 CHAIR WILLARD: We're going to continue talking

1 about it, but thank you. What we're going to do now is
2 we're going to postpone the last item because it's a
3 very important item. I don't want to short change it.
4 And given that it's just about six o'clock, I'm afraid
5 that's what might happen. So I think it's best we
6 postpone it until the next meeting, so it will be on
7 the agenda for the next meeting.

8 Then that leaves us with the last item which is
9 basically to look at our calendars and talking about
10 whether or not we need to -- we do need to change the
11 dates for the November meeting because of the furlough
12 situation. Deputy Director, if I could ask you to
13 please give an explanation, and then we can talk about
14 it.

15 DEPT. DIRECTOR GREENE: As we've indicated on
16 the calendars in your binder, as we look at November,
17 November furlough Fridays are the 6th, 13th, 20th, and
18 the 27th is the State holiday right after Thanksgiving.

19 The problem is currently we're scheduled for a
20 meeting on the 20th and 21st, a tour on Friday, which
21 is now furlough Friday, and a meeting on Saturday.
22 Obviously, this is going to be problematic if we can't
23 get together on Friday.

24 COMMISSIONER McMILLIN: The meeting is scheduled
25 for the week before that.

1 DEPT. DIRECTOR GREENE: The Commission meeting
2 on the 20th, 21st.

3 CHAIR WILLARD: No, 13th and 14th.

4 DEPT. DIRECTOR GREENE: That's correct. I'm
5 sorry, Commissioners, it is on the calendar. It's
6 still the same problem, and it complicates it even
7 more. I want to propose that we change the dates of
8 the November meeting.

9 COMMISSIONER McMILLIN: Do you have a
10 suggestion? I would like to meet some time around
11 there a couple of weeks before that, a week or two
12 after that. I would suggest we don't pick a Friday,
13 even though it's a non-furlough Friday at this point in
14 time.

15 DEPT. DIRECTOR GREENE: I would agree. Any
16 Friday right now would not be a good idea. I just know
17 from last year when we were trying to identify a date
18 in November, it was a monumental task for all of you.

19 So the question would be, is there an interest
20 in having a meeting Wednesday and Thursday, the 4th and
21 the 5th. And, again, I frame this all hoping that at
22 that point in time there aren't any ongoing
23 restrictions with travel as there are currently.

24 CHAIR WILLARD: Right. And the meeting would be
25 somewhere outside of Sacramento hopefully.

1 DEPT. DIRECTOR GREENE: That's correct.

2 CHAIR WILLARD: So if for some reason we can't
3 travel, then it's going to a one-day meeting here.

4 DEPT. DIRECTOR GREENE: That's correct. So
5 that's why I wanted to bring it up. I don't know that
6 you want to identify a date right now. I think it's
7 certainly helpful for members of the public to know
8 when you're intending to have Commission meetings, but
9 I also recognize that perhaps it might get a bit more
10 clearer once we have a budget, but there are really no
11 guarantees.

12 COMMISSIONER McMILLIN: The 4th and 5th works
13 for me.

14 CHAIR WILLARD: Works for me.

15 COMMISSIONER SILVERBERG: Works for me.

16 COMMISSIONER SLAVIK: Works for me.

17 COMMISSIONER FRANKLIN: Well, I don't know,
18 sorry. Sure, what the heck, it is what it is.

19 DEPT. DIRECTOR GREENE: Commissioner Lueder and
20 Commissioner Van Velsor? All right. That's the
21 easiest date we've ever had. Thank you. So it's
22 Wednesday, November the 4th.

23 CHAIR WILLARD: Open for public comment on the
24 dates.

25 AMY GRANAT: I'm giving Helen Baker my turn.

1 CHAIR WILLARD: Please come up and speak then.

2 HELEN BAKER: Good afternoon, Helen Baker,
3 California Association of 4-Wheel Drive Clubs. As far
4 as that week, whether it's important to the
5 Commissioners or not or whether you're involved, that
6 happens to be SEMA week. Pretty much everybody that's
7 involved in off-road will be in Las Vegas that week.

8 CHAIR WILLARD: Maybe we can have it in
9 Las Vegas.

10 DEPT. DIRECTOR GREENE: I think not.

11 HELEN BAKER: We'll all be there. So I just
12 wanted to let you know that the first week of
13 November is SEMA week.

14 CHAIR WILLARD: That's the whole week, right?

15 HELEN BAKER: Yes, pretty much. So, yes, the
16 show itself runs from Tuesday to Friday, of course,
17 there is both ends, yes, the whole week.

18 CHAIR WILLARD: Tom Tammone.

19 TOM TAMMONE: So I take it the September meeting
20 days are still on?

21 CHAIR WILLARD: Correct.

22 TOM TAMMONE: Is that meeting going to be down
23 south?

24 CHAIR WILLARD: Hopefully.

25 TOM TAMMONE: All right. I'm disappointed we

1 didn't cover the issue of the Bagley-Keene Open Meeting
2 Act. It should have been discussed today. Like I
3 said, we need to get that issue settled ASAP, and we
4 really need to do it now. The meeting is going until
5 adjournment. There is no time. I really suggest you
6 do it. Thanks.

7 CHAIR WILLARD: Sylvia Milligan? That's it.
8 Staff, any concerns with the SEMA conflict on those
9 dates?

10 DEPT. DIRECTOR GREENE: I think that would be up
11 to the Commissioners. I'm really not in a position to
12 decide.

13 CHAIR WILLARD: I think given the crowdedness of
14 the November calendar, and that we've got a date that
15 seems to work, I think my vote would be to stick with
16 it, unless Commissioners have any other thoughts. I'm
17 sorry we'll missed some of the public that's going to
18 be out enjoying themselves, having a little more fun at
19 SEMA.

20 DEPT. DIRECTOR GREENE: The only other option
21 would be looking at the 18th, 19th. I don't know what
22 it looks like for anybody.

23 CHAIR WILLARD: What day is that?

24 DEPT. DIRECTOR GREENE: Same thing, Wednesday,
25 Thursday, the 18th and 19th.

1 CHAIR WILLARD: No, it looks like that's not
2 going to work, too many conflicts up here. So then I
3 think we're done.

4 DEPT. DIRECTOR GREENE: Do I hear a motion?

5 CHAIR WILLARD: I'll move to reschedule our
6 November meeting to November 4th and 5th.

7 COMMISSIONER SILVERBERG: Second the motion.

8 CHAIR WILLARD: Discussion; already had it.

9 Call for the vote. All those in favor?

10 (Commissioners simultaneously voted.)

11 CHAIR WILLARD: Any opposed? Okay. It passes.

12 DEPT. DIRECTOR GREENE: Thank you very much,
13 Commissioners.

14 CHAIR WILLARD: Great. So that is it, and I
15 will now call the meeting adjourned.

16 (Meeting adjourned at 6:04 p.m.)

17 Ref No. 29211

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