

CALIFORNIA COASTAL COMMISSION

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W12b

Staff: A. Llerandi-SD
Staff Report: 2/18/16
Hearing Date: 3/9/16

Revised Conditions and Findings

Application No.: 6-15-0424

Applicant: SeaWorld San Diego

Agent: Darlene Walter

Location: 500 SeaWorld Drive, Mission Bay Park, San Diego, San Diego County (APN: 760-037-01-01)

Project Description: Replace and expand existing orca facility with a new 43 ft. by 75 ft., 450,000 gallon (Pool E) and a 250 ft. by 350 ft. 5.2 million gallon (Pool F); demolish an existing 5,500 sq. ft. bathroom and food facility and construct a new 2,900 sq. ft. bathroom facility; manage the orca facility consistent with applicant's proposal that the facility will not house any orcas taken from the wild after ~~February 12, 2014~~ January 1, 2012, or the descendants of any orcas taken from the wild after January 1, 2012, with the exception of rescued orcas, nor will it utilize genetic material taken from orcas taken from the wild after ~~February 12, 2014~~ January 1, 2012, or from their descendants, and that the orca population will be capped at 15 individuals ~~not significantly increase except as may occur incrementally through sustainable population growth, with the exception of rescued orcas.~~

Staff Recommendation: Approval with conditions.

STAFF NOTES

Staff recommends the Commission adopt the following revised findings in support of the Commission's action on October 8, 2015. In its action, the Commission approved the permit, but Special Condition No. 1 was modified, in accordance with changes made to the project description by the applicant at the hearing, to prohibit the approved killer whale facility at SeaWorld San Diego from housing killer whales taken from the wild after January 1, 2012, or the descendants of any such killer whales, with the exception of government-approved rescued killer whales, or from the use of the genetic material of any killer whale taken after January 1, 2012 or their descendants and to cap the population of the approved facility at 15 individuals. Special Condition No. 1 was further modified by the Commission to prohibit the breeding and artificial insemination of captive killer whales, as well as prohibit the sale, trade, or transfer of any captive killer whale except to preserve the health of the killer whale or rescued killer whales or where authorized pursuant to a take permit under the Marine Mammal Protection Act. The amended motion begins on Page 7. The amended Special Conditions begin on Page 8. Findings to support these modifications can be found starting on Page 12.

Commissioners on Prevailing Side: Bochco, Cox, Groom, Howell, Kinsey, Luevano, McClure, Mitchell, Shallenberger, Turnbull-Sanders, Uranga, Vargas

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval with conditions. SeaWorld San Diego proposes to expand their existing orca facility by demolishing portions of prior expansion areas to their Shamu "killer whale" facility constructed in 1995. The project would replace the existing 1,700,000 gallon Pool E with a smaller 450,000 gallon pool, and construct a new 5.2 million gallon pool (Pool F). No changes to the seating at the existing stadium are proposed. ~~The orca facility will be managed such that it will not house any orcas taken from the wild after February 12, 2014, nor utilize any genetic material from orcas taken from the wild after February 12, 2014, and that the orca population housed at the subject facility will not significantly increase except as may occur through sustainable population growth pursuant to accredited reproductive guidelines, with the exception of rescued orcas at the request of one or more governmental agencies.~~ The project site is located within the leasehold of SeaWorld, in Mission Bay Park in the City of San Diego.

The subject project has received a great deal of attention due to the ongoing debate regarding the captivity and treatment of orcas at exhibit facilities. Commission staff carefully considered the various viewpoints regarding marine mammal captivity, as well as the complex interplay of various state and federal agencies involved in the field.

Relying on Section 30230 of the Coastal Act, which protects marine resources and species of special significance, Commission staff reviewed the proposed expansion with regard to how the project would impact marine mammals in the marine environment. Orcas are the largest members of the dolphin family, and a species of special biological significance. They are apex predators, living in documented social and familial groups. Orcas can be found in oceans all over the world, and many either reside or migrate through California waters. ~~While not applying Section 30230 to the orcas that now exist at SeaWorld San Diego, many of SeaWorld's orcas were taken from the wild and the wild orcas contribute to the genetic material used in breeding.~~

Staff reviewed copious amounts of information submitted by the public regarding the regulatory framework addressing marine mammals and the evidence and testimony of experts on the observed effects of wild capture and prolonged captivity. In reviewing such precedents and information, the Commission staff analyzed the connections between marine mammal captivity and the effects it may have, directly or indirectly, to orcas in the wild, in addition to the effects on the captive marine mammals themselves. In doing so, the Commission staff determined that, while no orcas have been taken from U.S. waters since the 1980's, their future capture is still a possibility, and that a captive orca system generally, and this proposed ~~orea~~ facility expansion specifically, could potentially create the incentive to commit such capture in the future, which would be an adverse impact to California's coastal resources and to a species of special biological significance.

The applicant ~~has recently~~ amended its project to include a commitment that the improved orca facility will not house any killer whales taken from the wild after January 1, 2012, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild ~~February 12, 2014, and that no genetic material from any killer whale taken from the wild after January 1, 2012~~ February 12, 2014 will be utilized, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild. SeaWorld has further agreed that the population of the proposed orca facility will be capped at 15 individuals. The killer whale population at the subject facility will not significantly increase except as may occur incrementally through sustainable population growth consistent with reproductive guidelines of one or more nationally recognized marine mammal accreditation organizations. The subject facility may be home to beached or rescued whales at the request of one or more governmental agencies. In addition to the above changes to the proposal made by SeaWorld, the Commission also found that captive orcas qualify as a marine resource and species of special biological or economic significance subject to Coastal Act Section 30230. Due to the adverse physiological and behavioral impacts that scientific observation has documented in captive orcas, SeaWorld, in constructing the proposed orca facility, will be prohibited from the sale, trade, or transfer of any orca into or out of the proposed facility, except as allowed under Marine Mammal Protection Act take permits or as required to protect the health of an orca, and is also prohibited from further breeding or artificial insemination of the orca population currently residing in SeaWorld San Diego.¹ **Special Condition No. 1** captures this by clearly stating that the authorized

¹ In a letter to Commission staff dated December 22, 2015, SeaWorld San Diego argued that the Marine Mammal Protection Act exception applies not just to the sale, trade or transfer, but also to the breeding of any orca subject to a federal take permit, relying on statements made by commissioners during their deliberation at the October 8, 2015, hearing. Staff has carefully reviewed the transcript of the commissioners' deliberations on this matter and disagrees with SeaWorld's interpretation. During deliberations, Commissioner Bocho proposed an amending motion to "expand Condition One to say that it would further prohibit captive breeding, artificial insemination, the sale, trade or transfer of any Orca in captivity." After the Commission's Chief Counsel pointed out the limitations on restricting the transfer of animals subject to a take permit, Chair Kinsey sought clarification from the maker of the amending motion that the motion "would be consistent with federal law regarding take," to which Commissioner Bocho concurred. Since, as discussed in Section IV.C., below, the federal take provisions of the Marine Mammal Protection Act do not govern the conditions of animals once they are in captivity, the

development includes ~~this~~ SeaWorld's commitment as well as the additional prohibitions required by the Commission's permit action. Therefore, the project avoids the possibility that approval of this facility could contribute to demand for capturing orcas that frequent California's coastal waters.

Other Coastal Act issues associated with this project besides impacts on marine resources include potential adverse impacts to public access from traffic and construction siting impacts, public views from the encroachment of development into the view shed, water quality from water use by the animal facilities and runoff from related landscaping and pedestrian areas.

Because SeaWorld is a popular tourist destination located in Mission Bay Park, the largest municipal water park in the United States, the potential arises that the proposed orca facility expansion could engender a substantial increase in park attendance, which in turn would impact public access to the general park area due to traffic and parking impacts. In order to address such potential, Commission staff reviewed the past five years of traffic monitoring reports submitted by SeaWorld pursuant to past coastal development permits to determine that adequate parking continues to be available and that the surrounding street intersections continue to operate at acceptable levels under current park attendance.

Due to its size and the ongoing state of drought in California, SeaWorld is a large and important consumer of potable water in the San Diego region. In analyzing the impact of the proposed development on the potable water supply, Commission staff analyzed the water savings from the proposed salt water restroom facility, as well as SeaWorld's implementation of low-water irrigation and water reduction measures throughout the park to determine that the increase in fresh water usage is minimized to the greatest extent feasible.

Mission Bay Park is a predominantly flat public aquatic park, and thus it offers the public wide vistas of the coastal area. Substantially above-grade development could adversely impact this coastal view by blocking public views or degrading the visual aesthetic of the park area. Because the proposed development is an expansion of a below-grade orca facility, and the above grade components will be substantially below the local 30-foot height limitation and screened by surrounding park development, the proposed development will not engender adverse visual resource impacts.

Due to the aquatic nature of the greater Mission Bay Park area, the water table is relatively shallow, and thus liquefaction during a seismic event is a potential safety risk. Commission staff, in analyzing the geotechnical surveys of the project site, determined that implementation of certain construction elements and foundation measures would substantially minimize the risk of liquefaction and improve public safety.

Historically, the Old Mission Bay Landfill occupied a parcel of land to the east of the SeaWorld leasehold. Past expansion of SeaWorld is such that the easternmost parking lot is underlain by the western portion of the landfill, and thus water quality and public safety issues have arisen when substantial development within the park has come before the Commission. With regards to

Marine Mammal Protection Act does not require an exception to allow for the breeding of a captive orca that is subject to a federal take permit.

the subject proposal, which is approximately 1,700 feet west of the western boundary of the historic landfill, Commission staff analyzed geological borings as well as methane monitoring data to determine that detritus and gases associated with the landfill have not migrated underground to the project site.

To address these potential adverse impacts the Commission staff is recommending **eight additional Special Conditions**. **Special Condition No. 2** requires SeaWorld to submit and adhere to final plans approved by the Coastal Commission so as to ensure that the final development is in substantial conformance with the design that avoids or minimizes impacts to coastal resources. **Special Condition No. 3** requires SeaWorld to adhere to final approved landscape plans that minimize risk from invasive species, as well as incorporates measures that minimize the amount of potable water used in irrigation. **Special Condition No. 4** requires SeaWorld to adhere to approved drainage plans due to the park's system of pumping water in and out of Mission Bay, as well as runoff that will be generated from the site. Because the proposed project consists of excavating a large volume of soil, **Special Condition No. 5** requires SeaWorld to submit and adhere to an approved construction and staging storage plan so as to ensure that construction impacts are contained within the SeaWorld leasehold and do not spill outside of the leasehold, where it might impact public access. **Special Condition No. 6** requires SeaWorld to dispose of any excess spoils in a legal site outside of the Coastal Zone. **Special Condition No. 7** reiterates that additional traffic and public access mitigation measures may be required for future development once annual attendance at SeaWorld exceeds 4 million visitors. **Special Condition No. 8** requires SeaWorld to conduct approved development pursuant to the noise reduction measures outlined in the August 21, 2015, memo explaining the various methods that the orcas can be protected from harmful construction noise impacts. **Special Condition No. 9** requires SeaWorld to indemnify the Commission for any attorneys' fees and court costs that the Commission may incur in defense of litigation filed by third parties challenging the Commission's approval of the permit.

Commission staff recommends **approval** of coastal development permit application 6-15-0424, as conditioned.

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[Exhibit 16 – Unofficial October 8, 2015, Hearing Transcript Prepared by Applicant](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission adopt the revised findings in support of the Commission's action on October 8, 2015, concerning approval of Coastal Development Permit No. 6-15-0424.

Staff recommends a YES vote on the foregoing motion. Passage of this motion will result in adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The Commissioners eligible to vote are:

Commissioners Bochco, Cox, Groom, Howell, Kinsey, Luevano, McClure, Mitchell, Shallenberger, Turnbull-Sanders, Uranga, and Vargas.

Resolution:

The Commission hereby adopts the findings set forth below for Coastal Development Permit 6-15-0424 on the grounds that the findings support the Commission's decision on October 8, 2015, and accurately reflect the reasons for it.

Motion:

~~I move that the Commission approve Coastal Development Permit 6-15-0424 pursuant to the staff recommendation.~~

~~Staff recommends a YES vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.~~

Resolution:

~~The Commission hereby approves Coastal Development Permit 6-15-0424 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.~~

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Authorized Orca Facility.**
 - a. By acceptance of coastal development permit No. 6-15-0424, the applicant agrees to implement the project as originally proposed and as amended by the SeaWorld Addendum to the Blue World Project Description dated September 21, 2015 (Exhibit 9), and as amended during the October 8, 2015 hearing, and consistent with all special conditions, including that the Project will be managed consistent with the Virgin Pledge against collection of killer whales from the wild. Based on the Virgin Pledge, to which SeaWorld is a signatory, the Project will not be home to any killer whales taken from the wild after ~~February 12, 2014~~ January 1, 2012, or the descendants of any killer whales taken from the wild after January 1, 2012, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild, and no genetic material from any killer whale taken from the wild after ~~February 12, 2014~~ January 1, 2012, or any descendants of killer whales taken from the wild after January 1, 2012, will be utilized, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild. The Project killer whale population will be capped at a maximum of 15 individuals.

- b. No breeding or artificial insemination of any captive killer whale may occur. No sale, trade, or transfer of any captive killer whale into or out of the facility may occur except to preserve the health of the killer whale or rescued killer whales. The prohibition on the sale, trade, or transfer of captive killer whales out of the facility does not apply to the extent such sale, trade, or transfer is authorized under a take permit issued pursuant to the Marine Mammal Protection Act. ~~not significantly increase except as may occur incrementally through sustainable population growth consistent with reproductive guidelines of one or more nationally recognized marine mammal accreditation organizations.~~ The Project may be home to beached or rescued whales at the request of one or more governmental agencies, but only for so long as needed to rehabilitate the beached or rescued whale and return it to the wild.
- 2. **Final Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final project plans. Said plans shall be in substantial conformance with the plans submitted on April 13, 2015. The final plans shall:
 - a. Incorporate all recommendations contained in the March 17, 2015, geotechnical survey of the project site and proposed development conducted by Christian Wheeler Engineering.

The applicant shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

- 3. **Final Landscape Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final landscape plans. Said plans shall be in substantial conformance with the plans submitted on April 13, 2015. Said plans shall incorporate the following:
 - a. All new landscaping shall be drought tolerant and native or non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
 - b. Any irrigation utilizing potable water shall incorporate drip irrigation or microspray systems.

The applicant shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **Final Drainage Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final construction and post-construction drainage and Best Management Practice plans. Said plans shall be in substantial conformance with the plans submitted on April 13, 2015.

The applicant shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

5. **Construction Staging and Storage Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final construction staging and storage plans to ensure that construction impacts are contained within the SeaWorld leasehold and do not spill outside of the leasehold, where it might impact public access.

The applicant shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

6. **Disposal of Graded Materials.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission.

7. **Future Development.** When documented annual attendance at the SeaWorld Park reaches 4 million visitors, the applicant shall notify the Executive Director in order to review potential impacts to public access. Additional traffic and parking mitigation measures may be required for subsequent identified Tier 2 project and Special project sites, pursuant to the SeaWorld Master Plan Update EIR.

8. **Noise Reduction Program.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director a written agreement whereby the applicant agrees to implement the noise reduction measures outlined in the SeaWorld memo dated August 21, 2015, from Hubbs-SeaWorld Research Institute.

The applicant shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

9. **Liability for Costs and Attorney Fees.** By acceptance of this coastal development permit, the Applicant/Permittee agree to reimburse the Coastal Commission in full for all

Coastal Commission costs and attorney's fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's fees that the Coastal Commission may be required by a court to pay that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

SeaWorld San Diego proposes to expand their existing orca facility by demolishing portions of a previous expansion to the existing Shamu “killer whale” facility constructed in 1995. The project would replace the existing 1,700,000 gallon Pool E with a smaller 450,000 gallon pool, and construct a new 5.2 million gallon pool (Pool F). No changes to the seating at the existing stadium are proposed.

As incorporated in the Addendum to the Blue World Project Description dated September 21, 2015 and revised at the October 8, 2015, hearing, the applicant agrees to all of the following to be included in the proposed project description: that the Project will be managed consistent with Virgin Pledge against collection of killer whales from the wild. Based on the Virgin Pledge, to which SeaWorld is a signatory, the Project will not be home to any killer whales taken from the wild after January 1, 2012 ~~February 12, 2014~~, and no genetic material from any killer whale taken from the wild after January 1, 2012 ~~February 12, 2014~~, will be utilized, with the exception of rescued killer whales approved by one or more government agencies for rehabilitation or deemed by one or more government agencies as unfit for release into the wild. The Project’s killer whale population will not exceed 15 individuals ~~significantly increase except as may occur incrementally through sustainable population growth consistent with reproductive guidelines of one or more nationally recognized marine mammal accreditation organizations~~. The Project may be home to beached or rescued whales at the request of one or more governmental agencies.

Currently there are five pools in the stadium facility: Pool A has a volume of 2.2 million gallons, Pool B is 900,000 gallons, Pool C 940,000 gallons, Pool D is 80,000 gallons, and Pool E is 1.7 million gallons, for an existing total of approximately 5,820,000 gallons. The proposed development would redesign Pool E to reduce its volume to approximately 450,000 gallons, while the new Pool F would hold approximately 5.2 million gallons, for a new total volume of 9,600,000 gallons, an increase in total pool volume of approximately 3,780,000 gallons. Expansion of the orca facility will require the excavation of approximately 35,000 cubic yards of soil from the project site.

SeaWorld is located within Mission Bay Park in the City of San Diego. It is situated adjacent to Mission Bay on the north and SeaWorld Drive to the south, and is surrounded largely by City parklands consisting of grassy, open areas. Mission Bay Park is an area of deferred certification, where the Commission retains jurisdiction and Chapter 3 policies of the Coastal Act are the standard of review, with the certified master plans for SeaWorld and Mission Bay Park LUP segments used as guidance.

B. PROJECT HISTORY

SeaWorld began construction in 1961 and opened to the public in 1964. Since then, the park has operated under a number of different master plans. The SeaWorld Master Plan is a separate, stand-alone segment of the certified Mission Bay Park Master Plan LUP. The most current plan, the SeaWorld Master Plan Update, was certified by the Commission on February 7, 2002, and addressed future development within the SeaWorld leasehold over the subsequent 15-20 years

(LCPA No. 2-2001C). The SeaWorld Master Plan Update sets forth the long-range conceptual development program, development parameters, and project review procedures for the future renovation of the SeaWorld Adventure Park. One of the stated goals of the SeaWorld Master Plan Update is “to define development criteria for future conceptual development areas,” and the “purpose is to “create a framework for continued improvements and renovations to the park into the new century.” The SeaWorld Master Plan update recognized that:

“The SeaWorld site is unique in both the type and frequency of development projects within the leasehold. Each year, SeaWorld processes numerous projects to upgrade park facilities and keep attractions in top working order. Additionally, in response to consumer demands and competition in the theme park industry, SeaWorld regularly undertakes renovations of its larger attractions, rides, shows, or exhibits.”

Sections III and IV of the SeaWorld Master Plan establish “Development Criteria” and “Design Guidelines,” respectively, to govern subsequent development. Section III states that the “section sets forth the development parameters applicable to the entire leasehold or specific leasehold areas in this plan. The intent is to ensure that all future development will be distributed and constructed in a manner that, to the extent feasible, harmonizes with the established visual quality of Mission Bay Park.” Section IV states that the “guidelines are intended as standards to be used by SeaWorld designers of buildings, landscaping, signage, and lighting as well as by maintenance personnel. The City of San Diego Real Estate Assets, Park and Recreation and Planning Departments, parks advisory committee, and City Council will utilize the design guidelines as a standard for evaluation of proposed new projects or for modifications to existing development.”

The existing pool at the rear of the orca facility that is the subject of this permit was approved by Commission at the March, 1995, hearing as CDP No. 6-95-13. That CDP authorized construction of a fourth orca holding pool to serve as an exhibit with above and below water viewing areas and whale interaction areas totaling 1,200 sq. ft. as part of the existing orca stadium facility.

C. MARINE RESOURCES

Section 30001 of the Coastal Act describes the goals of the Act:

The Legislature hereby finds and declares that:

(a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.

(b) That the permanent protection of the state’s natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

Additionally, Section 30001.5 of the Coastal Act states:

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

(c) maximize public access to and along the coast and maximizing public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

Chapter 3 policy, Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological significance. Uses of the marine environment shall be carried out in a manner that will sustain biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30411 of the Coastal Act states:

(a) The Department of Fish and Game and the Fish and Game Commission are the principal state agencies responsible for the establishment and control of wildlife and fishery management programs and the commission shall not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by these agencies pursuant to specific statutory requirements or authorization.

[...]

The proposed project is an expansion of an existing facility that currently holds eleven orcas. The applicant has indicated that the intent of the proposed project is to increase the volume of water the orcas inhabit with a facility that emulates natural coastal habitats to improve the public experience in which the park visitors are able to view the orcas. Since the Commission approved construction of an addition to the existing orca facility in 1995, serious questions have been raised regarding the capture, treatment, and breeding of marine mammals. The applicability of these concerns with the regulatory authority of the California Coastal Commission and the Chapter 3 policies of the Coastal Act cited above are discussed in detail below.

Other Applicable Statutes

The regulation of captive marine mammals involves various government agencies at different levels of government. At the federal level, the Marine Mammal Protection Act (MMPA) of 1972 protects all marine mammals and prohibits their take in United States waters and by United States citizens on the high seas, as well as the importation of marine mammals and marine mammal products into the United States. “Take” is defined in the MMPA as “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal” (16 U.S.C. §1362(13)), while “harass” is defined ~~by regulation~~ as “any act of pursuit, torment, or annoyance which (i) has the potential to ~~either (a) injure a marine mammal or marine mammal stock in the wild, or (ii) (b) disturb a marine mammal or marine mammal stock in the wild by causing~~ disruption of behavioral patterns, including which includes, but is not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.” (16 U.S.C. §1362(18) ~~50 C.F.R. § 216.3.~~)

Federal authority under the MMPA is divided between the Secretary of the Interior – acting through the U.S. Fish and Wildlife Service (USFWS) – and the Secretary of Commerce – acting through the National Oceanic and Atmospheric Administration (NOAA). Under the MMPA, the USFWS regulates otters, walruses, polar bears, manatees, and dugongs, while NOAA regulates pinnipeds and cetaceans, which includes orcas. A third agency – the Marine Mammal Commission (MMC) – reviews policies and advises the other two agencies.

In certain cases, the MMPA allows the issuance of permits for the removal of marine mammals from the wild, importation of marine mammals, or transfer of releasable rehabilitated marine mammals, for the purposes of public display. Within NOAA, the National Marine Fisheries Service (NMFS) Office of Protected Resources oversees the issuance of permits for incidental and direct takes of the marine mammals under NOAA’s purview, which includes orcas. NMFS also maintains the National Inventory of Marine Mammals (NIMM), which tracks acquisitions (births, wild captures, and imports), dispositions (deaths, escapes, and releases), and transfers/transport (between owners or facilities) of marine mammals under its purview. Due to amendments to the MMPA in 1994, once a permit has been issued by NMFS for the removal, import, or transfer of a marine mammal for public display, a permit from NMFS is not required to maintain the marine mammal in public display facilities, unless the species is listed under the Endangered Species Act (ESA). While Lolita, the sole orca being kept at the Miami Seaquarium, is listed under the ESA due to her being taken from the Southern Resident orca population prior to that population’s listing on the ESA, the orcas at SeaWorld San Diego are not listed as endangered.

To qualify for a public display take permit, the displaying facility must meet three criteria: (1) the facility offers an education or conservation program, (2) the facility is open to the public on a regular basis; and (3) the facility is licensed by the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA). For a domestic facility to export non-ESA listed marine mammals to a foreign facility, NMFS must verify that the receiving facility meets comparable criteria and obtain confirmation from the foreign government that such criteria are enforced.

The 1994 amendments to the MMPA transferred authority over captive animal care and maintenance to the USDA/APHIS and removed the requirement for facilities to obtain MMPA permits to hold marine mammals for public display. The USDA/APHIS has jurisdiction over animal care and maintenance for all marine mammals held for public display purposes under the Animal Welfare Act of 1966 (AWA). (7 U.S.C. § 2131 *et seq.*) This includes space, veterinary care, transport, and public interaction programs.

The AWA regulates the treatment of warm-blooded animals in research, exhibition, transport, and by dealers. While other laws, policies, and guidelines may include additional species coverage or specifications for animal care and use, the AWA is the minimum acceptable standard. The USDA/APHIS oversees the implementation of the AWA; exhibitors must be licensed under APHIS. The APHIS Animal Care program conducts unannounced inspections of facilities by either a lay inspector or a trained veterinarian – depending on facility – at least once a year to ensure they are in compliance with regulations and to identify unregistered facilities, with follow-up inspections conducted when non-compliance is identified. Inspections of SeaWorld are conducted by a trained veterinarian.

At the state level, the California Department of Fish and Wildlife (CDFW) is one department within the California Natural Resources Agency responsible for the establishment and control of wildlife and fishery management programs. The CDFW has the power to regulate the taking or possession of birds, certain mammals, fish, amphibian, and reptiles for non-commercial purposes. However, as discussed below, the take of marine mammals is pre-empted by federal law under the MMPA. NMFS has not transferred regulatory authority regarding the take of marine mammals to California, so CDFW does not regulate the take of orcas. For the animals that are within its purview, CDFW regulates take in part through issuance of hunting and fishing licenses, establishing seasons for such taking activity, overseeing aquaculture activities, and combating poaching and illegal animal sales.

The California Coastal Commission, also part of the California Natural Resources Agency, was established in 1976 in order to regulate development and preserve, protect, and restore the coastal resources of California. The Coastal Act includes specific policies that address terrestrial and marine habitat protection, as cited above.

Preemption Analysis

The MMPA does preempt the Commission from regulating the “take” of marine mammals, including orcas. Amendments to the MMPA that were enacted in 1994, however, clarify that the MMPA does not govern the treatment of marine mammals once they are in captivity. The AWA regulates the care of marine mammals once they are in captivity, but the AWA allows states to establish additional requirements beyond the minimum requirements of the AWA.

Regarding the field of “take,” Section 109(a) of the MMPA (16 U.S.C. § 1379(a)) declares that:

No State may enforce, or attempt to enforce, any State law or regulation relating to the taking of any species (which term for purposes of this section includes any population stock) of marine mammal within the State unless the Secretary has transferred authority for the conservation and management of that species (hereinafter referred to in this section as "management authority") to the State under subsection (b)(1).

To date, the federal government has not transferred authority for the conservation and management of orcas to the state of California, and thus the Coastal Commission, as a state agency, is precluded from enforcing the Coastal Act with respect to the taking of species regulated under the MMPA.

Regarding the care of captive animals, including breeding, Section 2143(a)(1) of the AWA (7 U.S.C. § 2143(a)(1)) states that “the Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors,” while Section 2143(a)(8) concludes by stating that “Paragraph (1) shall not prohibit any State (or political subdivision of a State) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1).” Thus, whereas the MMPA expressly preempts state regulation of the taking or importing of marine mammals, the AWA, which regulates the care of captive marine mammals *after* the taking has occurred, explicitly permits states and their agencies to promulgate their own standards of captive animal care in addition to what is contained in the AWA.

The Commission’s action on this application is not a regulation relating to the take of orcas. As defined above, take under the MMPA as it applies to this situation is related to the removal and importation of orcas, which are not at issue in the current proposal. SeaWorld has formally incorporated as part of the project description that the proposed facilities will not contain orcas taken from the wild after January 1, 2012 ~~February 12, 2014~~. All of the orcas at SeaWorld San Diego are either long removed from the wild or were born in captivity. As such, while NMFS must be notified should one of the captive orcas die, give birth, or be transferred, that notification is not related to take, and thus does not need a new take permit from NMFS. The notification is required so that NMFS may update the NIMM. It is the AWA that now governs the day-to-day care of the captive orcas at SeaWorld San Diego, including breeding, and it is the AWA that sets the federal minimum requirements of care to which states and their agencies, may add to.

Regarding whether there is competing jurisdiction with CDFW, that state agency regulates wildlife through wildlife and fishery management programs. With regard to marine mammals, the CDFW has informed Commission staff that the federal agencies take the lead, and that CDFW gets involved when there is take of a restricted species (such as abalone), but that because federal regulations preclude state regulation of marine mammal take, there are no marine mammals listed as restricted species in CDFW’s jurisdiction. CDFW does inspect aquariums and facilities such as SeaWorld for the presence of invasive species, but orcas are not considered invasive species. If there were to be an orca taken from California state waters, in addition to required federal permits (for which the Commission could seek to conduct federal consistency review to determine consistency of the federal permit with the Coastal Act), a permit for scientific collection would have to be obtained from CDFW (the proposed project does not

require a federal permit and therefore is not subject to the Commission's consistency review authority under the federal Coastal Zone Management Act). Section 30411 of the Coastal Act prohibits the Commission from imposing controls that duplicate or exceed regulatory controls established by CDFW. However, because CDFW has not established regulatory controls regarding marine mammals, Section 30411 does not limit the Commission's authority in this context.

In conclusion, with regard to the proposed improvements to the orca facility and the captive orcas currently residing therein, the MMPA's preemption regarding matters of take does not preclude Commission action to implement any applicable Coastal Act requirement that may apply to marine mammals (including in captivity), except as it may relate to the take of marine mammals. The AWA and Section 30411 also do not limit the Commission's authority regarding marine mammals. As explained below, however, Section 30230 of the Coastal Act protects marine mammals only to the extent they qualify as marine resources of the State. SeaWorld's modified project description and **Special Condition No. 1** ensure that the project as approved will not adversely affect California's wild orca population, consistent with Section 30230.

Existing Orcas and Facility

According to the NIMM maintained by NMFS, there are four facilities in the United States that hold captive orcas, three of them being SeaWorld facilities: SeaWorld San Diego has eleven, SeaWorld San Antonio has seven, and SeaWorld Orlando has six, for a total of 24 orcas. The fourth facility – Miami Seaquarium – has only one orca. Of the eleven orcas at SeaWorld San Diego, eight were born in captivity and three originated in the wild. There are currently 56 orcas in captivity worldwide, with 24 of them (43%) under SeaWorld's care.

Currently, there are five pools in the stadium facility: Pool A has a volume of 2.2 million gallons, Pool B is 900,000 gallons, Pool C is 940,000 gallons, Pool D is 80,000 gallons, and Pool E is 1.7 million gallons, for an existing total of approximately 5,820,000 gallons. The proposed development would redesign Pool E to reduce its volume to approximately 450,000 gallons, while the new Pool F would approximately 5.2 million gallons, for a new total volume of 9,600,000 gallons, an increase in total pool volume of approximately 3,780,000 gallons.

The dimensions of the existing and proposed pools are below. While the above volume capacities are accurate, due to the irregular shapes of many of the existing and proposed pools and due to drainage requirements and irregular design, the dimensions below are approximate and may not produce volumes equal to the numbers above:

Pool	Approximate Dimensions	Approximate Surface Area
A	35' deep x 170' long x 80' wide	11,692 sf
B	15' deep x 118' long x 75' wide	9,504 sf
C	15' deep x 118' long x 75' wide	9,819 sf
D	9' deep x 53' long x 25' wide	1,489 sf
E Existing	30' deep x 125' long x 75' wide (google earth)	10,729 sf
E Proposed	18' deep x 75' long x 43' wide	3,903 sf
F Proposed	50' deep x 255' long x 160' wide; 350' wide (on the arc)	27,688 sf

Total (existing): 43,233 sf

Total (proposed): 64,095 sf

Given the current orca population at SeaWorld San Diego, this equates to 529,091 gallons of water per orca. As proposed by the applicant, the new orca facility will increase water volume per orca to approximately 871,818 gallons, an increase of 342,727 gallons per orca. The current pools have a maximum depth of approximately 35 feet while the proposed Pool F will have a maximum depth of approximately 50 feet.

The salt water utilized by the orca facility and the rest of SeaWorld San Diego's animal facilities is pumped in from Mission Bay and treated by SeaWorld's filtration systems to remove any pollutants or detritus prior to flowing into the various tanks and pools. Two chillers and two cooling towers using evaporative water cooling systems regulate the temperature of the water depending on incoming water temperature and the needs of the specific marine animals. Due to the increased size of the proposed orca facility, the two chillers and cooling towers will be replaced with two larger units to handle the greater volume of water. There will also be 12 additional 12-foot diameter filters and 2-12 foot diameter backwash recovery tanks added to the life support facility on the southern side of the orca facility.

Adequacy of Existing and Proposed Orca Facilities

The AWA and its related regulations set the minimum standards of care for animals in captivity in the United States. All standards and regulations for marine mammals were originally implemented in 1979, and the space requirements were last updated in 1984. Subpart E of the AWA regulations specifically address the humane handling, care, treatment, and transportation of marine mammals. Generally, the regulations require of animal enclosures proper construction, protection from viewer harassment, cleanable materials, adequate water and power, proper drainage, proper food storage, waste disposal, employee wash rooms, and safe animal equipment. Space requirements in the AWA regulations depend on the size class of the subject marine mammal. Orcas are identified as "Group I" cetaceans (i.e. the largest-sized group). In determining the minimum space required in a pool holding cetaceans, four factors must be satisfied: minimum horizontal dimension (MHD), depth, volume, and surface area. For Group I cetaceans, MHD should be 24 feet or two times the average adult length of the longest species of Group I cetaceans being housed, whichever is greater. AWA regulations list average orca length at 24 feet, so MHD for an orca would be 48 feet in all lateral directions, forming a minimum circular area. The minimum depth requirement for Group I cetaceans is one-half the average adult length of the longest species of cetacean being housed, or 6 feet, whichever is greater, so minimum depth for an orca would be 12 feet. Regarding volume and surface area, the AWA regulations state that if the aforementioned MHD and depth requirements are met, the AWA presumes that adequate water volume and surface area are also present for up to two Group I cetaceans.

The minimum volume of water required for up to two Group I cetaceans is based upon the following formula:

$$Volume = \left(\frac{MHD}{2} \right)^2 \times 3.14 \times depth$$

When there are more than two Group I cetaceans housed in a primary enclosure pool, the additional volume of water required for each additional Group I cetacean in excess of two is based on the following formula:

$$Volume = \left(\frac{\text{Average Adult Length}}{2} \right)^2 \times 3.14 \times \text{depth}$$

Thus, for the eleven orcas currently residing at SeaWorld San Diego, the minimum AWA volume requirement for the first two is 21,704 cubic feet of water, with each additional orca requiring an additional 5,426 cubic feet, for a total of 70,537 cubic feet required under federal regulations. The current orca facility at SeaWorld San Diego is 5,820,000 gallons. There are approximately 7.48 gallons in one cubic foot. Thus, the current orca facility is approximately 778,075 cubic feet, which equates to 70,734 cubic feet per current orca. The proposed expansion would create a new total space of approximately 1,283,422 cubic feet, which is 116,675 cubic feet per current orca. The proposed expansion will increase the volume of water per orca by 45,941 cubic feet.

The minimum surface area requirement for each cetacean, regardless of group, housed in a pool is based upon the following formula:

$$\text{Surface Area} = \left(\frac{\text{average adult body length}}{2} \right)^2 \times 3.14 \times 1.5, \text{ or: } SA = (L/2)^2 \times 3.14 \times 1.5$$

Thus, each orca is required to have a minimum of approximately 678 square feet of surface area. With eleven orcas, SeaWorld San Diego must provide a minimum of approximately 7,461 square feet of surface area. The existing orca facility provides approximately 43,233 square feet of surface area, or 3,930 square feet of surface area per orca. The proposed tank expansion will provide 64,095 square feet of surface area, or 5,827 square feet of surface area per orca. Both of these amounts are well above minimum federal guidelines.

The improved, expanded orca facility may enhance the quality of life for the orcas currently residing at SeaWorld San Diego. However, because the federal standards regarding water volume and surface area are substantially lower than what will be constructed, it is possible that as a result of the proposed expansion, the orca population could be dramatically increased in the facility. Under current federal minimum volume and surface area requirements, the existing orca facility at SeaWorld San Diego could hold up to 63 orcas, while the proposed expanded facility could hold up to 94 orcas. SeaWorld has agreed to limit the number of orcas in the facility to no more than 15 individuals. As discussed below, the addition of new orcas ~~from California's state waters~~ to the proposed facility would not be protective of marine resources as required by Section 30230.

Section 30230 Analysis

Section 30230 of the Coastal Act directs the Commission to ensure that coastal development will not adversely impact marine resources, and describes three avenues to do so. The requirements of Section 30230 are that: (1) marine resources shall be maintained, enhanced, and, where feasible, restored; (2) special protection shall be given to areas and species of special biological

or economic significance; and (3) uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

The Commission has evaluated the impact of proposed projects on marine mammals that reside in or visit state waters, most frequently in the context of federal consistency review under the Coastal Zone Management Act. The Commission has based its decision at least in part on impacts to marine mammals from activities such as pulse devices (ref. CD-102-99), liquefied natural gas terminals (CC-079-06), seismic surveys (CC-027-12), and naval sonar exercises (CD-049-08 and CD-008-13). The Commission has also conditioned projects to protect marine mammals that are in captivity in California (CDP 6-01-129). In each case, the Commission recognized the marine mammals as marine resources warranting protection under Section 30230 of the Coastal Act.

Section 30230 of the Coastal Act protects California's marine resources, especially species of biological significance. Orcas are species of special biological significance because they are apex predators, and operate in documented social and familial groups. Orcas are toothed whales and the largest members of the oceanic dolphin family. They are found in oceans all over the world, from the Arctic to Antarctica, and many reside in or migrate through the waters off California's coast. Wherever they are found, orcas are a top predator and play the important roles that many predators play in their respective ecosystems, such as keeping populations of their prey healthy by weeding out the sick or infirm, and by keeping the population of their prey in check, maintaining the carrying capacity of the habitat area and protecting organisms further down the food chain from over-predation. When orcas are taken from the wild in sufficient numbers, it can impact this role. Furthermore, such takings can have adverse impacts not just on the orca taken, but on the remainder of that orca's pod, as it can disrupt the social hierarchy and cohesion of the pod, as well as their reproductive success.

Removing orcas from California's marine environment would affect predator-prey dynamics and would disrupt the social organization of orca pods; therefore, proposed development that could result in the removal of orcas from California's marine environment would be inconsistent with Section 30230. SeaWorld has agreed that no orcas taken from the wild after January 1, 2012 ~~February 12, 2014~~, will be housed at the proposed facility (with the limited exception of rescued orcas at the request of one or more government agencies), and that no genetic materials from such orcas will be utilized there. SeaWorld has furthermore agreed that the orca population of the proposed orca facility shall be capped at 15 individuals. **Special Condition No. 1.a.** ensures the enforceability of this agreement as part of the proposed and authorized development. This ensures that the project as approved will not indirectly harm California's marine environment inconsistent with Section 30230.

The question of whether the orcas currently in SeaWorld San Diego are subject to Section 30230 is an interpretive question. The Commission has interpreted Section 30230 to apply both to wild California orcas and captive marine mammals within the broader meaning and purpose of the Coastal Act (e.g. CD-008-13, pp. 18-19 [requiring separate consistency with the first sentence of § 30230 to maintain, enhance and restore marine resources; CD-16-00, pp. 8 – 16 [finding consistency with § 30230 for seismic testing impacts on marine mammals, including orcas]). The Commission analyzed the construction noise impacts for SeaWorld's splash down ride on

adjacent captive dolphins. However, excepting analysis from construction noise impacts for SeaWorld's splash-down ride (CDP 6-01-129), the Commission has not always applied section 30230 to captive marine animals, even while for example, when considering other tank installations or potential installations at Scripps Institute of Oceanography and UC Santa Cruz. In light of the extensive public comment and expert testimony regarding this Project, the Commission finds that orcas are marine mammals that by definition qualify as marine resources wherever they are located, and that they also qualify as species of special biological or economic significance whether they are located in the wild or maintained in captivity, and thus warranting of the appropriate protections under Section 30230. The killer whale (*Orcinus orca*) is a species of special biological significance and, based on the currently available scientific data, captivity has an adverse impact on individual killer whales, which cannot be avoided due to the very nature of captivity.

In the wild, killer whales commonly travel 20 to 80 miles or more in a day, depending on ecotype, and spend the majority of their time, up to 95 percent, underwater, frequently diving to 100 feet, and periodically during the day diving to 500 feet or more. During their normal foraging activities, which occupy 50 to 80 percent of their time, a pod may cover from around 1 to 3 square miles in a day whereas the total home range may be 38,000 square miles. In contrast, the existing and proposed pools at Sea World would have a total surface area of about 0.002 square mile divided among 7 pools that vary from 9 to 50 feet in depth. This configuration makes a normal activity pattern impossible. No time is spent foraging and no time is spent traveling and animals often float motionless for long periods of time.

In the wild, killer whales are organized into social groups or pods based on maternal kinship. A pod may be comprised of several matriline, each made up of a female, her offspring, and her daughters' offspring. Within some ecotypes, offspring never leave their mothers. In addition, group vocal patterns differ among matriline and pods have distinctive unique dialects. In captivity, there is no opportunity for typical social interactions. Those whales taken from the wild were separated from their mothers and siblings on the occasion of their take and then grouped with unrelated and unfamiliar animals. Animals born into captivity usually are eventually separated from their mothers and moved from one facility to another where they must then interact with unrelated strangers often with a completely different vocal repertoire.

In their natural environment, killer whale females reach reproductive maturity some time before 12 years of age and give birth to their first viable calf when they are around 12-16 years old. Thereafter, births are generally separated by 3 to 8 years, with a mean of about 5 years. Males nearly always mate with females from other pods and when breeding does occur within a pod, males always mate with females from a different matriline, which prevents the deleterious effects of inbreeding. In captivity, breeding between close relatives has been allowed, females as young as 8 years have given birth, and females have been artificially inseminated less than two years after giving birth. Testimony has been given indicating that aggressive males have attempted to mate with their mothers or with sibling orcas.

Transient and resident animals generally do not show significant tooth wear. Although, some pods of wild killer whales have been observed with significant, more-or-less uniform tooth wear, sometimes down to the gum line, this is thought to be related to pod-specific feeding behavior – either suction feeding on herring or predation on sharks. In contrast, captive killer whales engage in the abnormal behavior of repetitively biting the hard steel and concrete surfaces of their

containment facilities, wearing down and sometimes breaking teeth, especially in the mandible. This behavior is believed to be a manifestation of the stress and anxiety of captivity. At a certain level of severity, the pulp is drilled out and the cavity must then be periodically irrigated to reduce the chance of infection. Killer whales held in net pens that have no hard surfaces do not show this tooth wear.

In the wild, mature animals have erect dorsal fins. These collagenous structures occasionally show abnormalities, such as fins that are bent, twisted, hooked, or collapsed to various degrees, probably due to trauma from various causes. In one study in New Zealand, 23 percent of 30 adult males had abnormal dorsal fins. This is higher than in other populations where dorsal fin abnormalities of all types affect only around 6 percent or less of adult males. Complete collapse of the dorsal fin was only observed for one animal (3%) in the New Zealand study and is extremely uncommon in the wild. In captivity, nearly all adult males have completely collapsed dorsal fins. The cause is not known, but there is general agreement among cetacean biologists that it is a symptom of the abnormal conditions of captivity, which drastically restrict movement and diving.

Testimony and studies were also submitted indicating that the stresses of captivity and unfamiliarity between the captive orcas have contributed to heightened aggression between captive individuals, with instances of attacks consisting of bites or ramming.

~~The context and language of Section 30230 concerns animals in the wild. The section is included in Chapter 3's Article 4, which is titled "Marine Environment," and with the exception of the reference to species of special significance in the second sentence of section 30230, all the other provisions of section 30230 address protection of resources in the marine environment. The first sentence of section 30230 requires that "marine resources" be maintained, enhance, and where feasible restored. The most straightforward interpretation of "marine resources" is that it consists of resources in the marine environment, i.e., ocean waters, not resources contained in onshore artificial structures. The second sentence requires special protection for areas and species of special biological or economic significance. The term "areas" of special significance clearly applies to the marine environment. Finally, the third sentence expressly addresses uses of the "marine environment." Given this context, it is likely that the Legislature intended the reference to species of special biological significance to apply to a species in California's marine environment.~~

~~Other provisions in the Coastal Act follow the same approach. They protect biological resources in their habitat, such as by protecting the biological productivity of coastal waters (§ 30231), ensuring the functionality of wetlands (§ 30233), and protecting habitat areas that support sensitive species (§ 30240). No provision of the Coastal Act expressly addresses the management of animals that are kept in captivity in an artificial environment.~~

~~Finally, the Coastal Act's legislative findings state that the coastal zone is "a distinct and valuable natural resource" and exists as a "delicately balanced ecosystem." (Pub. Resources Code, § 30001(a).) They further state that in order to protect wildlife and other ocean resources, "it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction." (Pub. Resources Code, § 30001(c).) In addition, the basic goals of the Coastal Act include protecting and enhancing the overall quality of the coastal zone environment and its natural and artificial resources. (Pub. Resources Code, § 30001.5(a).) These legislative findings~~

~~and goals all express an intent to protect coastal resources, including wildlife, by protecting their environment and ecosystems.~~

Today, the population of captive orcas is such that facilities such as the SeaWorld San Diego are able to maintain their population of captive orcas through breeding, either through husbandry with two orcas or through the transfer of genetic material between facilities for artificial insemination. Of the 11 orcas at SeaWorld San Diego, 8 are captive bred, and of the 24 total in SeaWorld's care, 19 are captive bred. Besides transporting orcas or their genetic materials between its own facilities, SeaWorld San Diego periodically enters into agreements with other facilities in order to loan or borrow marine mammals for the purposes of captive breeding. Currently, the breeding of orcas, artificial or otherwise, is not regulated by the NMFS or USDA/APHIS, and thus federal permits are not required in order to breed orcas.

~~One of the consequences of captive breeding is that it reduces the need for a facility to procure a marine mammal from the wild, which would have an adverse impact on coastal habitats and resources. NMFS has not issued a permit for take of an orca from the wild for purposes of public display since the 1980's due to the fact that they have not received any applications to do so. SeaWorld has also signed onto a pledge authored by businessman Richard Branson that they will no longer take cetaceans from the wild, and recently announced the cessation of an agreement with the Georgia Aquarium to use wild-caught beluga whales the aquarium is attempting to import from Russia in its breeding program. As part of its project proposal, SeaWorld is proposing that the expanded orca facility will be managed such that it will not house any orcas taken from the wild after January 1, 2012 ~~February 12, 2014~~, nor utilize any genetic material from orcas taken from the wild after January 1, 2012 ~~February 12, 2014~~, and that the orca population will be capped at 15 individuals ~~not significantly increase except as may occur through sustainable population growth pursuant to accredited reproductive guidelines, with the exception of rescued orcas.~~~~

However, while the above restrictions on date of capture do lessen the likelihood of adverse impacts to orcas in the wild by decreasing the likelihood that the proposed orca facility expansion will encourage further capture elsewhere in order to obtain genetic material, they do not address the adverse impacts arising from captivity on orcas that may be bred in captivity in the future. In addition, so long as facilities such as SeaWorld San Diego exist that display captive orcas for entertainment purposes, it will contribute to the demand for the capture of wild orcas that frequent California's waters by facilities and nations that have not signed the Virgin Pledge in order to populate their captive orca facilities. In fact, multiple killer whales have been captured off the coast of Russia in the past three years for transport to various facilities both in Russia and neighboring countries, prompting the revision by the applicant of the date after which no captured orcas or their genetic material would be used in the proposed killer whale facility to January 1, 2012, from the original February 14, 2014. The continued captive breeding of the orcas in SeaWorld San Diego would mean that additional members of a species of special significance would endure the above-noted adverse impacts of captivity, such as abnormal behavior and injury from heightened aggression. These captive orcas would develop behaviors different from, and experience a quality of life inferior to, orcas residing in the natural marine environment. Even with the prohibition on the use of individuals and genetic material taken after January 1, 2012, there exist sufficient orcas in captivity prior to that date that captive breeding could continue for an extended period of time, if not indefinitely, in which case the infliction of the adverse effects would also continue indefinitely. The prohibition on the transfer of orcas to or

from the facility, except where authorized by a federal take permit or for rescued whales, allows for gradually phasing out the display of captive orcas and the documented harm to orcas that such captivity causes. By prohibiting future transfers, breeding, and artificial insemination, **Special Condition No. 1** ensures that SeaWorld San Diego's present population of captive orcas, if not able to be released into the wild, will be able to live out the remainder of their lives with an improved quality of life that the Project will provide, while ensuring a foreseeable end date to orca captivity within SeaWorld's San Diego facility.

As amended by SeaWorld and memorialized by **Special Condition No. 1**, the project will not contribute to the demand for removal of wild orcas from California waters in the future, because SeaWorld will manage the facility consistent with its proposal to avoid the removal of killer whales from the wild either directly for public display or for the use of their genetic material, and the prohibition on future transfer, breeding, and artificial insemination will ensure that the adverse impacts arising from captivity will not affect additional orcas in the future. Therefore, the project as conditioned is consistent with Section 30230.

Noise Impact Analysis

SeaWorld has addressed noise impacts on its captive marine mammals in the past. At the Commission hearing for the SeaWorld Master Plan Update in February 2002, members of the public and Commissioners raised concerns over how the animals would be affected by noise generated by development contained in the master plan. In the case of the Journey to Atlantis splashdown ride, the first development built pursuant to the current master plan and approved in CDP No. 6-01-0129, the concerns were focused on Commerson's Dolphins proposed to be housed within the ride area. To address those concerns, SeaWorld submitted a memo demonstrating that the ambient noise level in the water would be lower than existing levels once the ride was completed, and detailed the construction measures and design features that would be utilized to achieve that result.

In the current proposal, the excavation of 35,000 cubic yards of soil and construction of a large 5,000,000 gallon tank creates the risk that construction activity could create noise impacts for the orcas in the adjacent, remaining pools, as construction sounds travel through the water. SeaWorld submitted a memo addressing sound propagation in water and describing the construction methods that will be implemented in order to minimize noise generation and isolate the orcas from the noise (Exhibit 8).

As stated earlier, the Commission has looked at development wherein impacts to marine mammals were anticipated. One of the common impacts analyzed was noise impacts, as many marine mammals, such as orcas, utilize sound to navigate or communicate, and noise impacts from human development can either interfere with these functions or harm the sensitive hearing of the mammals, causing injury, death, or alteration of natural behaviors. When SeaWorld applied for construction of the Journey to Atlantis splashdown ride, which was designed to hold 10 Commerson's dolphins within its structure, the Commission requested that SeaWorld submit information detailing the existing and anticipated ambient noise levels within the dolphin facility and the steps to be taken to shield the dolphins from noise impacts, which SeaWorld did to the Commission's satisfaction.

SeaWorld agrees that minimizing noise impacts to the orcas residing in the orca facility is a priority. In the current proposal, because the proposed expansion will consist of a large excavation and construction activity adjacent to the current orca facility, SeaWorld has submitted information regarding potential noise impacts. A memo dated August 21, 2015, from the Hubbs-SeaWorld Research Institute, explains that sounds attenuates (declines in level) at different rates depending on the location of origin and the medium in which it is travelling. Within a SeaWorld pool, the memo states that attenuation averages 2-3 decibels (dB) for a 10kHz tonal (narrowband) signal, which is fairly low attenuation. However, the memo continues that when a sound travels from outside a boundary such as a concrete wall, the attenuation is greater, depending on the intervening substance. In the case of propagation of sound from air into water, sound originating in the open air transmits inefficiently into water (unless produced directly overhead in a narrow cone), and will be attenuated by approximately 30 dB (comparable to the difference in noise level between the inside and outside of a building with doors and windows shut). Furthermore, the memo states that orcas hear best at higher frequencies, and that high frequency noise is attenuated more than low frequencies when traveling over a distance.

The memo explains that the expansion of the orca facility will involve drilling and concrete cutting on the walls currently separating the expansion area from the orca tanks that are to remain and where the orcas will be kept during development, and drilling noise does have the potential to travel long distances and substantial levels in sea water. Regarding ambient noise within aquatic facilities, there is no systematic, published review of such noise, though the memo indicated that ambient noise in the park's tanks usually originates from tank environmental equipment and water flow, with occasional higher levels from maintenance activities or the animals themselves.

To minimize noise impacts, the proposed construction work will be screened and separated above grade by 8-ft. tall panels. Instead of pile driven beams, construction will utilize drilled beams, which produce less noise when installing. When above grade work such as demolition of the Dine with Shamu eating area or skywalks occurs (though the general building will remain), the whales will be directed into the pools farthest away from the demolition work. The concrete pathways will be cut into segments and removed so as to avoid the use of noisier jack hammers. The existing elevator tower will be disconnected from its foundation (which is separate from the orca tank structures) and carried away by a large excavator. The existing skywalk will be cut into segments and carried away with a crane to be further deconstructed away from the pool area. Installation of the tie backs will utilize a drill rig, for which the generator and air compressor will be sited back away from the work site. For work on Pool D to install new gates to the expansion area, the pool will be drained and saw cut to avoid jackhammering. For removal of the Dine with Shamu area, an excavator will pull down the shade structures and a bobcat will remove the at-grade portion. Excavation of the new Pool F will be done with excavators, backhoes, loaders, and trucks. Due to the size of the excavation area, the majority of the work will be conducted more than 50 feet away from the concrete wall separating the expansion area from the remaining orcas pools, so that construction noise will be greatly attenuated.

To ensure that the noise attenuation measures are put in place and the orcas protected from adverse noise impacts during any approved development, **Special Condition No. 8** requires that SeaWorld adhere to the construction measures contained in their April 21, 2015 memo, and that any deviation from such measures be reviewed by the Executive Director for determination as to whether an amendment to this CDP is required.

In conclusion, while the proposed improvements to the orca facility at SeaWorld San Diego create the risk of adverse impacts to marine mammals, the Commission believes that the expanded orca facility will be an improvement for the orcas residing at SeaWorld San Diego, and as conditioned to address occupancy and noise impacts by placing a population cap and banning future breeding, the proposed improvement is in conformance with the marine resource protection policies of Chapter 3 of the Coastal Act.

D. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first terrestrial vegetation.

Section 30212 of the Coastal Act states, in part

a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

[...]

c) *Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Section 30213 of the Coastal Act states, in part:

Lower cost visitor serving and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30604 of the Coastal Act states, in part:

[...]

- c) *Every coastal development permit issued for any development between the nearest public road and the sea of the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).*

SeaWorld is a private commercial leasehold within Mission Bay Park, a public park owned by the City of San Diego. The site is located between the first coastal roadway and the bay. The certified SeaWorld Master Plan Update divides the anticipated development and redevelopment needs of the entire SeaWorld leasehold into three categories: Tier 1, Tier 2, and Special Projects. Tier 1 identifies the sites and projects where new development or park renovations planned to be processed concurrently with the SeaWorld Master Plan or likely to be initiated shortly after the adoption of the master plan. Those projects include the Journey to Atlantis splashdown ride, an educational facility, front gate renovation, special events center expansion, and bicycle/pedestrian path enhancement. To date, all of those listed developments except for the special events center expansion have already occurred. Tier 2 identifies sites within Area 1 (the developed park area) that are candidates for redevelopment; however, only general project descriptions are included in the master plan. Submittals for individual projects are expected to be made over a span of many years, and some have already been made, approved, and constructed (e.g. Manta rollercoaster). Potential Tier 2 projects were not approved as part of the master plan, and no entitlements to redevelopment in the designated areas were granted nor implied. Finally, Special Projects are conceptual development proposals that have been identified for sites outside of the developed park but still within the SeaWorld leasehold. Like Tier 2 projects, Special Projects are not proposed to be built for many years, and like Tier 2 projects, only general project descriptions for future use are included.

The proposed development to the orca facility is not specifically listed in the SeaWorld Master Plan Update as a Tier 1, Tier 2, or Special Project. However, SeaWorld is a large, public-serving facility with complex operations, and the SeaWorld Master Plan Update recognized that not all development that would occur in SeaWorld rose to the level requiring specific listing in the master plan. The master plan states that the “SeaWorld site is unique in both the type and frequency of development projects within the leasehold. Each year, SeaWorld processes numerous projects to upgrade park facilities and keep attractions in top working order. Additionally, in response to consumer demands and competition in the theme park industry, SeaWorld regularly undertakes renovations of its larger attractions, rides, shows, or exhibits.” Because of this recognition, in addition to the tiered project list, the SeaWorld Master Plan update contains development and design criteria regarding aspects such as public access, visual aesthetics, landscaping, and so on that apply not just to the listed Tier 1, Tier 2, and Special Projects, but to all development in SeaWorld in general. These guidelines include utilizing drought tolerant plants and low-water irrigation, screening development from public park areas, design visitor furnishings to be durable and visually compatible to the surrounding setting, utilize non-glare lighting and limiting light spill over and intrusion into public views, and be architecturally designed to conform to the aquatic and educational nature of SeaWorld. The proposed development is an expansion of the existing orca facility, and complies with the

applicable guidelines contained in the plans, and is not of such a scale and impact that it requires an amendment to the SeaWorld Master Plan Update.

There are only a few remaining areas of Mission Bay Park where public access is routed inland around existing commercial leaseholds rather than along the shoreline. SeaWorld is one of those leaseholds. Although public lateral access is available along most of the Mission Bay shoreline, there is no access through the SeaWorld leasehold, which extends to or beyond the waterline in places (Exhibit 2). Pedestrian and bicycle traffic can cross through the parking areas and rejoin the bayside pathway on either side of the leasehold. Vertical access is available at those same two locations and informally elsewhere along the shore dependent upon parking or transit availability. The proposed development will be located entirely within the private leasehold, approximately 1,100 feet from the shoreline, and will not encroach into any existing or proposed public accessways. The Mission Bay Master Plan lists a complete pedestrian access pathway around the bay as a future goal; access through SeaWorld may itself be an issue when the lease is renewed, but for this permit, the Commission finds that lateral and vertical access is available to serve the demonstrated needs of the public in this area of Mission Bay Park, and the proposed project will not preclude the ability to provide public shoreline access in the future.

Sea World Drive and Ingraham Street serve as major coastal access routes for all areas of Mission Bay Park, and the public beaches at Pacific Beach, Mission Beach, and Ocean Beach, and serves as a popular commuter route as well. These are the only roadways serving SeaWorld. The lease between SeaWorld and the City of San Diego, as well as the SeaWorld Master Plan Update, calls for phased traffic improvements based on the expected increase in attendance at the park. SeaWorld typically submits its annual attendance figures for each past year so the Commission will be aware when the next critical level of attendance occurs that triggers traffic mitigation measures. SeaWorld attendance has triggered, and SeaWorld has implemented, various traffic mitigation measures over the years. Numerous Commission-approved traffic and parking mitigation projects have been completed by SeaWorld since the certification of the SeaWorld Master Plan Update, including the addition of a public pedestrian promenade (CDP No. 6-06-022), road improvements along Sea World Drive and the southbound Interstate 5 interchange (CDP No. 6-08-016), and resurfacing, restriping, and landscaping to extend and widen bicycle and pedestrian paths across the southern and western edges of SeaWorld's main parking lot (CDP No. 6-05-075). Those improvements as well as the previously established traffic, roadway, and parking systems have been designed and constructed to support up to 4 million visitors annually. The next improvements are not required until attendance reaches 4 million, which is anticipated as the maximum anticipated attendance at full buildout. Last year, SeaWorld's annual attendance was approximately 3.77 million visitors.

Regarding traffic, SeaWorld submits annual traffic monitoring reports to the Commission for review of the impact of park operations on the surrounding transportation infrastructure. Because parks such as SeaWorld serve the public and are subject to changing preferences and market forces, attendance levels, and thus traffic impacts, can fluctuate over the years. Thus, in analyzing the current proposal, Commission staff reviewed the past 5 years of traffic reports, as well as a summary report of those past years to discern any patterns. The analysis determined that the major intersections around SeaWorld have consistently operated at a Level of Service (LOS) of D or better, and that some intersections actually improved slightly in service over the past 5 years of monitoring. Regarding Average Daily Traffic (ADT), the studies focus mainly on AM peak periods and PM peak periods, as that is when SeaWorld traffic combines with local

rush hour traffic to create the greatest impact. The past 5 years of studies show that AM peak ADTs have decreased by 5% while PM peak ADTs have increased by 6%. Overall, ADTs increased by 4% over the preceding 5 years, but as mentioned above, the LOS for the surrounding intersections has held steady or improved slightly. Thus, the growth in traffic has been relatively low at an average of just 1% a year over the preceding 5 years, with the LOS indicating that the existing infrastructure is adequately processing the load.

With respect to the adequacy of on-site parking, SeaWorld currently provides a total of 8,664 parking spaces for visitors, staff, and employees. SeaWorld's employment base includes full-time, part-time, and seasonal employees. Employee numbers vary during the year from approximately 2,600 non-peak employees to approximately 4,500 peak time employees. Parking spaces have not been specifically allocated to individual uses, but most employee parking occurs in the lots nearest the administrative facilities and, during times of heaviest park use, in the parking lot in the northwest portion of SeaWorld itself but within the leasehold boundaries. In addition to serving SeaWorld itself, the existing parking facilities have also served the needs of Hubbs Research Institute personnel. The Hubbs facilities, which include laboratories, aquaculture tanks, and associated research and administrative functions, are currently housed in the western area of SeaWorld, along with many of SeaWorld's administrative, storage, and employee facilities. Under CDP No. 6-93-086, Hubs converted the former Atlantis Restaurant building to research facilities with retention of 77 spaces in the former Atlantis lot designated for use by Hubbs' researchers with the remainder of that lot, and all other on-site parking facilities, continuing to be used by SeaWorld patrons and employees.

In 2010, total peak parking demand was 5,466 spaces. In 2011, peak parking demand was 6,382 spaces. In 2012 peak demand was 7,028 spaces. In 2013 peak demand was 7,103 spaces. In 2014, the peak demand was 6,357 spaces on July 19, 2014 (73% of total supply). Thus, SeaWorld's parking demand has not exceeded their on-site supply of 8,664 parking spaces.

The upgrade and redevelopment of the existing orca facilities and restroom is not expected to substantially increase the attendance levels, as the expansion will serve as a larger facility for housing the orcas, and visitors to SeaWorld are already able to view the orcas underwater through viewing windows in the existing facility. It should be noted that more people will be able to view the orcas at one time, and expanded, modernized, or redeveloped facilities do tend to generate an interest on the part of the public to view the new facilities. While some visitors – such as season pass holders – may make annual or semi-annual visits to the existing theme park regardless, it can be reasonably assumed that some visitors will also make a special trip to view the new facilities in and of themselves. However, these increases in attendance are not expected to be significant for the subject proposal as it merely represents an upgrade to an existing viewing and interaction area in conjunction with the existing orca stadium. Thus, no significant impacts to traffic or parking are anticipated as a result of the proposed project.

Special Condition No. 7 reaffirms the Master Plan requirement and puts SeaWorld on notice that when the annual SeaWorld Park attendance levels reach 4 million visitors, future development proposals may be required to complete certain traffic and parking mitigation measures as conditions of approval, such as enhancing surrounding public right-of-ways and road improvements, in conformance with mitigation criteria established in the SeaWorld Master Plan Update EIR. Furthermore, **Special Condition No. 5** requires SeaWorld to adhere to approved construction staging and storage plans to ensure that construction activity is properly

contained within the leasehold and will not spill out into public areas or displaces on-site parking to an extent that will cause patron parking to spill out into public areas.

In summary, the Commission finds that the proposed project will not adversely impact the existing vertical and lateral accessways around the Sea World leasehold, or result in significant increases in traffic or parking demand. Therefore, the Coastal Commission finds the proposal consistent with all of the public access policies of the Coastal Act.

E. WATER QUALITY AND HAZARDS

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological significance. Uses of the marine environment shall be carried out in a manner that will sustain biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30253 of the coastal act states in relevant part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along the bluffs and cliffs.

[...]

Stormwater Runoff, Discharge, and Intake

The federal Clean Water Act (CWA) requires States to identify and make a list of surface water bodies that are polluted. These water bodies, referred to in law as “water quality limited

segments,” do not meet water quality standards even after discharges of wastes from point sources have been treated by the minimum required levels of pollution control technology. States are required to compile these water bodies into a list, referred to as the “Clean Water Act Section 303(d) list of Water Quality Limited Segments” (List). States must also prioritize the water bodies on the list and develop Total Maximum Daily Loads (TMDLs) to improve water quality. At the time of the adoption of SeaWorld’s National Pollutant Discharge Elimination System (NPDES) permit in June, 2011, Mission Bay was listed on the 303(d) list of impaired water bodies as impaired because of bacteria, lead, and eutrophication. A total maximum daily load has not yet been adopted for these pollutants.

The combined storm water and waste water discharge from SeaWorld San Diego’s treatment plants are overseen by the San Diego Regional Water Quality Control Board (RWQCB) under Order No. R9-2011-0032, NPDES No. CA107336. The NPDES permit includes specified discharge limits along with a required monitoring and reporting program. As part of the monitoring program, SeaWorld collects treatment plant discharge samples on a daily, weekly, quarterly, and annual basis for a variety of constituents, toxicity, and in-situ observations that may impact water quality. This data is summarized in an annual report submitted to the RWQCB along with supporting data via the California Integrated Water Quality System database.

On April 14, 2005, the RWQCB approved an NPDES permit for SeaWorld, setting forth the water treatment criteria for the subsequent 5 years. This permit was renewed by the RWQCB in June, 2011. Sample locations for monitoring are the intake and effluent outfalls of both the East and West treatment facilities, enabling the determination of the quality of Mission Bay water prior to any filtering as well as the final quality of any discharge prior to entering Mission Bay. Additionally, the status of the receiving water is analyzed with samples taken 3,000 feet from the discharge points.

As with all structural development in Mission Bay Park, storm runoff from SeaWorld San Diego enters into the adjacent Mission Bay. In addition, SeaWorld is unique in that it uses sea water for its aquariums and show tanks, and circulates this water to and from the bay. To address water quality concerns, SeaWorld constructed two on-site treatment facilities that have been operational since October, 1991. Conceived initially to address the treatment of used aquarium water, these facilities are subject to a NPDES permit and were ultimately designed with enough capacity to treat the entire leasehold and future planned leasehold improvements. The NPDES permit requires weekly sampling of coliform, chlorine, and acidity of the effluent, which discharges into Mission Bay, and semiannual monitoring of solids, turbidity, grease, and oil. Although designed primarily for the treatment of used aquarium water, these facilities also treat surface runoff from the developed park area and the improved parking lots before discharging into Mission Bay. The remainder of the parking lot runoff enters the City’s municipal storm drain system, which is outfitted with low-flow interceptors. During more intense storm events, the nearest storm drain discharges directly into Mission Bay in the Perez Cove area (westernmost point of SeaWorld).

The current park layout includes a series of storm water and catchment areas that convey water to either SeaWorld’s Western Wastewater Treatment Plant or the Eastern Wastewater Treatment Plant. The main visitor parking lot drains southerly to the municipal storm water system. The two treatment plants are used to treat the collected outfall discharge from storm water sources, landscape irrigation runoff, and various industrial activity wastewater from exhibit pools and

aquaria. With the proposed development, the volume of influent and effluent will increase but will still be within the existing RWQCB permit limits, and will not require amendments to those permits. SeaWorld also has two backup generators, one each at the west and east treatment facilities, to ensure they are operable during extended power outages.

In addition, SeaWorld has a Best Management Practices (BMP) program in place to control non-point sources of pollution during its day-to-day operations. In the past, concerns have been raised regarding SeaWorld's land and water operations with respect to maintaining optimum water quality. In particular, the manner in which surface runoff from the parking lots is discharged has been raised as a significant issue. This issue was addressed in detail in review of the SeaWorld Master Plan, and SeaWorld's grading, drainage, erosion, and storm water requirements in that document were reviewed and found acceptable by the Commission's water quality staff. The proposed development is designed to tie into the park's existing storm water system. Moreover, the proposed development will not substantially increase impermeable surfaces or significantly change existing patterns of runoff. The subject proposal does not modify any of SeaWorld's existing water treatment, collection, or discharge facilities. These facilities currently process runoff from some of SeaWorld's paved parking lots and nearly all of its developed venues; this treatment will continue.

SeaWorld's most recent 2014 Annual Discharge Compliance Evaluation report prepared by the firm Brown and Caldwell states that SeaWorld has a total capacity of 11,480,600 gallons. SeaWorld has salt water intakes at 3 locations in Mission Bay: the west pier intake (near Cirque de la Mer stadium and marina), east pier intake (near Shark Encounter), and shark intake (near Shark Encounter). The two piers are screened on all sides with screens and nets and covered by the piers above them to limit the introduction of detritus or animals. The shark intake is a closed intake within an enclosed box filled with gravel to create an in-ground infiltration intake point. The West intake consists of two pumps with a total capacity to pump up to 6.12 million gallons per day (mgd). The East intake consists of four pumps with a total capacity to pump 3.24 mgd. SeaWorld's NPDES permit allows the discharge of up to 9.36 mgd of treated industrial activity wastewater from exhibit pools and aquaria; intermittent flows during pool draining and cleaning operations, runoff from landscape irrigation; and facility wash downs. Storm water is discharged from the facility during rain events. Prior to discharge, all effluent is directed to either the East or West Effluent Treatment Facilities.

The park site is relatively flat, with elevations ranging between ten and twenty feet above mean sea level. Storm water is collected onsite and conveyed via an underground pipe system which includes various drop inlets and piping networks. Surface runoff from the project site would be directed to the Western Wastewater Treatment Plant. Filter fabrics are installed on all the storm water inlets that are not routed to either of the two onsite treatment plants, and for some of the larger storm water inlets throughout the park.

The Western Wastewater Treatment Plant that would capture storm water from the project site includes a chlorination/de-chlorination treatment system, primarily for disinfection of the water from the tanks and storm water. The wastewater is screened via one-inch screens and diversion chambers that transfer the water to chlorine contact chambers. Sodium hypochlorite is injected at three pre-chlorination points in the collection system prior to the contact chamber.

Once disinfected, residual chlorine is neutralized by injection of sodium sulfite into the discharge stream. The treated, de-chlorinated water is then discharged to Mission Bay from the Western Wastewater Treatment Plant through what the RWQCB identifies as Discharge Point No. 002. This discharge point has a maximum discharge rate of 6.12 million gallons per day (the western and eastern discharge points can discharge up to 9.36 million gallons a day in aggregate) of treated industrial activity wastewater from exhibit pools and aquaria; intermittent flows during pool draining and cleaning operations; runoff from landscape irrigation; and facility wash down water.

Though SeaWorld can discharge 6.12 million gallons a day, it has historically been well below that discharge rate. During 2014, daily flows at the West and East treatment facilities averaged 2.334 and 1.600 mgd, respectively. The highest daily flow during that period was 2.864 million gallons a day for the Western Wastewater Treatment Plant, and total flows for both west and east discharge points ranged from 3.208 million gallons a day to 4.471 million gallons a day, and averaged 3.934 million gallons a day during 2014.

The salt water pumping system within SeaWorld is akin to a circulatory system in that the various salt water tanks and aquariums within the park are connected to a larger internal network, allowing SeaWorld to shift volumes of water throughout the park as needed. Because of this, SeaWorld's intakes of water from Mission Bay are generally to "top off" to compensate for water lost through evaporation, spillage, and the like. Similarly, because SeaWorld is able to hold and circulate its internal water supply as needed, discharges of salt water arise from when there is too much water in the system – as from a storm event – or when a tank is drained to perform routine maintenance. This is a large part of why SeaWorld's discharge volumes are consistently well below the limits set in its RWQCB permits. When the proposed orca facility expansion is completed, SeaWorld will have to intake approximately 5.65 million gallons of salt water to fill the new tanks, but afterward, operations will return to the general pattern that has persisted for the past years, and intake and discharge flows of the park will proceed normally.

During 2014, compliance monitoring of the effluent discharges from both the West and East treatment facilities with regards to pH, fecal coliform, enterococcus, residual chlorine, temperature (which may not be more than 1-3 degrees Celsius different from receiving waters), copper, Total Suspended Solids (which may not constitute more than 10% more than intake waters), Total Settleable Solids, turbidity, ammonia, oil and grease, silver, and toxicity (100% survival rate of test organisms after exposure) all met RWQCB permit requirements.

For total coliform, the effluent of all discharges at the East and West facility met all compliance limits for total coliform during 2014, with the exception of two test samples at the West facility in March and December (there were also exceedances of coliform limits from the West treatment facility in February, September, and October of 2012). All exceedances were reported to the RWQCB, and subsequent inspections of the treatment facility found no malfunctioning equipment, and the vast majority of the historic samples were within permit parameters. In response, SeaWorld installed additional water treatment equipment such as vacuum pumps to reduce sediment buildup in the water treatment contact chambers and a static mixer at the pump discharge, as well as conducting "Dye Tests" to test the operation of the treatment facilities to study the flow of water and disinfectants through them, and increased the frequency of cleanouts of the storm drains and treatment chambers.

The RWQCB has reviewed the self-monitoring reports for SeaWorld San Diego from July 2013 through April 2015, which consists of monthly, quarterly, semi-annual, and annual reports and found no issues with the submitted monitoring data.

As recommended in the guidelines of the certified SeaWorld Master Plan, SeaWorld utilizes many features to ensure that its water is used efficiently within the park. As mentioned earlier, SeaWorld intakes salt water from Mission Bay for usage in the animal exhibits. However, it is not a constant inflow and outflow of water. Instead, after initial intake treatment, SeaWorld's existing piping infrastructure circulates the salt water around the park as needed, and intakes additional salt water mostly to "top off" internal supply to compensate for evaporation loss. This is one of the reasons why SeaWorld's intake and discharge volumes have been consistently below the limits established in its RWQCB permits.

Because SeaWorld has an extensive water treatment system to handle water from both the animal exhibits and surface runoff, which is monitored under a thorough permitting regimen that has identified minimal water quality violations, the proposed development, as conditioned, will not cause adverse impact to the water quality of adjacent Mission Bay.

Freshwater Usage

Regarding freshwater usage, the existing orca facility has a restaurant and bathroom facility which was utilized for a "Dine with Shamu" event that SeaWorld offered. As part of the orca facility expansion, the dining area will be removed, and the restrooms and building will remain but be closed to the public. A nearby 5,500 square foot restaurant/restroom facility is proposed to be demolished to make room for the pool expansion, and be replaced with a new 2,900 square foot bathroom facility. This new restroom facility will be designed to utilize the saltwater that SeaWorld currently intakes for its animal facilities, and will be the second such saltwater restroom facility within SeaWorld San Diego. The capacity of the new restroom will match that of the demolished restroom, but due to the use of saltwater, the new restroom facility is anticipated to save approximately one million gallons of potable water.

To control the temperature of the water for the various animal exhibits in SeaWorld, the park utilizes multiple chillers and evaporative cooling towers throughout the park. These chillers and evaporative cooling towers are similar to the HVAC systems used in many commercial buildings, and utilize the evaporation of potable water to remove heat from the chilled water loop that recirculates through the park between the various animal exhibits, office air conditioning, and public area climate control. Because of the expanded water volume of the expanded orca facility, the two chillers and two cooling towers that are dedicated to serving the orca facility will be replaced with new, larger 650-ton chillers that will utilize more water for evaporative cooling. The anticipated increase in freshwater usage due to evaporative water loss from the cooling towers because of the increase in chilled water production is estimated to range up to 18,000 gallons a day during peak periods. However, because SeaWorld pulls in water from Mission Bay, which fluctuates in temperature, and the needs of the park are affected by attendance, ambient temperature, and the needs of the animals and facilities that day, the amount of evaporative cooling loss fluctuates over the year. SeaWorld estimates that total consumption of water, in units of hundred cubic feet (HCF) to be approximately 4,441 HCF to 6,684 HCF annually. One HCF is equivalent to 748.5 gallons, so the total consumption of water is projected to be 3,324,089 gallons to 5,002,974 gallons annually. However, when factoring in the

anticipated savings from usage of salt water in the proposed restroom facility, the net increase in water usage arising from the orca tank expansion is between 1,766 HCF and 4,010 HCF annually (1,321,851 gallons to 3,001,458 gallons).

SeaWorld also utilizes water-efficient irrigation systems that sense the ambient humidity and soil moisture to determine the optimal periods to irrigate, as well as utilizing low-flow irrigation to minimize overwatering and spillage. SeaWorld also utilizes drought resistant landscaping in much of the park, and utilizes seawater, as opposed to fresh water, in its animal wash down areas. Water features such as fountains also utilize sea water. Because of measures such as those described above, SeaWorld reduced its potable water usage by 22% between 2014 and 2015, yielding reductions to date of 29,746 HCF (22,264,881 gallons).

In light of the water savings represented by the new salt water restroom facility and the reduction in park-wide potable water use SeaWorld has achieved through measures such as efficient irrigation, the Commission finds that the increase in potable water use arising from the proposed development has been reasonably minimized and will not represent an adverse impact to local water supplies.

Landfill

The southeastern-most parking area of SeaWorld leasehold is underlain by a portion of the inactive Mission Bay Landfill. The City of San Diego operated the landfill from approximately 1952 until 1959. The landfill reportedly accepted municipal solid waste and some liquid industrial wastes (including acids, alkaline solutions, solvents, and paint wastes). The U.S. EPA estimates that up to 737,000 gallons of industrial wastes may have been disposed at the landfill during its operation. After closure of the landfill, dredged material from Mission Bay (consisting of mostly fine-grain material) was placed on top of the former landfill surface to a depth of approximately 15 feet. A portion of the site is currently paved with a chip-seal paving surface which allows for diffusion of landfill gases while remaining impervious to water infiltration. Although the proposed new orca facility is located approximately 1,700 feet to the west of the estimated western limits of the landfill, because the proposed development involves the excavation of approximately 35,000 cubic yards of soil to depths of over 50 feet, the potential for contamination or human health impacts associated with the project have been reviewed.

When the SeaWorld Master Plan Update and the subsequent splashdown ride were being proposed to the Commission, several investigations of the landfill were conducted to evaluate the extent of potential chemical contamination. Samples for chemical analysis were collected from soils, surface water, sediments, and groundwater from the landfill and surrounding areas. Investigations detected a number of chemicals in onsite soils and groundwater including heavy metals, volatile and semi-volatile organic compounds, and chlorinated pesticides. In 1985, the Regional Water Quality Control Board (RWQCB) adopted Order No. 85-78, which required, among other things, routine monitoring of groundwater, surface water, and sediments from Mission Bay and the San Diego River. In addition to routine monitoring, several additional soil and groundwater investigations were conducted in and around the landfill through 1997. The results of these investigations and continued routine monitoring indicated that low levels of chemicals were detected in soils and groundwater beneath and adjacent to the landfill. According to the RWQCB, these low levels of chemicals did not represent a significant threat to public health or the environment. Furthermore, the California Department of Toxic Substances Control

(DTSC) and the U.S. EPA previously evaluated the site in 1987 and 1993, respectively, and determined that the site did not pose a significant threat. Moreover, although the Mission Bay Landfill was considered for listing on the EPA's Superfund National Priorities List in the early 1990's, it was determined that the site did not qualify for inclusion on the list.

Starting in the early 2000's, the City of San Diego conducted a multi-year investigation of the landfill to determine constituents, boundaries, and any potential leakages of the Mission Bay Landfill. The City also convened a Technical Advisory Committee (TAC), consisting of representatives of environmental organizations, the RWQCB, the state university system, the medical profession, and the community, as well as members of the City's Solid Waste department, who acted as staff to the committee. The TAC was primarily charged with determining the physical extent of the landfill, identifying its contents to the best degree possible through searches of old records, identifying the current chemical makeup up the landfill, and analyzing any potential risks to public health and safety.

The TAC's findings were documented in a final report in September, 2006. It summarized the technical investigations that had been conducted, which identified the landfill's constituents and any potential hazards. The study concluded that the landfill boundaries were slightly larger than previously thought, but that no leaking of toxic materials was occurring, and no significant public hazard existed. The only remediation identified in the report was to increase the soil cover on a portion of the landfill located well away from the SeaWorld site. The City's Local Enforcement Agency, which regulates all development within 1,000 feet of any landfill, had determined that paving over the landfill would not adversely affect the landfill itself, nor pose an increased risk to the public. The Commission's water quality staff reviewed the TAC's findings at the time and concluded that no new or different concerns with respect to water quality were identified.

The RWQCB continues to be the lead agency for oversight for water quality issues at the Mission Bay Landfill. The City of San Diego continues to monitor the site in accordance with RWQCB Order 97-11, General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills. Routine monitoring has detected low levels of several chemical constituents in groundwater beneath and adjacent to the site. However, the concentrations of these chemicals have been well below any of the established action levels identified by the RWQCB, and do not appear to represent a significant threat to public health or the environment. The site is currently in compliance with the requirements of the City of San Diego Solid Waste, the RWQCB, and the California Integrated Waste Management Board.

Public comments related to the presence of contaminants in groundwater beneath the landfill and the potential for migration of these chemicals offsite were submitted to the Commission in 2002 and 2003, when the Commission approved the splashdown ride and subsequently denied a revocation request regarding that approval. The Commission's water quality staff reviewed the available monitoring data at that time regarding groundwater conditions at the Mission Bay Landfill. Commission staff concluded that the data supported the determination by the regulatory agencies overseeing the landfill that the low levels of chemicals detected did not represent a significant threat to public health or the environment. The same public comments had already been submitted during the comment period for the *Draft Environmental Impact Report for the Proposed Sea World Master Plan Update (EIR)*, dated March 12, 2001. Those comments and related issues were fully and adequately analyzed by the lead agency in the Final EIR.

Public comments with accompanying data were also submitted on January 22, 2002. Those comments attempted to relate the Maximum Contaminant Levels (MCLs) and the California Toxics Rule (CTR). Both of those regulations establish water quality standards for either sources of drinking water (MCLs) or Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California. The 2002 comments related to soil samples, not water samples, and therefore did not apply to either MCLs or the CTR. The data presented was insufficient to draw any conclusions about potential migration to surface or groundwater or about the levels at which the chemicals may be present in surface or groundwater. Furthermore, the concentrations detected were low, and not untypical of those found in background soils in urban areas. A comparison of those heavy metals and organic compounds detected in the soil samples to the U.S. EPA Region 9's Preliminary Remediation Goals for either residential soils or soil screening levels for Migration to Ground Water, show they were substantially (2 to 4 orders of magnitude) below levels which would require action.

As noted, the location of the proposed orca pool expansion is within the already developed portion of the park and is approximately 1,700 feet to the west of the currently mapped landfill. A substantial portion of the developed park and an existing parking lot occupies the area between the development site and the historic landfill. In addition, while the City has in the past indicated that the exact limits of the landfill have not been defined, numerous soil borings have been made in and around the landfill, providing a basis for some understanding of the limits of the waste. When the splashdown ride was constructed approximately 500 feet northwest of the outer limits of the landfill's historic leasehold, a geotechnical investigation of that site was conducted with eight soil borings, and no trash or other landfill contents was encountered. Review by the Commission's staff geologist at the time of the geotechnical survey of the South Shores Area – the area where the historic Mission Bay Landfill was located and which was later developed in the 1980's as a separate public improvement to Mission Bay Park – and the geotechnical investigation of the splashdown site was determined to be sufficient to conclude with a high level of confidence that the landfill does not extend beneath the splashdown site. In addition, no illegal levels of ground water contamination were found at the splashdown site. The groundwater evidence further suggested that the hazardous wastes that almost certainly do exist within the landfill itself have not migrated into the area of the splashdown ride. High levels of methane and hydrogen sulfide are associated with the landfill, and it is possible, though very unlikely, that these gasses could migrate laterally along porous layers to the developed park area. However, there is no evidence that this has occurred to date, and no such migration of hazardous gasses has ever been reported during any earthquake. As the proposed orca facility is even further away from the historic landfill than the splashdown ride, it is even less likely that the landfill or groundwater contaminated by the landfill has migrated under or adjacent to the project site.

Despite the above studies, in the past, members of the public have presented to the Commission a great deal of photographic evidence, including historic aerials of the Mission Bay Park area spanning the years 1941 to 1958, including World War II, post-war periods, and the years the landfill was known to be in active, formal use, to support claims that the landfill has migrated under SeaWorld. Several of these earlier photos indicated that some type of ground disturbance occurred west of the identified landfill site and well within what would become the SeaWorld leasehold. This was many years before the identified landfill east of the site began operations in the early 1950's. However, the scale and quality of the photos makes it virtually impossible to determine with certainty what activity is taking place on the subsequent SeaWorld site.

Pre-existing uplands in this general location supported an airfield and racetrack, and possibly some military uses. During the same range of years, the land and channel portions of Mission Bay Park as a whole were being created, and the San Diego River was being redirected and channelized. Large amounts of hydraulic materials were being dredged from the new river bed; these were placed to form the park's additional upland areas and islands. SeaWorld, South Shores, and Fiesta Island were the last parts of the park to be fully formed. Dredging and fill activities continued in these locations after they had ceased elsewhere in the park, right through the official landfill years and into early 1960's. Whether the activities seen in the earlier photos show land disturbed by dumping or land disturbed by dredge and fill operations is very difficult to say and may never be fully resolved.

Thus, the Commission has previously found the more compelling evidence to be the laboratory results of the various geotechnical, soil, air, and groundwater studies taken over several years. Although it is clear from the pictures that some sort of activity occurred in the area that is now SeaWorld, there is no evidence that any toxic or hazardous materials underlie the splashdown site, let alone the remainder of the park. Excavations for the splashdown ride's foundations extended to a depth of 25 – 30 feet. Although mechanical and hydraulic fill materials were encountered, waste and landfill debris were not.

The excavation plan submitted by SeaWorld contains "Ground Water Discharge Notes," which states that "[a]ll ground water extractions and similar waste discharges to surface waters not tributary to the San Diego Bay are prohibited until it can be demonstrated that the owner has applied and obtained authorization from the State of California via an official "Enrollment Letter" from the Regional Water Quality Control Board in accordance with the terms, provisions, and conditions of State Order No. R9-2008-0002 NPDES CAG919002." The notes further continue that "[t]he estimated maximum discharge rates must not exceed the limits set in the official "Enrollment Letter" from the Regional Board unless prior notification and subsequent authorization has been fully obtained, and discharge operations modified to accommodate the increased rates." Therefore, the need for monitoring and treatment of groundwater pumped out of the excavation site for the expanded orca facility has been anticipated and incorporated into the project proposal.

Concerns regarding potential impacts to human health associated with grading and excavation at SeaWorld have also been raised by members of the public. There are five methane monitors located in the buildings of the Journey to Atlantis splashdown ride, which are inspected monthly and annually calibrated. There is no record of the alarms going off due to detection of unsafe levels of methane.

SeaWorld provided a copy of an April, 2015, letter to the City of San Diego Local enforcement Agency and Environmental Services Department with the most recent periodic landfill gas monitoring data associated with the Journey to Atlantis Soil Gas Probes. SeaWorld utilizes monitoring equipment to sample the vapor wells to sample for targeted constituents associated with landfill gases. The soil gas probes sample for carbon dioxide, oxygen, methane, and hydrogen sulfide. The April, 2015 report indicates that all trace gases are below the reporting levels that would indicate potential risk to human health or the environment.

SeaWorld also submitted a December, 2014, Export Material Characterization Study, which utilized soil borings to analyze the soils under the proposed excavation area. The tests boring were done to the same depth as the proposed excavation for the expanded orca facility. The study noted that the soils of the project site consist of approximately 14 feet of dredged fill overlaying at least 16 feet of Quarternary-age bay deposits. The groundwater table is generally shallow at 6-10 feet in elevation relative to SeaWorld datum. Four borings were taken within the proposed orca tank footprint in September, 2014. The boring samples were then screened, and levels of constituents were below detection limits for polyaromatic hydrocarbons, butylins, phthalates, phenols, chlorinated pesticides, chlordane, polychlorinated biphenyls, and total petroleum hydrocarbons. The study concludes that chemical levels are below levels that would trigger concern, and no special handling or disposal options are anticipated to be necessary and beneficial reuse may be considered.

Furthermore, because the groundwater table is fairly shallow on the SeaWorld leasehold, the RWQCB requires that monthly dewatering testing and reporting be done for dewatering activities in SeaWorld, such as with the Manta rollercoaster attraction. These reports record the initiation and termination of dewatering activities, as well as the quantity of dewatering, and analysis of the constituents contained in the water itself.

Geologic Hazard

The March 17, 2015 Christian Wheeler geotechnical report indicates that the soils at the site are susceptible to liquefaction in the event of a major earthquake on the Rose Canyon Fault (1.5 miles from the site) could produce liquefaction-induced settlement of 5-8 inches, and differential settlement of 3.5-5.5 inches. The report contains recommended foundation mitigation measures to protect against such liquefaction induced settlement. In addition, large buoyant forces would act on the underground habitats (tanks) during liquefaction, potentially disrupting them and causing damage or failure in the event of an earthquake. These forces can be mitigated by the use of tie-downs and tie-back anchors, specifications for which are included in the report. The Commission's staff geologist, Dr. Mark Johnsson, has reviewed this report and concurs with its conclusions. Accordingly, in order to be fully consistent with Coastal Act section 30253, the Commission finds it necessary to impose **Special Condition No. 2** to require that all recommendations contained in the March 17, 2015 geotechnical report prepared by Christian Wheeler be complied with during final design and construction plans of the proposed project.

Because SeaWorld continues to intake and discharge water in and out Mission Bay, and because storm water runoff from the site and water from the expanded tanks will eventually enter the bay, **Special Condition No. 4** requires SeaWorld to submit a final drainage plan that ties into the existing treatment system currently serving the park, which the Commission and other agencies have found adequate to treat such outflows. Additionally, because the proposed expansion of the orca pools will involve a large amount of excavating and spoil disposal, **Special Condition No. 6** requires SeaWorld to submit proof that it has secured a legal disposal site outside of the Coastal Zone for the graded material.

In conclusion, the water quality data submitted both for the current proposal as well as past developments approved by the Commission, in conjunction special conditions regulating water quality and geologic hazard mitigation measures, means the proposed development will not

adversely impact the water quality of coastal waters or increase geologic hazards and is found in conformance with Chapter 3 of the Coastal Act.

F. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed orca facilities will be located within the developed boundaries of SeaWorld, near the center of the park leasehold, southeast of and connected to the existing Shamu Stadium. The proposed development is designed to be visually consistent with the existing adjacent structure. The proposed improvements are substantially below-grade, and the above-grade improvements will be approximately 17 feet in height, and will not be visible from outside of the park leasehold.

Mission Bay Park is recognized nationally as a public resource providing a wide variety of passive and active recreational opportunities in a unique, visually-pleasing setting. The park is generally horizontal in character, consisting primarily of rolling grassy areas, sandy beach, and open water. There are a number of commercial leaseholds scattered throughout the park, which have been developed to various intensities. For the most part, the structural improvements in Mission Bay Park are low scale and do not detract from the wide open feeling of the park. Limited exceptions exist in four hotel towers (Hyatt Islandia, Bahia, Catamaran, and Hilton) and three attractions at SeaWorld (the observation tower, the gondola ride, and the splashdown ride). The majority of these structures predate the Coastal Act and the City's 30-ft. coastal height limit overlay zone passed by City voters in the 1970's.

In 1998, SeaWorld sponsored, and City voters approved, an initiative exempting its leasehold from the City's 30-foot coastal height limit overlay zone. This initiative allowed future development within the leasehold to go as high as 160 feet – half the height of the existing observation tower. The splashdown ride was approved by the Commission subsequent to this exemption and the 2002 updates to the certified Mission Bay Park Master Plan and the SeaWorld Master Plan incorporated the initiative exemption. However, the majority of the facilities at Sea World are completely or largely screened from the surrounding park and bay. The gondola ride, which supports are 100 feet tall, is in an area of existing mature vegetation that is sixty to eighty feet in height and provides screening. The currently developed portions of SeaWorld are heavily landscaped with a variety of mature trees, shrubs, and groundcovers. Many existing trees are 60-80 feet tall and effectively screen the interior of the park from views outside SeaWorld. In addition, the existing landforms and development in this area obscure any view of Mission bay across the historic leasehold itself.

All of Mission Bay Park is a highly scenic public recreational resource, such that protection and enhancement of visual amenities is a critical concern for any proposed development in the park. The appropriate height of any proposed structure must be thoroughly analyzed, taking into

consideration the specific details, siting, scale, and bulk of the proposed development, the nature of surrounding development, and the potential for cumulative impacts from additional future development. The proposed orca facility expansion is located within, but not along the perimeter of, the existing enclosed Sea World theme park, near the center. As the facility will be an expansion of pools used by the orcas, the majority of the development will be at or below grade, and no part will exceed 30 feet in height. Due to the existing mature vegetation throughout much of the developed park, buildings 30 feet in height or lower cannot be readily seen from outside the park.

The Commission's primary concern with respect to view preservation is to assure that views currently available to the general public recreating in Mission Bay Park are not obscured or significantly degraded. The public recreational amenities at South Shores Park are located immediately east of the SeaWorld leasehold, but significantly distant from the proposed development. Across the Pacific Passage to the north of the leasehold lies Fiesta Island. Along with South Shores, this is the last remaining large piece of undeveloped parkland designated for public recreational uses. Like South Shores, anticipated improvements include grassy picnic areas, open play areas, restrooms, and parking lots. These two areas are the closest to the SeaWorld leasehold, and thus most likely to be affected by development within the park.

SeaWorld has submitted photos to show the view of the leasehold from a number of exterior locations, including SeaWorld Drive and Ingraham Street. The proposed development will not be visible from any of the vantage points due to intervening development, mature vegetation, and space to soften the view. Due to the roadside berm and distance across the parking lots, the development is not readily discernable from Sea World Drive.

To ensure that the proposed development will not impact views, **Special Condition No. 2** requires SeaWorld to adhere to approved final plans, which show the development to be completely under 30-feet in height. Thus, the Coastal Commission finds the proposed development visually compatible with the surrounding existing development, with no adverse impact on the existing scenic coastal area.

G. REIMBURSEMENT IN CASE OF CHALLENGE

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition No. 9** requiring reimbursement for any costs and attorney fees that the Commission incurs in connection with the defense of any action brought by a party other than the applicant challenging the approval or issuance of this permit.

H. LOCAL COASTAL PLANNING

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

Mission Bay Park is primarily unzoned. As a whole, Mission Bay Park is a dedicated public park, and SeaWorld is designated as “Lease Area” in the certified Mission Bay Park Master Plan. The subject site is located within the City of San Diego in an area of deferred certification, where the Commission retains permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act, and thus, approval of the development, as conditioned, will not prejudice the ability of the City of San Diego to implement its certified LCP for the Mission Bay Park segment.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. A certified Environmental Impact Report (EIR 99-0618) was produced in 1999 in conjunction with the current SeaWorld Master Plan Update. Although the EIR for the Master Plan does not directly include this specific project, the EIR addresses the relevant impacts created by the project, such as visual impacts, traffic impacts, geologic hazards, noise impacts, water quality, and water conservation. The City of San Diego is the lead agency for the purposes of CEQA, and the City determined that because the 1999 EIR contemplated the type of impacts that the proposed project could produce and that the EIR recognized that SeaWorld had pre-existing marine-related facilities that would require repair and upgrades, the City did not determine that a new, project-specific EIR was required.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing final construction plans, landscaping plans, drainage plans, construction plans, disposal of graded materials, and management of the orca facility and its population will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Mission Bay Master Plan
- SeaWorld Master Plan Update
- Christian Wheeler Engineering March 17, 2015, Report of Preliminary Geotechnical Investigation
- Moffat & Nichol December, 2014, Export Material Characterization Study
- SeaWorld August 21, 2015 Noise Impact memo

In the Matter of:
CALIFORNIA COASTAL COMMISSION

TRANSCRIPT OF PROCEEDINGS

October 08, 2015

Dianne Jones & Associates

Reporting and Videography

P.O. Box 1736
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EXHIBIT NO. 16

APPLICATION NO.

6-15-0424

Unofficial Hearing

Transcript



California Coastal Commission

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3 CALIFORNIA COASTAL COMMISSION
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5 Long Beach Convention & Entertainment Center

6 Seaside Ballroom

7 300 East Ocean Boulevard

8 Long Beach, CA 90802
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10 October 8, 2015
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13 TRANSCRIPT OF PROCEEDINGS
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22 Item 14(a): Application No. 6-15-0424 (SeaWorld Orca
23 Enclosure Expansion, San Diego) Application of
24 SeaWorld San Diego to replace and expand existing
25 Orca enclosure with new 450,000 gallon and 5.2
million gallon pools and construct new restroom
facilities, at 500 SeaWorld Dr., San Diego, San
Diego County. (AL-SD)

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3	COMMISSIONER LUVÉANO	25	3	tremendous interest on all sides of the activity	
4	COMMISSIONER SHALLENBERGER	27	4	we're going to enter into right now for the next	
5	COMMISSIONER GROOM	32	5	number of hours, so this is going to be an extended	
6	COMMISSIONER HOWELL	34	6	period of time, and it's going to require all of us	
7	COMMISSIONER BOCHCO	36	7	to be considerate of each other. Again, I'll remind	
8	COMMISSIONER URANGA	42	8	folks the fire marshal has said that we need to fill	
9	COMMISSIONER COX	43	9	the seats and no more, so be respectful of that.	
10	COMMISSIONER TURNBULL-SANDERS	44	10	I'm going to again remind folks that, out	
11	COMMISSIONER MITCHELL	46	11	of respect, we don't clap, cheer, or otherwise make	
12	COMMISSIONER VARGAS	48	12	noises, but you do have the ability to express your	
13	COMMISSIONER GIBSON	49	13	opinion non-verbally. I'm going to ask my fellow	
14	ORGANIZED PRESENTATIONS		14	commissioners to be sure that you speak clearly into	
15	JOHN RILEY	49	15	the microphones in front of us because there are	
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18	LINDY DONAHUE	68	18	need to be clear in our -- in our speaking into the	
19	DR. INGRID VISSER	73	19	microphones.	
20	KIM VENTRE	84	20	And I think that we have a very clear	
21	JOHN HARGROVE	90	21	understanding of how we're going to proceed. As we	
22	JARED GOODMAN	100	22	get further into the hearing, I do want to encourage	
23	PAMELA ANDERSON	112	23	folks, there are -- we've made accommodation for a	
24	KATHLEEN DEZIO	115	24	number of organized presentations, so listen closely	
25	PATRICK BERRY	121	25	to those, if they do reflect your point of view, and	
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2	CHERIE SHANKAR	195	2	comfortable allowing for those folks to represent	
3	BILL COHEN	197	3	your voice, you may choose not to speak, even if	
4	GENESIS BUTLER	200	4	you've filled out a card. And we'll give everyone	
5	NAN BRADLEY	203	5	who wants to speak the opportunity to speak, but	
6	BRITNEY HOLSTROM	207	6	given the length of the hearing that we anticipate,	
7	CHERYL NICHOL	209	7	I just encourage folks to be thoughtful about	
8	ALEX CHARRIK	211	8	whether there is going to add some special	
9	MARIAM LEHMAN	212	9	perspective.	
10	DAN FULLEN	214	10	There could easily be ways to show your	
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12	STEPHANIE SHAW	219	12	take the time to speak. When we do get into the	
13	KATHY COHEN	221	13	hearing, the public speaking part, I'll be calling	
14	JOSHUA MCFARLAND	223	14	out a number of names in advance, and I'd ask that	
15	LIAM CRONIN	225	15	people when you hear your name if you do plan to	
16	JAMES CUNNINGHAM	226	16	speak, if you can come up, there are some seats that	
17	ALLISON CHOW	228	17	are reserved at the front for speakers and those who	
18	DANNY PRATER	230	18	are going to be speaking next, and it just will	
19	PAULINE NORIEGA	233	19	reduce the amount of time it takes for us to be able	
20	AARON LONG	234	20	to take this information in.	
21	DR. SAM DOVER	239	21	So with that, and a pile of healthy, happy	
22	HAROLD WEISS	241	22	folks who do intend to speak, I think we're about	
23	SIMONE SHELBY	243	23	ready to begin the presentation. I'll turn it over	
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<p style="text-align: right;">Page 6</p> <p>1 Kinsey. This is Item 14(a), the permit number is 2 6-15-0424, and the Applicant is the SeaWorld 3 San Diego. Just first a couple housekeeping items. 4 I'd like to draw your attention to the addendum. 5 There's a green addendum, it includes letters from 6 federal, state and local officials. There are a 7 number of letters of support, and letters of 8 opposition, ex parte communications, and there's 9 letters of response from the Applicant. Some of 10 these things due to the size are available online 11 only. And that just leads me to the amount of 12 material that's been submitted for Staff 13 consideration for this matter I believe is 14 unprecedented.</p> <p>15 I need to acknowledge the Staff in both 16 San Diego and the headquarters office. They've had 17 to work many extra hours just to handle the volume 18 of information and material that's been generated by 19 this project. I also want to thank the public for 20 that participation, I think it's safe to say that 21 the coastal development permit hearing for the -- 22 this project has served to galvanize the public's 23 interest in the killer whale population at SeaWorld. 24 And Staff has reviewed the project as we 25 review any proposed development in California's</p>	<p style="text-align: right;">Page 8</p> <p>1 coastal resources. The expansion of the Orca 2 facility could potentially impact marine habitats by 3 encouraging the take -- the taking of Orcas from the 4 wild, could impact public access through increased 5 visitor traffic loads on coastal roads, impact water 6 quality from the excavation of the expansion area, 7 as well as increase discharges from the expanded 8 Orca facility and impact visual resources from the 9 erection of new structures within Mission Bay Park.</p> <p>10 After analyzing the potential impact to the 11 project and the relevant information, Commission 12 Staff is recommending several conditions to bring 13 the project into conformance with the Coastal Act, 14 including the prohibition of the use of Orcas taken 15 after February 14th, 2014, or their genetic material 16 within the expanded Orca facility. As well as 17 conditions requiring adherence to approved plans 18 government construction staging, storage, 19 landscaping, drainage and final design.</p> <p>20 Thus, Commission Staff is recommending that 21 the Coastal Commission approve CDP No. 6-15-0424 as 22 conditioned.</p> <p>23 Slide 2. SeaWorld San Diego is located 24 upon an approximately 200-acre leasehold along the 25 southern boundary of Mission Bay Park in the city of</p>
<p style="text-align: right;">Page 7</p> <p>1 coastal zone for its consistency with the Coastal 2 Act. Alex Llerandi has lived and breathed the 3 SeaWorld project for the past several months. He 4 has been responsible for reviewing the volumes of 5 material that have been submitted, and he will 6 present this item to you today.</p> <p>7 CHAIR KINSEY: Welcome.</p> <p>8 MR. LLERANDI: Thank you. Good day, 9 Commissioners. Item 14(a), the SeaWorld Blue World 10 Orca facility expansion project. SeaWorld San Diego 11 is proposing to modify their existing Orca facility, 12 which consists of five pools totaling 5.8 million 13 gallons to reduce and relocate the existing fifth 14 pool in order to add a new sixth pool of 15 approximately 5.2 million gallons, increasing the 16 Orca facility's capacity to 9.6 million gallons.</p> <p>17 To make space for the expansion, SeaWorld 18 San Diego is also proposing to demolish a 19 neighborhood restroom and eating facility and 20 construct a new salt water restroom facility next to 21 the expanded Orca facility.</p> <p>22 Upon analysis of the relevant information 23 and multitude of public comments submitted to the 24 Commission. Commission Staff identified areas where 25 the proposed development could potentially impact</p>	<p style="text-align: right;">Page 9</p> <p>1 San Diego. The majority of the northern half of the 2 leasehold consists of the developed park area, and 3 the remaining half consists of employee and visitor 4 parking.</p> <p>5 Within the park, the project site is the 6 existing Orca facility in the southwestern portion 7 of the developed park area, also referred to as 8 Shamu Stadium. It is here where SeaWorld San Diego 9 11 Orcas reside. As well as where the Orca 10 performances occur.</p> <p>11 To serve SeaWorld's water treatment needs, 12 the park also has two water treatment plants; the 13 western treatment plant and the eastern treatment 14 plant that treats the sea water taken in from 15 Mission Bay for SeaWorld's uses as well as treatment 16 of any runoff or discharges coming from Mission 17 Bay -- SeaWorld's operations into Mission Bay.</p> <p>18 Slide 5 -- slide 4. Sorry.</p> <p>19 The existing Orca facility at SeaWorld 20 San Diego consists of five -- I'm sorry. Wrong 21 slide.</p> <p>22 What you see here on this side is the 23 existing facility as it currently looks and appears 24 at SeaWorld San Diego. This expansion was approved 25 by the Coastal Commission pursuant to CDP in 1995.</p>

<p style="text-align: right;">Page 10</p> <p>1 Currently the Orcas can swim within this pool as 2 well as the visiting public can go below grade and 3 view the Orcas underwater below -- through the 4 window along the side of the pool.</p> <p>5 Next slide.</p> <p>6 The existing eastern pool outlined in red 7 is approximately 1.7 million gallons. As part of 8 the proposed development, SeaWorld proposes to 9 excavate 35,000 cubic yards from the project area to 10 then install a new, smaller fifth pool of 450,000 11 gallons and a new sixth pool of approximately 5.2 12 million gallons.</p> <p>13 The Orca facility expansion will include an 14 improved below grade viewing area. Identified on 15 the slide is the entrance ramp -- is the entrance to 16 the ramp that would lead visitors down to a depth of 17 up to 40 feet, where large viewing windows will 18 allow the public to view the Orcas. The viewing 19 areas will also include elevators for handicapped 20 access.</p> <p>21 To the south expansion area is existing 22 life support equipment serving the Orca facility. 23 To serve the increased water capacity of the 24 expanded facility, SeaWorld's proposal will include 25 installation of 12 additional 12-foot filters in the</p>	<p style="text-align: right;">Page 12</p> <p>1 maximum depth of almost 40 feet. The proposal by 2 SeaWorld will introduce greater depth and variation 3 into the new expanded Pool F. It will reach up to 4 depths of 50 feet and will have various depths 5 throughout its layout, which SeaWorld states will 6 create a more unique environment for the Orcas 7 within SeaWorld.</p> <p>8 Slide 8.</p> <p>9 This is a rendering of proposed entrance 10 area to the below grade viewing area, which SeaWorld 11 says is designed so as to better mimic the ocean 12 environment.</p> <p>13 Slide 9.</p> <p>14 There are several government agencies at 15 the federal and state level that are involved in the 16 regulation of marine animals. With regards to the 17 Orca specifically, at the federal level, the Marine 18 Mammal Protection Act prohibits the taking of marine 19 mammals except pursuant to federal regulations. 20 Under the Marine Mammal Protection Act, the National 21 Marine Fishery Service oversees premise for the take 22 or importation of Orcas for the purpose of public 23 display, as well as maintaining the National 24 Inventory of Marine Mammals, which tracks the 25 births, deaths and transfers of captive marine</p>
<p style="text-align: right;">Page 11</p> <p>1 support building as well as upgrading the two 2 chillers and cooling towers that regulate the water 3 temperature of the Orca facility pools.</p> <p>4 Slide 6.</p> <p>5 This layout of the proposed Orca facility 6 shows the location of the various pools as they will 7 be once the development is finished. The existing 8 easternmost pool, Pool E, will be reduced and 9 relocated to the north, so as to allow construction 10 of the new Pool F.</p> <p>11 The new salt water bathroom will be 12 constructed in close proximity to the site of the 13 demolished existing restroom and restaurant facility 14 and in close proximity to the expanded Orca 15 facility.</p> <p>16 During construction of the new pool area, 17 the Orcas residing at SeaWorld San Diego will be 18 kept in the remaining existing pools, and when 19 particularly noisy construction activity will occur 20 in the expansion area, the Orcas will be moved to 21 the furthest pool from the activity until that 22 particular construction activity is completed.</p> <p>23 Slide 7.</p> <p>24 The pools of the existing Orca facility are 25 fairly uniform in design and materials, with a</p>	<p style="text-align: right;">Page 13</p> <p>1 mammals, including Orcas within the United States.</p> <p>2 Once National Marine Fishery Service has 3 approved the take or importation of an Orca and it 4 is brought to the United States, the majority of 5 oversight passes to the U.S. Department of 6 Agriculture's Animal and Plant Health Inspection 7 Service (APHIS), which conducts annual unannounced 8 inspections of facilities with captive marine 9 mammals including Orcas. The APHIS program insures 10 that the federal standards of the Animal Welfare Act 11 are being followed.</p> <p>12 While APHIS inspects for conformity of the 13 Animal Welfare Act standards, the Animal Welfare Act 14 does allow states to enact their own standards that 15 are in addition to the standards of the Animal 16 Welfare Act. At this point in time, the state of 17 California has not promulgated standards regarding 18 Orca captivity.</p> <p>19 At the state level, the California 20 Department of Fish and Wildlife manages wildlife and 21 fishery stocks in the state of California, and 22 oversees take of certain species through hunting and 23 fishing licenses. However, because the Marine 24 Mammal Protection Act specifically precludes state 25 regulation of the take of marine mammals from the</p>

<p style="text-align: right;">Page 14</p> <p>1 wild, California Department of Fish and Wildlife 2 does not regulate the take of Orcas. While the 3 California Department of Fish and Wildlife does 4 conduct inspections of aquatic facilities for the 5 presence of invasive species, Orcas are not 6 considered an invasive species.</p> <p>7 Finally, the Coastal Commission oversees 8 development along California's coastal zone that 9 could an impact on the coastal resources of 10 California.</p> <p>11 CHAIR KINSEY: Thank you. I'm going to 12 just interrupt for one moment. I've been just 13 notified that because of the number of potential 14 folks who have their cell phones or other devices 15 on, there is creating a technical program, and so 16 just for those of you who are in here, if you would 17 check and insure that you don't have your cell 18 phones on, or if you do, if you could turn them off, 19 and even for fellow Commissioners' phones are kind 20 of impeding the ability to communicate and for 21 others to hear remotely. So just ask that as a 22 favor, and we can continue with the hearing. Thank 23 you.</p> <p>24 MR. LLERANDI: Thank you, Commissioner. 25 Slide 10.</p>	<p style="text-align: right;">Page 16</p> <p>1 incentive to commit such future takes in the future, 2 which would adversely impact California's coastal 3 resources.</p> <p>4 Slide 11.</p> <p>5 To address the potential impact, Commission 6 Staff's recommendation contains Special Condition 7 One, which prohibits the occupancy of the approved 8 expanded Orca facility at SeaWorld San Diego by any 9 Orcas taken after February 14, 2014 or the use of 10 genetic material from Orcas taken after February 11 14th, 2014 at the facility. The date that was 12 chosen mirrors the date of the Virgin Pledge, a 13 pledge signed by SeaWorld where it agreed to such a 14 prohibition. Staff's recommended special condition 15 would thus incorporate this pledge into a 16 legally-binding requirement of this approved permit 17 to further strengthen the prohibition and further 18 decrease the incentive of future take of wild Orcas.</p> <p>19 Slide 12.</p> <p>20 SeaWorld San Diego occupies approximately 21 200 acres with Mission Bay Park along the southern 22 coast of Mission Bay. While SeaWorld does have 23 substantial landscaping, due to its design and 24 function the majority of the leasehold consists of 25 impervious surfaces.</p>
<p style="text-align: right;">Page 15</p> <p>1 Relying on Section 3023 of the Coastal Act 2 which protects marine resources and species of 3 special significance, Commission Staff reviewed the 4 proposed expansion with regard to how the project 5 would impact marine mammals in the marine 6 environment. Orcas are apex predators that can be 7 found residing in and traveling through California 8 waters.</p> <p>9 While not applying Section 3023 to the 10 Orcas that now exist at SeaWorld San Diego, many of 11 SeaWorld's Orcas were taken from the wild, and these 12 wild Orcas do contribute the genetic material used 13 in breeding. Commission Staff reviewed extensive 14 amounts of information, both internal and submitted 15 by the public, regarding both the regulatory 16 framework government Orcas and the effects that Orca 17 captivity could have on California's marine 18 environment and the captive marine mammals 19 themselves.</p> <p>20 In doing so, Commission Staff determined 21 that while National Marine Fisheries Service has not 22 issued a permit for taking an Orca from the wild 23 since the 1980's. Future wild take is still a 24 possibility, and that a captive Orca system such as 25 is found at SeaWorld could potentially create the</p>	<p style="text-align: right;">Page 17</p> <p>1 Furthermore, because the majority of its 2 animals live in a marine environment, SeaWorld 3 intakes salt water from Mission Bay for uses -- for 4 use in its animal habitats, as well as discharges 5 water back into Mission Bay.</p> <p>6 Mission Bay is identified under the Clean 7 Water Act as a water quality limited segment, which 8 means it does not meet water quality standards even 9 after discharges from source points are treated with 10 the minimum required levels of pollution control 11 technology.</p> <p>12 SeaWorld operates under a permit from the 13 Regional Water Quality Control Board, which governs 14 its operations. The permit oversees the levels of 15 multiple substances that may flow from SeaWorld as 16 well as the performance levels of its treatment 17 facilities.</p> <p>18 Going over the past few years of monitoring 19 reports by Staff has revealed that SeaWorld 20 consistently meets or exceeds its treatment 21 requirements for all pollutants except for me; total 22 coliform. In the few instances of exceeding the 23 monthly discharge limits for total coliform, 24 SeaWorld has conducted subsequent monitoring 25 inspections of the water treatment plants to rectify</p>

<p style="text-align: right;">Page 18</p> <p>1 any non-conformities as well as install additional 2 measures to prevent additional events.</p> <p>3 These measures were then reported on to the 4 Region Water Quality Board, who reviewed them and 5 found them satisfactory. Commission Staff has 6 reviewed these reports as well and found them 7 satisfactory as well. SeaWorld also has a current 8 total internal capacity of 11,480,000 gallons among 9 its various pools. And these pools and animal 10 habitats are interconnected in a park-wide 11 recirculated water system.</p> <p>12 Thus, while SeaWorld has a substantial 13 water capacity, it is consistently well below the 14 discharge limits contained in its Region Water 15 Quality Control Board permit. Because SeaWorld is 16 able to retain and move water internally, its 17 regular operations take water from Mission Bay only 18 as needed, such as to compensate for evaporation or 19 spillage. Because this intake can be very 20 controlled, its discharges, too, are well below 21 limits. And again, are treated before entering 22 Mission Bay.</p> <p>23 The proposed Orca facility expansion may 24 require a large one-time intake to fill it with sea 25 water once construction is complete. But subsequent</p>	<p style="text-align: right;">Page 20</p> <p>1 paving of the eastern parking area was approved a 2 few years later, the Commission looked at study data 3 from multiple local and state agencies addressing 4 the location and impacts of the landfill and found 5 that the proposed developments within the SeaWorld 6 leasehold would not pose health risks.</p> <p>7 In the case of the Journey to Atlantis 8 ride, which is only 500 feet from the western edge 9 of the landfill. Geological borings were done when 10 the foundations were built up to depths of 25 feet 11 and no trash or other detritus were found. To this 12 day, SeaWorld has multiple gas monitoring wells -- 13 gas monitoring wells around the Journey to Atlantis 14 area to detect for dangerous levels of methane and 15 other landfill gases. And to date, these alarms 16 have not gone off.</p> <p>17 The expansion area of the Orca facility is 18 1700 feet away from the landfill. Nevertheless, 19 SeaWorld conducted multiple geological borings of 20 the soil under the expansion area to check for the 21 migration of any contaminants from the landfill or 22 other sources. The geological borings failed to 23 detect levels of contaminants above what are deemed 24 unsafe levels.</p> <p>25 This report was further reviewed by</p>
<p style="text-align: right;">Page 19</p> <p>1 to this initial filling, the park will return to its 2 regular general operations of internally 3 recirculating its salt water, and thus not 4 substantially increase its salt water intake or 5 exacerbate the issues contained therein.</p> <p>6 Thus, with the existing treatment systems 7 in place, SeaWorld is meeting its water quality 8 requirements and the proposed development will not 9 present an adverse impact to the water quality of 10 Mission Bay.</p> <p>11 Slide 13.</p> <p>12 The southeasternmost portion of this 13 SeaWorld parking lot is underlined by the 14 westernmost portion of the historic Old Mission Bay 15 landfill, which operated shortly after World War II 16 and through the 1950's. This landfill accepted 17 municipal and industrial waste until it was 18 eventually shut down and buried. Because of the 19 presence of the landfill under a portion of 20 SeaWorld's leasehold, past Commission actions 21 regarding SeaWorld have periodically addressed the 22 issue of possible impacts from the landfill's 23 presence.</p> <p>24 When the Journey to Atlantis Splashdown 25 ride was approved by the Commission in 2002, and the</p>	<p style="text-align: right;">Page 21</p> <p>1 Commission staff geologist, Dr. Mark Johnson, who 2 concurred with the geological borings analysis and 3 conclusions.</p> <p>4 Slide 14.</p> <p>5 Because SeaWorld is a popular attraction in 6 Mission Bay Park, a popular coastal destination 7 itself, the impact of public access and traffic from 8 SeaWorld's visitors has always been a concern for 9 the Commission. SeaWorld submits annual traffic 10 monitoring studies to Commission Staff. For the 11 proposed project, Commission Staff reviewed the past 12 years of traffic studies as well as reports 13 summarizing the findings therein, which determined 14 that the surrounding intersections continue to 15 operate at a level of Service D or better, which is 16 considered an acceptable level of operation.</p> <p>17 The circles you see in front of you on the 18 slide are just some of the intersections that are 19 monitored around SeaWorld, further intersections 20 south of the San Diego River, which is along the 21 south of this slide are also monitored by the study. 22 The proposed project is an expansion to an 23 already-existing Orca facility, where the public can 24 already view the Orcas underwater.</p> <p>25 Nevertheless, the improvement still creates</p>

<p style="text-align: right;">Page 22</p> <p>1 the chance that attendance could increase in at 2 least the short term. As much, the traffic studies 3 also looked at the parking situation at SeaWorld 4 over the years. Monitoring has revealed that the 5 SeaWorld parking supply is 8,664 spaces, but that 6 highest parking recorded has been in the 7,000 to 7 7,500 parking space range.</p> <p>8 Thus, the proposed expansion of the Orca 9 facility is not expected to create adverse impacts 10 to coastal access in the Mission Bay Park area.</p> <p>11 Slides 15 to 16 are looking in the 12 direction of the expansion area from public areas 13 outside of SeaWorld. Because of the low-lying and 14 scenic nature of Mission Bay, visual impacts from 15 SeaWorld, by far the largest development within 16 Mission Bay, has always been a concern for the 17 Commission.</p> <p>18 Mission Bay, as is much of San Diego's 19 coastal zone, is under a 30-foot height limit. 20 While SeaWorld gained a voter-approved exemption 21 from the height limit in 1998, the design of new 22 development within the park is still a concern so as 23 to avoid impacts of public views to the greatest 24 extent feasible.</p> <p>25 However, because the majority of the</p>	<p style="text-align: right;">Page 24</p> <p>1 for adverse impacts and helps the project conform to 2 the requirements of Chapter 3 of the Coastal Act.</p> <p>3 Thus, Commission Staff recommends that CDP 4 6-15-0424 be approved as condition. The appropriate 5 motion resolution can be found on page 6 of the 6 Staff report. There are addendums to the Staff 7 report. Thank you.</p> <p>8 CHAIR KINSEY: Thank you. We are going to 9 start with our ex partes on this, and I'll turn to 10 my right, and ask for any commissioners that have 11 had ex partes beginning with Commissioner Luvéano. 12 I saw her being most ready. Please.</p> <p>13 COMMISSIONER LUVÉANO: Sorry. It's just 14 going to take me a quick minute to find it.</p> <p>15 CHAIR KINSEY: Maybe it was a false -- 16 false reading. Commissioner Shallenberger.</p> <p>17 COMMISSIONER LUVÉANO: No, no. I'm ready. 18 I'm ready.</p> <p>19 CHAIR KINSEY: Yeah, please.</p> <p>20 COMMISSIONER LUVÉANO: I'm sorry. Yes. On 21 October 1st at approximately 1:00 p.m. I had an 22 ex parte phone call with Susan McCabe, Ann Blemker, 23 John Riley, Corrine Brindley, and Hendrik Nollens. 24 We discussed the proposed Blue World project, they 25 described the Orca enclosure as providing a more</p>
<p style="text-align: right;">Page 23</p> <p>1 proposed expansion, the Orca facility is below 2 grade, and it will not be taller than the existing 3 stadium facility, has little potential to adversely 4 impact coastal views.</p> <p>5 These photos show how SeaWorld is screened 6 by trees of up to 60 feet in height, and that they, 7 coupled with the existing development already in 8 place around the expansion site, means that the 9 proposed development will not be viewable from the 10 public areas of Mission Bay Park outside of 11 SeaWorld. Thus, there are no adverse impacts on 12 coastal views with this proposed project.</p> <p>13 Slide 17.</p> <p>14 In conclusion, Commission Staff thoroughly 15 reviewed the proposed development with regards to 16 impacts to marine resources, water quality, public 17 access and visual resources. Recognizing the large 18 amount of public comment and attention that this 19 subject development has garnered, Commission Staff 20 considered all the relevant information submitted by 21 the public in determining actual and potential 22 impacts posed by the expansion.</p> <p>23 By looking at potential impacts to wild 24 Orcas, water quality and public access, conditions 25 were drafted that adequately minimizes the chance</p>	<p style="text-align: right;">Page 25</p> <p>1 natural environment for the animals, they described 2 a fast water current that the animals can swim 3 against and generally described the other attributes 4 of the project.</p> <p>5 They also mentioned that there has been a 6 \$10 million pledge and matching grants to help fund 7 research for Orcas. Dr. Nollens discussed the life 8 expectancy of the Orcas. He mentioned that two 9 peer-reviewed studies have found no difference in 10 life expectancy between Orcas in the wild and in 11 captivity, and that in some cases they live longer 12 in captivity --</p> <p>13 (Interruption.)</p> <p>14 COMMISSIONER LUVÉANO: He stated that they 15 do not separate calves unless calves are at risk. 16 He said they have three generations living in the 17 facility. He discussed breeding, he said that 18 whales at SeaWorld engage in normal breeding 19 behavior, that they also do artificially inseminate 20 whales and that allows SeaWorld to maintain genetic 21 diversity without moving the whales.</p> <p>22 He said that SeaWorld has not collected 23 whales from the wild in more than 35 years, three 24 whales have been collected in the wild, their ages 25 are 38, 39 and 51. They also mentioned the signing</p>

<p style="text-align: right;">Page 26</p> <p>1 of the Virgin Pledge and reaffirmed that they would 2 not be taking genetic material from whales collected 3 after that date.</p> <p>4 I asked about taking genetic material from 5 whales collected prior to that date and the answer 6 was yes, that that's a possibility.</p> <p>7 They discussed some of the attributes of 8 the new enclosure including hydrophone arrays and a 9 variety of other things they had mentioned that they 10 support the Staff recommendations with all 11 conditions.</p> <p>12 And that's it.</p> <p>13 CHAIR KINSEY: Thank you. Commissioner 14 Shallenberger?</p> <p>15 COMMISSIONER SHALLENBERGER: On -- thank 16 you, Chair Kinsey. On Wednesday, September 30th, I 17 believe, at approximately 9:00 in the morning I had 18 a telephone conversation with Sara Wan. She said 19 that -- that Staff, she agrees with the Staff, that 20 we are not fed -- there is no federal preemption 21 here. She said that the Staff report includes the 22 condition that would allow them to breed; them being 23 SeaWorld as much as they wanted, and that SeaWorld 24 has been quoted saying it is going to use the new 25 tank for breeding.</p>	<p style="text-align: right;">Page 28</p> <p>1 family bonds. She said the Southern Resident 2 population in the United States is considered 3 endangered because the entertainment industry in the 4 past had taken so many from the wild that it 5 decimated the population.</p> <p>6 She said that Condition One allows SeaWorld 7 to turn the new tank into a breeding tank, and there 8 are no meaningful reproductive guidelines for Orcas, 9 which is what the Staff report references that they 10 need to be within those guidelines, but Ms. Wan says 11 there are no such guidelines.</p> <p>12 Then on -- sorry, I had my pen in here and 13 then lost it. Monday, October 5th at about 4:30 in 14 the afternoon I had a telephone conversation with 15 Jared Goodman from PETA. They oppose the project, 16 it does nothing to better the lives of the existing 17 captive whales. He said -- he talked about the 18 business model for SeaWorld and said that that's 19 what this is really about. That two days after 20 their stock dropped 30 percent is when they 21 introduced this new concept.</p> <p>22 She -- he said that large wild animals, 23 mammals, should not be used for entertainment. He 24 said the construction project itself would be 25 incredibly stressing to the -- the construction</p>
<p style="text-align: right;">Page 27</p> <p>1 She said there is a continued -- it also 2 says that there is a continued, quote, need for new 3 genetic material and she explained that Russia or 4 anybody else who was not under the United States 5 could capture from the wild and then breed so that 6 their offspring could then be used as part of the 7 new genetic material.</p> <p>8 She said that Section 30230, that the 9 Commission has in fact applied this in the past, and 10 that Staff cited one in the Staff report, but that's 11 actually the only time that she was aware of where 12 it could have been applied, so she feels that it is 13 absolutely we can apply it here.</p> <p>14 She said she'd go through the analysis; on 15 one hand it says you can't apply, meaning the Staff 16 report 30230, but in fact the Staff condition does 17 apply to 30230. So there's an internal 18 inconsistency. She said that U.C. Santa Cruz and 19 Scripps both do research, but -- but in this, with 20 SeaWorld we're talking about animals for 21 entertainment and not research.</p> <p>22 Staff says Orcas are species of special 23 concern. They are definitely marine resources and 24 nothing in 30230 says it applies only to animals in 25 the wild. Orcas are very social and have strong</p>	<p style="text-align: right;">Page 29</p> <p>1 project itself would be incredibly stressing to the 2 animals, and stress can make them aggressive. 3 There's no benefit to the animals 350 feet long 4 where in nature they -- they swim much farther than 5 that -- I didn't write down the number, but he 6 equated their normal whales, how much they swim in 7 the wild, a whale would have to do 1500 laps in a 8 single day to approximate their wild condition.</p> <p>9 He also talked about the teeth of the Orcas 10 which get broken on the concrete walls and have to 11 be drilled out by veterinarians and then flushed 12 with peroxide to keep them clean. But that doesn't 13 necessarily mean that they don't get infected.</p> <p>14 He said that Orcas in captivity are 15 sometimes administered Diazepam to manage their mood 16 and it's because it's -- and to manage behaviors 17 which are not normal to the Orcas in the wild.</p> <p>18 SeaWorld is saying the added tank will -- 19 okay, that's like you're on your own, sweetie -- 20 moving forward, actually it doesn't -- oh, SeaWorld 21 is saying that this would lead to more education, 22 conservation, but studies have shown that it's just 23 the contrary, that wild -- wild animals when they're 24 in captivity trained to do tricks and entertainment 25 do not actually educate the public at all about the</p>

<p style="text-align: right;">Page 30</p> <p>1 need for these animals in the wild.</p> <p>2 The Animal Welfare Act says that states --</p> <p>3 very specifically says that states may pass more</p> <p>4 productive measures.</p> <p>5 And then finally, on Tuesday night of this</p> <p>6 week at about 6:00 p.m. I had a conversation with</p> <p>7 the folks from SeaWorld. I'll bring up their --</p> <p>8 here's their names. Hendrik Nollens, Senior Vice --</p> <p>9 Senior Veterinarian for SeaWorld; Darlene Walker,</p> <p>10 the VP of Engineering; Corrine Brindley, Government</p> <p>11 Affairs; John Riley, the park president, and Susan</p> <p>12 McCabe.</p> <p>13 I had already reviewed the briefing</p> <p>14 documents that they had sent, they said that their</p> <p>15 project was -- had three goals, breeding goals, were</p> <p>16 to maintain the species in zoos, to maintain genetic</p> <p>17 diversity, and I think I forgot to write down the</p> <p>18 third.</p> <p>19 Now, I asked about the breeding stock they</p> <p>20 have now, they have two youngsters in SeaWorld, a</p> <p>21 10-month old and a two-month old, he said that</p> <p>22 breeding moves very slowly because of the gestation</p> <p>23 period, and how long the calves -- lactation for the</p> <p>24 calves. So there's generally about a five-year</p> <p>25 interval between calving.</p>	<p style="text-align: right;">Page 32</p> <p>1 On September the 15th at 9:30 a.m., in</p> <p>2 Redwood City I met with Jared Goodman of PETA and</p> <p>3 John Hargrove, who is a former SeaWorld employee.</p> <p>4 The conversation was substantially the same as -- as</p> <p>5 Commissioner Shallenberger.</p> <p>6 On September the 30th, in Redwood City I</p> <p>7 met with Susan McCabe, John Riley, Darlene Walter,</p> <p>8 Christie Burkas and Corrine Brindley, all from</p> <p>9 SeaWorld and the conversation was also the same</p> <p>10 as -- as that of Commissioner Shallenberger.</p> <p>11 And on September 30th at 3:00 p.m. I had a</p> <p>12 telephone conversation with Sara Wan, and it was</p> <p>13 also the same as Ms. Shallenberger, and these are</p> <p>14 all on file.</p> <p>15 CHAIR KINSEY: Thank you. Commissioner</p> <p>16 Howell?</p> <p>17 COMMISSIONER HOWELL: Thank you, Chair</p> <p>18 Kinsey. On October 4th at 2:00 in Pismo Beach I had</p> <p>19 a telephone conversation with Sara Wan, which was</p> <p>20 very similar to the conversation that Commissioner</p> <p>21 Shallenberger had. On a drive down Pismo Beach, I</p> <p>22 had a telephone conversation at 10:30 on the 6th of</p> <p>23 October with Jared Goodman and Stephanie Shaw, and</p> <p>24 it was -- it was similar to the conversations that</p> <p>25 Commissioner Shallenberger had.</p>
<p style="text-align: right;">Page 31</p> <p>1 The intent of this project is to have a</p> <p>2 better home for the animals, a better experience for</p> <p>3 the public, and to help with research. They don't</p> <p>4 believe the Coastal Commission has jurisdiction over</p> <p>5 the whales, or that there are any land use issues in</p> <p>6 their project.</p> <p>7 They said that they, in this hearing they</p> <p>8 are going to clarify that they do not -- they're not</p> <p>9 going to use any genetic material from those whales</p> <p>10 collected in Russia in 2012, and apparently nobody</p> <p>11 seems to really know how many whales were collected</p> <p>12 or where they are.</p> <p>13 That was it. Thank you.</p> <p>14 CHAIR KINSEY: Thank you. Commissioner</p> <p>15 Groom. Oh, before -- Commissioner Luévano had</p> <p>16 perhaps one -- one more, we'll get through this,</p> <p>17 this is important.</p> <p>18 COMMISSIONER LUVÉANO: Sorry. Yes. At</p> <p>19 approximately, it looks like 4:38 a.m. this morning</p> <p>20 I received an e-mail from Lori Lipsman, resident of</p> <p>21 San Diego, stating her opposition to the Blue World</p> <p>22 project.</p> <p>23 CHAIR KINSEY: Thank you. Commissioner</p> <p>24 Groom.</p> <p>25 COMMISSIONER GROOM: Thank you, Mr. Chair.</p>	<p style="text-align: right;">Page 33</p> <p>1 There was a few additional comments that</p> <p>2 they made, which was that SeaWorld's expansion plan</p> <p>3 would be an enormous step backwards from animals'</p> <p>4 use in the entertainment industry at a time when</p> <p>5 public opinion has shifted away from captivity.</p> <p>6 They also point out that decision makers in</p> <p>7 the state are working hard to put an end to this,</p> <p>8 and they also, I guess, alerted me to the fact that</p> <p>9 even thought these tanks would be larger, the</p> <p>10 numbers of Orcas in them would also -- could also</p> <p>11 increase dramatically as well, up to as much as 20.</p> <p>12 And so the potential was that the Orcas may very</p> <p>13 well have less tank space then they have now.</p> <p>14 Thank you.</p> <p>15 CHAIR KINSEY: Thank you. Commissioner</p> <p>16 McClure.</p> <p>17 COMMISSIONER MCCLURE: Yes, thank you. I</p> <p>18 had a phone conversation on October 1st with Sara</p> <p>19 Wan, and the substance of our conversation has been</p> <p>20 shared by fellow commissioners. On the 5th of</p> <p>21 October at 6:30 in Long Beach I met with Susan</p> <p>22 McCabe, John Riley, Corrine Brindley, Darlene Water</p> <p>23 and Hendrik Nollens, with Susan McCabe and my</p> <p>24 husband, Ky, was also in attendance, and we reviewed</p> <p>25 the briefing booklet, talked a bit about the</p>

<p style="text-align: right;">Page 34</p> <p>1 different aspects of the breeding program, and 2 talked about the expansion of the tanks. 3 And this morning I met with Dr. Naomi Rose, 4 along with Commissioners Bochco and Groom, and we 5 talked about the science of the Orcas and she was 6 extremely concerned that there was information that 7 SeaWorld possibly has but they don't share with the 8 scientific community, and finds that very 9 disturbing. 10 And I also had about a three-minute 11 conversation with Jennifer Fearing about the need to 12 not have a breeding program at SeaWorld. 13 That's it. 14 CHAIR KINSEY: Thank you. Commissioner 15 Groom, did you just want to confirm that one -- 16 COMMISSIONER GROOM: Yes, I forgot to say 17 that I also met with -- 18 CHAIR KINSEY: Ms. Rose? 19 COMMISSIONER GROOM: Naomi Rose this 20 morning along with Commissioners Bochco and McClure. 21 CHAIR KINSEY: Thank you. Vice Chair 22 Bochco. Vice chair -- yes, for you. 23 VICE CHAIR BOCHCO: Oh, I'm sorry. 24 CHAIR KINSEY: That's okay. I knew you 25 would be ready.</p>	<p style="text-align: right;">Page 36</p> <p>1 2nd a call from George Kieffer at Manatt, a law 2 firm in Los Angeles, he represented SeaWorld. 3 Mr. Kieffer wanted to discuss the jurisdictional 4 issue. He believed that the federal laws were 5 preemptive, but in particular that Public Resources 6 Code 30411(b) gives the California Fish and Wildlife 7 agency authority to -- I'm sorry -- the authority to 8 regulate captivity, and since they chose not to 9 impose controls, we are exceeding their regulatory 10 controls. 11 I found that a bit contradictory in the 12 code, but I'll discuss that later. 13 Then on October 2nd, I had a 3:15 telephone 14 conversation with Jared Goodman. It was -- from 15 PETA. It was similar to those discussed before, 16 except we went into a little more detail about the 17 history of the animals in captivity. He said PETA 18 sees this as a step backward, which I think you've 19 heard before. The legislature is moving towards the 20 protection of animal welfare in captivity. He cited 21 the elephant in the circus example. And he said 22 unlike Ringling Brothers who saw public opinion 23 going against the elephants performing, and who 24 voluntarily quit the practice, PETA thinks SeaWorld 25 is trying to prop up their failing business model by</p>
<p style="text-align: right;">Page 35</p> <p>1 VICE CHAIR BOCHCO: On September 29th, at 2 1:30 in the afternoon, I had a meeting in my office 3 with Susan McCabe, John Riley, Corrine Brindley, 4 Darlene Walter and Lindsay (sic) Donahue from 5 SeaWorld, and we covered the presentation booklet as 6 other Commissioners have stated. Then we had a 7 little bit of a conversation about the language in 8 Condition One. 9 I asked what would keep them from expanding 10 to the full 90-whale capacity, they said they have 11 11 whales now, the most they've ever had, it's up 12 from 10, which was the most they've ever had in the 13 history of the facility. 14 They also said the facility's life support 15 system, the filtration water quality system, could 16 not support many more whales than they have now. 17 They would have to come for a CDP to upgrade that 18 system. 19 When I asked what their position might be 20 if we -- if they were asked to stop breeding in 21 captivity, Ms. Donahue, who is actually the senior 22 trainer there stated that it would be a very cruel 23 thing to deprive these animals of the rewarding 24 behavior of being a parent. 25 Then I had on 3:00 o'clock at -- on October</p>	<p style="text-align: right;">Page 37</p> <p>1 acting as if the animals are well off and their 2 practices are good for research. 3 PETA does not believe the enlarged tank 4 will benefit the Orcas in any way, since the '80s, 5 after it was discovered that Orcas were exhibiting 6 aggressive towards each others and trailer, SeaWorld 7 tripled the size of the tank. It made no difference 8 in the animal behavior. Dominant animals were 9 raking each other, biting them so their skin would 10 bleed, and SeaWorld was also decide -- so SeaWorld 11 decided to pull their trainers from the water 12 because of this aggression. 13 When the San Diego was trainer was recently 14 killed, investigation showed there were over a 15 hundred acts of aggression in the SeaWorld's file. 16 The construction noise will be very hard on 17 these animals. In the past, hammering from a much 18 smaller project created disturbed and aggressive 19 behavior. Orcas actually tried to jump out of the 20 pool at their trainers. There is no evidence that 21 performing animals increase -- there is no evidence 22 the performing animals increase the awareness of 23 conservation by the public. 24 In fact, there is some evidence that the 25 public is lulled into believing that the species</p>

<p style="text-align: right;">Page 38</p> <p>1 must be fine since here they are entertaining us. 2 PETA does not believe that SeaWorld will not try to 3 increase the number of whales. With no restrictions 4 on transportation, artificial insemination and 5 purchase of whales born in captivity, the chances are 6 very great that they will increase the numbers. 7 As an aside, to prove this point, PETA told 8 me that there had been a SeaWorld-trained whale and 9 trailer in Spain. The whale killed the trainer -- 10 I'm sorry, some of this is kind of vague because I 11 can't write that fast -- the whale killed the 12 trailer, SeaWorld pulled trainers from the pools for 13 about two months, but upon returning to standard 14 policy, they told the trainers that the top priority 15 was to get the Orcas pregnant. I don't know what 16 that -- 17 Okay. Sarah Wan, September 29th, 3:00 p.m. 18 Basically we covered what has been said before. 19 This morning, with my fellow Commissioners, we had 20 breakfast with Naomi Rose, 7:40 this morning at the 21 hotel dining room, she's with the Animal Welfare 22 Institute, she has studied all kinds of issues with 23 marine mammals, noise, sonar, safety for whale 24 watchers and whales in the whale-watching industry. 25 She's been studying stress hormones in the</p>	<p style="text-align: right;">Page 40</p> <p>1 you talk to the SeaWorld people. She said that 2 there is a great deal of love and affect from the 3 SeaWorld people to their animals, but they aren't 4 really aware of the normal whale behavior in the 5 wild because they really have only spent time with 6 these whales. 7 I'm sorry. 8 She said in 1994 she was testifying before 9 Congress about the amendment to the Marine 10 Protection -- Marine Mammal Protection Act, and that 11 SeaWorld was there to lobby to end the jurisdiction 12 of MMPA over captive livestock, which happened. 13 We also discussed what would be the best 14 thing to do with the whales, and she said they 15 should be moved into sea pens, and other 16 Commissioners and myself were curious as what does 17 it take to build a sea pen, and she said it really 18 only takes about two to \$5 million. There are 19 active sea pens on the California coast, I think 20 there's one in Oregon as well, there's one in 21 Iceland. 22 The tank that SeaWorld is building costs a 23 hundred million dollars, so it just seemed as if 24 that might be an interesting alternative for 25 everyone to look to. It would be -- the business</p>
<p style="text-align: right;">Page 39</p> <p>1 Orca scat. As a point of interest the dog are now 2 trained to point the snack up -- the scat out on the 3 water, and then they can go collect it to see the 4 hormones and DNA. 5 I asked if SeaWorld gave any information on 6 these studies, and she said they've been very 7 reluctant to allow scientists in who have not been 8 openly supportive of their business model. 9 (Audience interruption.) 10 VICE CHAIR BOCHCO: Excuse me. She said no 11 research has been done on the teeth-grinding issue 12 by outsiders in the SeaWorld environment. There are 13 teeth-grinding issues in the wild, and they would 14 have looked to have been able to collaborate and 15 find out what SeaWorld is learning in captivity. 16 We had a lot of conversations about the 17 teeth. 18 It says SeaWorld misleads regarding the 19 problems that appear at the -- at the park. If they 20 were more open and transparent to outside 21 scientists, she thinks it would help not only with 22 the perception of SeaWorld, but also the research 23 that could be had. 24 She mentioned that there is a corporate 25 narrative that you'll hear time and time again when</p>	<p style="text-align: right;">Page 41</p> <p>1 model would be instead of like the San Diego zoo, it 2 would be more like the San Diego Wildlife Safari 3 Park, where the animals are free to roam and people 4 still have the enjoyment of seeing them. 5 (Audience interruption.) 6 VICE CHAIR BOCHCO: And that's enough. 7 CHAIR KINSEY: Thank you. Commissioner 8 Uranga. 9 COMMISSIONER URANGA: Thank you, Chair 10 Kinsey. On October 5th at approximately 3:00 p.m. I 11 had a phone discussion with Jared Goodman, 12 representing PETA, and the topic was the SeaWorld 13 Blue World project. We had a lengthy discussion 14 about the treatment of the Orcas in the tank, and 15 that in reality the new tanks will fail to provide 16 adequate space and range of motion for natural 17 behavior, have the same devastating physical and 18 psychological effects on marine mammals, leading to 19 distressing stereotype behavior observed only in 20 captivity, negatively affect local landscape and 21 delay true conservation efforts, and will work 22 against overwhelming political opinion, which favors 23 retiring captive Orcas to coastal sanctuaries. And 24 I have other ex partes on file. 25 CHAIR KINSEY: Thank you. Commissioner</p>

<p style="text-align: right;">Page 42</p> <p>1 Cox.</p> <p>2 COMMISSIONER COX: Thank you, Mr. Chairman.</p> <p>3 On October 2nd at 4:15 p.m., in the afternoon, I had</p> <p>4 a chance to go on site at the SeaWorld facilities.</p> <p>5 In attendance was a member of my staff, Greg Murphy,</p> <p>6 also in attendance was John Riley, Corrine Brindley,</p> <p>7 Darlene Walter, Dr. Ann Bowles, Dr. Todd Schmitt,</p> <p>8 and Ann Blemker.</p> <p>9 I participated in a tour of the</p> <p>10 Hubbs-SeaWorld Research Institute and the SeaWorld</p> <p>11 facilities, during the tour I received an update</p> <p>12 from SeaWorld representatives regarding the Blue</p> <p>13 World project for expansion of the existing Orca</p> <p>14 habitat with the new marine aquarium-themed exhibit,</p> <p>15 an immersive Orca habitat experience.</p> <p>16 We went through a briefing book that had</p> <p>17 previously been provided to staff and discussed the</p> <p>18 project's consistency with the SeaWorld master plan,</p> <p>19 which is part of the San Diego LUP, and applicable</p> <p>20 policies of the Coastal Act including those related</p> <p>21 to public access, views and water quality.</p> <p>22 At the time of our meeting the Applicants</p> <p>23 states they were in agreement with the Staff report</p> <p>24 recommendations and special conditions, and the</p> <p>25 Applicant requests approval of the Blue World</p>	<p style="text-align: right;">Page 44</p> <p>1 Department of Agriculture for violations of the</p> <p>2 Animal Welfare Act.</p> <p>3 And he also said that captive Orcas do not</p> <p>4 conserve the species because it sends a message that</p> <p>5 their populations are fine, and if they're used for</p> <p>6 shows they must be fine. He said there is no</p> <p>7 evidence that viewing animals in captivity was the</p> <p>8 result in changes in public attitudes about a</p> <p>9 specie's endangered or special status. And believed</p> <p>10 that the Coastal Act should be viewed broadly.</p> <p>11 On October 3rd at 9:00 a.m. I had a meeting</p> <p>12 in person with Sara Wan. During that meeting most</p> <p>13 of the -- most of what she said has already been</p> <p>14 related by other Commissioners. I'll add the</p> <p>15 portions that were in addition to that. Ms. Wan</p> <p>16 argued that there is a loophole in the Virgin Pledge</p> <p>17 in that SeaWorld could purchase captive-born Orcas</p> <p>18 that were borne from animals that were captured in</p> <p>19 the wild, and that the SeaWorld pledge that they</p> <p>20 will not introduce new wild Orcas would be easily</p> <p>21 circumvented.</p> <p>22 That's it for the additions for Ms. Wan's</p> <p>23 ex parte.</p> <p>24 I also had an ex parte with SeaWorld on</p> <p>25 October 3rd at -- at approximately 11:00 a.m.</p>
<p style="text-align: right;">Page 43</p> <p>1 project by the Commission at its October meeting.</p> <p>2 Thank you.</p> <p>3 CHAIR KINSEY: Commission Turnbull-Sanders.</p> <p>4 COMMISSIONER TURNBULL-SANDERS: On October</p> <p>5 2nd, at approximately 11:00 a.m., I had an ex parte</p> <p>6 telephone call with Jared Goodman of PETA. The</p> <p>7 substance of our conversation, most of -- most of</p> <p>8 it's already been reported by other Commissioners;</p> <p>9 however, there are a few additional things that I'd</p> <p>10 like to add.</p> <p>11 Mr. Goodman was opposed to the idea of</p> <p>12 having the Orcas being forced to perform, held in</p> <p>13 incompatible groups. He does not want new Orcas</p> <p>14 introduced and it would allow them to keep breeding</p> <p>15 and causing suffering to the animals. He mentioned</p> <p>16 that the CEO of SeaWorld admitted that with the</p> <p>17 expansion of the tanks, SeaWorld would be</p> <p>18 introducing additional animals and continue to</p> <p>19 breed.</p> <p>20 He also stated that the -- that SeaWorld</p> <p>21 had already committed to the Virgin Pledge, so</p> <p>22 adding that to a condition to the Staff as a</p> <p>23 condition to this permit is meaningless. He also</p> <p>24 mentioned that he had filed numerous lawsuits</p> <p>25 against SeaWorld and filed complaints with the U.S.</p>	<p style="text-align: right;">Page 45</p> <p>1 During that meeting, the persons presence -- present</p> <p>2 were Ann Blemker, John Riley, Corrine Brindley,</p> <p>3 Darlene Walter, Dr. Hendrik Nollens, and during that</p> <p>4 meeting most -- again, most of what was discussed</p> <p>5 was relayed by other commissioners. However,</p> <p>6 SeaWorld did -- when I brought up the issue of</p> <p>7 whether there was a loophole in the Virgin Pledge,</p> <p>8 SeaWorld said that they would agree to add</p> <p>9 clarifying language to make sure that SeaWorld could</p> <p>10 not purchase the calves in captivity that born from</p> <p>11 wild-caught parents.</p> <p>12 In addition, SeaWorld also stated that they</p> <p>13 may be willing to cap the numbers in the new whale</p> <p>14 facility should a permit be issued.</p> <p>15 CHAIR KINSEY: Commissioner Mitchell.</p> <p>16 COMMISSIONER MITCHELL: Thank you,</p> <p>17 Mr. Chair. First, per the Coastal Commission</p> <p>18 regulations, I -- any ex partes before seven days of</p> <p>19 this hearing are on file. In addition, on October</p> <p>20 the 2nd, I had a meeting with Sara Wan at 3:30 in</p> <p>21 person in Los Angeles, the substance of which has</p> <p>22 been covered by previous Commissioners.</p> <p>23 In addition, at 4:15 that day -- excuse me,</p> <p>24 I had a meeting with Jared Goodman, I had a phone</p> <p>25 conversation with Jared Goodman of PETA, the</p>

<p style="text-align: right;">Page 46</p> <p>1 substance of which has been covered.</p> <p>2 On October the 5th I received a phone</p> <p>3 message from Scott White representing SeaWorld and</p> <p>4 labor unions requesting to speak with me, and we did</p> <p>5 not actually connect, but he said they would not be</p> <p>6 able to build the expansion of the Sea -- of Blue</p> <p>7 World if they were not allowed to continue to breed.</p> <p>8 And also -- excuse me -- today at 10:30 I had a</p> <p>9 conversation with Jennifer Fearing of Fearless</p> <p>10 Advocates, which is the best name of a firm I've</p> <p>11 ever heard, representing the Humane Society of the</p> <p>12 U.S., and while they are supportive of the project,</p> <p>13 they did -- they're supportive only if the breeding</p> <p>14 and -- is limited or if there is no extension of</p> <p>15 breeding. So, thank you.</p> <p>16 CHAIR KINSEY: Thank you. Commissioner</p> <p>17 Vargas.</p> <p>18 COMMISSIONER VARGAS: Thank you. I had</p> <p>19 most of my ex partes after the seven-day cutoff</p> <p>20 except for one. I had a communication with Sara Wan</p> <p>21 on October 1st at 5:00 p.m. via telephone. I</p> <p>22 received a briefing, an electronic briefing book</p> <p>23 from Sara, who is requesting that the project be</p> <p>24 denied unless specific Condition One is modified to</p> <p>25 read as follows: "SeaWorld may only hold or display</p>	<p style="text-align: right;">Page 48</p> <p>1 to invite up John Riley now, the Applicant, and</p> <p>2 confirm with Mr. Riley. Welcome. Mr. Riley, you'd</p> <p>3 like 30 minutes for your presentation and 15 minutes</p> <p>4 to respond; is that correct.</p> <p>5 MR. RILEY: That's just fine.</p> <p>6 CHAIR KINSEY: Please proceed, and I'll --</p> <p>7 again, I'll ask folks to be respectful and, you</p> <p>8 know, I've made comments about speaking out and</p> <p>9 while I want to encourage energetic --</p> <p>10 (Recording interruption.)</p> <p>11 CHAIR KINSEY: That's great.</p> <p>12 A VOICE: Do I repeat myself.</p> <p>13 CHAIR KINSEY: There you go. I'm going to</p> <p>14 try again, but the -- the waving of the banners</p> <p>15 creates a fair amount of noise, and so, you know, I</p> <p>16 don't want to hold you back too much, but I think if</p> <p>17 you can wave them just a little more gently it may,</p> <p>18 and --</p> <p>19 (Audience interruption.)</p> <p>20 CHAIR KINSEY: -- certainly don't -- don't</p> <p>21 wave them to impede the ability of speakers to be</p> <p>22 heard. That's the key point. And with that, I</p> <p>23 welcome Mr. Riley. Please proceed.</p> <p>24 MR. RILEY: Okay. Thank you. Chairman</p> <p>25 Kinsey, members of the Commission, my name is John</p>
<p style="text-align: right;">Page 47</p> <p>1 the currently-existing whales in its San Diego</p> <p>2 park," and she lists all of the specific whales</p> <p>3 there, and "SeaWorld is prohibited from the captive</p> <p>4 breeding of Orcas either through mating or</p> <p>5 artificial insemination including the collection of</p> <p>6 gametes."</p> <p>7 (Audience interruption.)</p> <p>8 COMMISSIONER VARGAS: This would make the</p> <p>9 project consistent with the provisions of Section</p> <p>10 30230, and will allow SeaWorld to continue to use</p> <p>11 the current Orcas but gradually phase out the</p> <p>12 practice of using captive Orcas for MPM purposes.</p> <p>13 (Audience interruption.)</p> <p>14 CHAIR KINSEY: Thank you. That completes</p> <p>15 that, and my ex partes are on file. So we can move</p> <p>16 into the presentation -- oh, excuse me, Commissioner</p> <p>17 Gibson. Hang on just a moment. Please, go ahead.</p> <p>18 COMMISSIONER GIBSON: I did have one</p> <p>19 ex parte that I wanted to report, since I am here at</p> <p>20 the meeting. This is on August 5th I met with Jared</p> <p>21 Goodman, the director of Animal Law, PETA, and John</p> <p>22 Hargrove, and the subject of the discussion was the</p> <p>23 same as has been reported here. Commissioner Beland</p> <p>24 was also in attendance.</p> <p>25 CHAIR KINSEY: Thank you. Okay. I'd like</p>	<p style="text-align: right;">Page 49</p> <p>1 Riley and I'm president of SeaWorld San Diego. It's</p> <p>2 my pleasure to be here with your -- with our team</p> <p>3 today, to present Blue World, our dynamic new Orca</p> <p>4 habitat. It's been quite a journey getting here,</p> <p>5 and I'd like to start by thanking staff for their</p> <p>6 efforts in putting this report together. Your staff</p> <p>7 has worked incredibly hard on this project. And</p> <p>8 they carefully considered all facets of the Coastal</p> <p>9 Act.</p> <p>10 SeaWorld concurs with the recommendation of</p> <p>11 approval and conditions in the Staff report, and we</p> <p>12 request your approval today. Today you're going to</p> <p>13 hear a great many inaccurate and just untrue</p> <p>14 statements from opponents of zoos and aquariums.</p> <p>15 I'll tell you the truth about Blue World. Blue</p> <p>16 World will first and foremost provide a better</p> <p>17 living environment for our family of killer whales.</p> <p>18 It will educate and inspire millions of guests and</p> <p>19 present a new window into the world of Orcas for</p> <p>20 researchers and scientists. Working to learn more</p> <p>21 about whales in human care and to apply that to</p> <p>22 whales in the wild.</p> <p>23 At SeaWorld we could not be more excited</p> <p>24 about this project. Many people around the globe</p> <p>25 are enamored with killer whales, and more than</p>

<p style="text-align: right;">Page 50</p> <p>1 160,000,000 have been inspired by those animals at 2 SeaWorld San Diego alone. No one is more passionate 3 and knowledgeable about the whales in human care 4 than SeaWorld is. The issues around killer whales 5 are complex. They stir up an abundance of emotion. 6 In addition to the 300 or so SeaWorld supporters 7 here today, we delivered almost 52,000 support 8 letters, postcards and e-mails on this subject to 9 coastal staff.</p> <p>10 More than a dozen elected officials support 11 Blue World as well as zoo and aquarium associations 12 representing nearly 300 facilities, dozens of 13 business organizations and labor.</p> <p>14 While we have supporters around the globe, 15 the letters you receive from us on this project by 16 and large are residents of California, and most have 17 been touched by their own visit to SeaWorld 18 San Diego.</p> <p>19 I'd like to introduce our team today. 20 Darlene Walter, Vice President of Engineering, who 21 is responsible for the construction of this project. 22 Dr. Hendrik Nollens, our senior veterinarian. Lindy 23 Donahue, Supervisor of Animal Training. And 24 Attorney David Watson. And now I'd like to 25 introduce you to Blue World.</p>	<p style="text-align: right;">Page 52</p> <p>1 gallons, and will be expanded to six pools 2 consisting of 9.6 million gallons.</p> <p>3 SeaWorld's intent is to provide a larger, 4 better habitat for our existing whales as a natural 5 development and progression from our ongoing 6 learning as this is the fifth expansion in our 7 history. All of the whales will have access to the 8 entire expanded habitat. Work will also include the 9 construction of SeaWorld's salt water restroom. The 10 first restroom opened in March of this year and 11 already saved 1.3 million gallons by using salt 12 water in lieu of potable water for toilets and 13 urinals.</p> <p>14 SeaWorld's master plan was approved and 15 certified by the California Coastal Commission in 16 2002, and contemplated future development and 17 renovations. This project is consistent with the 18 requirements of the master plan and Blue World is 19 not visible outside of the leasehold, is with 20 SeaWorld -- is within the designated theme part 21 area, does not contain any structures over 30 feet 22 tall, the project does not impact traffic or 23 parking, and it captures and treats all surface 24 water runoff in SeaWorld's private treatment 25 facility which is compliant with the</p>
<p style="text-align: right;">Page 51</p> <p>1 (Blue World video (with musical 2 accompaniment) played: 3 Narrator: "Dive into a blue 4 world. A vast new expanded habitat for 5 SeaWorld's pod of killer whales. 6 Naturalistic and sweeping, with new 7 spaces for them to explore. These 8 majestic killer whales will find 9 enriching activities everywhere. And 10 explore in even greater depths. This 11 immersive environment is unlike any 12 other, giving SeaWorld experts and other 13 scientists more access than ever before 14 for world class health care and research 15 that will help killer whales here and in 16 the wild. With unprecedented views 17 above and below, these are the moments 18 that inspire wonder, connection and 19 action to preserve our precious ocean. 20 A new world, a beautiful blue world.") 21 MS. WALTER: Thank you, Chairman Kinsey and 22 Commissioners. I'm Darlene Walter, Vice President 23 of Engineering at SeaWorld. As Mr. Llerandi 24 thoroughly explained, the existing facility consists 25 of five pools currently totaling 5.8 million</p>	<p style="text-align: right;">Page 53</p> <p>1 federally-issued NPDES permit, and compliant with 2 Regional Water Quality Control Board testing 3 guidelines and management practices.</p> <p>4 This project is fully consistent with the 5 SeaWorld master plan. Blue World focuses on 6 education and science and provides opportunities for 7 people to speak directly with animal experts. We 8 provide educational messaging and conservation facts 9 through graphics and interactive exhibits to promote 10 learning.</p> <p>11 Through education, we can develop an 12 appreciation for the killer whales at SeaWorld and 13 in the wild. I'd like to turn it over to Dave 14 Watson, legal counsel. Thank you.</p> <p>15 MR. WATSON: Good morning, Chairman Kinsey 16 and members of the Commission. My name is David 17 Watson, and I'm here representing SeaWorld today. I 18 want to speak briefly about Coastal Commission 19 jurisdiction issues that have arisen in connection 20 with Blue World. I have summarized my statement in 21 the yellow page outline just distributed to you and 22 provided to your staff last Tuesday.</p> <p>23 We have written two detailed letters to 24 Staff explaining SeaWorld's position that the State 25 of California does not jurisdiction to regulate the</p>

<p style="text-align: right;">Page 54</p> <p>1 management and care of marine mammal collections. 2 (Audience interruption.) 3 MR. WATSON: This issue involves 4 interpretation of complex federal and state 5 statutes. However, I want to summarize our position 6 as simply as possible. First, we believe that 7 federal law expressly preempts all state regulation 8 of marine mammal collections. The Federal Marine 9 Mammal Protection Act contains an express federal 10 preemption provision reserving all such regulation 11 to federal agencies. 12 The Marine Mammal Protection Act regulates 13 taking of marine mammals. The federal regulations 14 define "take" to include, and I quote: "Restraint 15 and detention." A marine mammal exhibit or aquarium 16 is a restraint or detention. 17 As a result, all marine mammal exhibits or 18 aquariums are regulated exclusively by the federal 19 government. Nothing in the 1994 amendments to the 20 Marine Mammal Protection Act changed that fact. The 21 amendments authorize the federal agencies already 22 with exclusive jurisdiction over marine mammals to 23 regulate exhibits and aquariums pursuant to the 24 Federal Animal Welfare Act, which Staff has already 25 mentioned.</p>	<p style="text-align: right;">Page 56</p> <p>1 the Coastal Commission may not regulate where the 2 Department of Fish and Wildlife has not. 3 Fourth, we strongly agree with certain 4 statements about the Coastal Act as set forth in the 5 Blue World staff report. So I'm not being entirely 6 contentious here. The Staff reports, "No provision 7 of the Coastal Act expressly addresses the 8 management of animals that are kept in captivity in 9 an artificial environment." 10 The Staff report states, "The context and 11 language of Coastal Act Section 30230 which protects 12 marine resources concerns animals in the wild." 13 The Staff report further states, "The most 14 straightforward interpretation of marine resources 15 is that they consist of resources in the marine 16 environment." That is, marine resources are in the 17 ocean, not resources contained in on-shore 18 artificial structures. 19 SeaWorld exhibits and aquariums are 20 on-shore artificial structures. Therefore, Coastal 21 Act Section 30230 does not apply to SeaWorld 22 exhibits and aquariums. 23 Finally, the Coastal Commission has been 24 reviewing and approving SeaWorld development 25 projects including previous killer whale habitat</p>
<p style="text-align: right;">Page 55</p> <p>1 Although the federal AWA allows state 2 regulation of other non-marine mammal animal 3 collections, the exclusive federal jurisdiction over 4 marine mammals has not been changed, altered or 5 eliminated. 6 Second, the Fish and Game Code delegates 7 exclusive power to regulate possession of mammals to 8 the Department of Fish and Wildlife and the 9 California Fish and Game commission. In addition, 10 the Fish and Game Code states that when federal laws 11 or regulations do allow the state to assume 12 jurisdiction over marine mammals, the Fish and Game 13 Commission may adopt such regulations. 14 Third, the Coastal Act states that the 15 Coastal Commission shall not establish or impose 16 controls over wildlife or fishery management that 17 duplicate or exceed regulation controls established 18 by the Department of Fish and Wildlife and the Fish 19 and Game Commission. 20 Neither the Department of Fish and Wildlife 21 nor the Fish and Game Commission have established 22 any regulatory controls over marine mammals as staff 23 has indicated. 24 Because the Coastal Commission may not 25 exceed with the Fish and Wildlife regulations state,</p>	<p style="text-align: right;">Page 57</p> <p>1 expansions for more than 40 years, ever since the 2 Coastal Act was established. 3 The Coastal Act has never imposed any 4 condition, special or otherwise, on any SeaWorld 5 project based on Coastal Act Section 30230. There 6 has been some reference to the staff report prepared 7 for Journey to Atlantis in September 2002. That 8 report discussed Section 30230 in the context of 9 possible noise impacts on marine mammals. 10 However, the Staff report concluded the 11 project was designed in a manner that eliminated 12 possible noise impacts. No condition of any kind, 13 special or otherwise, related to noise and based on 14 Section 30230, was imposed on Journey to Atlantis. 15 In addition, the Staff report did not 16 contain any explicit findings related to noise in 17 Section 30230. As a result, we firmly believe the 18 Commission does not have jurisdiction over 19 SeaWorld's marine mammal collection, and the 20 Commission has never asserted such jurisdiction. 21 Because this is a coastal land development 22 project, I would be remiss if I did not reiterate 23 Staff's conclusion that Blue World is fully 24 consistent with the SeaWorld master plan and the 25 Coastal Act, and all potential environment impacts</p>

<p style="text-align: right;">Page 58</p> <p>1 of the project were fully analyzed in the master 2 plan EIR.</p> <p>3 From a pure land use regulatory 4 perspective, this is a simple project, completely 5 compliant with all regulatory requirements.</p> <p>6 However, we know you want to learn more about the 7 whales themselves. For discussion about that, I 8 would like to turn the podium over to two people who 9 I believe have the greatest jobs in the world. Dr. 10 Hendrik Nollens, SeaWorld's Senior Staff 11 Veterinarian, followed by Lindy Donahue, SeaWorld 12 Supervisor of Animal Training. Thank you.</p> <p>13 DR. NOLLENS: Good morning, Commissioners. 14 I am Dr. Hendrik Nollens, a veterinarian at SeaWorld 15 San Diego. I have a veterinary degree from the 16 University of Ghent in Belgium, a master's degree in 17 marine biology from the University of Otago in 18 New Zealand. And a Ph.D. in infectious diseases of 19 marine mammals from the University of Florida.</p> <p>20 I have authored over 30 peer-reviewed 21 papers that have appeared in 20 scientific journals 22 on various topics of marine animal health and 23 disease, I am a member of the Society for Marine 24 Mammalogy, the International Association for Aquatic 25 Animal Medicine, the American Veterinary Medical</p>	<p style="text-align: right;">Page 60</p> <p>1 unprecedented research and enrichment opportunities. 2 This new habitat is part of the ongoing 3 evolution of our park's whale environment. It will 4 provide all of us, marine experts and visitors, with 5 a deeper understanding and appreciation of these 6 incredible animals. We are partnering with leading 7 marine mammal experts from institutions such as the 8 Scripps Institution of Oceanography, U.C. Santa 9 Cruz, U.C. Davis, U.C. San Diego and the American 10 Humane Association to ensure that our habitat 11 maximizes the benefit to a whale's health and well 12 being.</p> <p>13 You will hear many things today. Some 14 people will be making purposely outlandish 15 accusations. These are not based in fact. Some 16 speakers have opinions based only on biased media 17 broadcasts, and are misguided or misinformed about 18 killer whales in human care.</p> <p>19 You will even hear from anti-zoo activists 20 masquerading as scientists.</p> <p>21 (Audience interruption.)</p> <p>22 DR. NOLLENS: These individuals -- these 23 individuals do not care for, train or observe our 24 animals every single day like I do or the 150 25 caretakers I represent here today. If my knowledge</p>
<p style="text-align: right;">Page 59</p> <p>1 Association, and the Wildlife Disease Association. 2 I am a former clinical assistant professor 3 in marine mammal medicine at the University of 4 Florida. I am currently responsible for the health 5 and wellness of all SeaWorld San Diego's animals 6 including the killer whales. I have dedicated my 7 life to the care and well being of marine mammals 8 not only in a zoological setting but also in the 9 wild. I am a marine mammal health professional.</p> <p>10 No matter whether you do or you do not 11 believe that animals in zoos play an increasingly 12 important role in our digitalized society, one thing 13 is -- must be very clear. With the approval of Blue 14 World we are set to transform the habitat of our 11 15 Orcas into a dramatically better, larger, more 16 naturalistic, more dynamic and more enriching home.</p> <p>17 How could anyone who only has the whales' 18 best interest in mind possibly claim that this is a 19 bad thing?</p> <p>20 Blue World will double the size of the 21 whales' current home. It will be an even more 22 dynamic environment with varied depths, fast-running 23 water current and shallow areas similar to rubbing 24 beaches. It will have exchangeable electronic 25 modules cast into its walls that will allow for</p>	<p style="text-align: right;">Page 61</p> <p>1 of SeaWorld were limited to what is disseminated in 2 unfounded media broadcasts or a movie, I would have 3 my reservations about SeaWorld too. Fortunately, as 4 a staff veterinarian, I have the most intimate 5 insight of what goes on in the lives of the whales 6 at SeaWorld, and it is my professional opinion that 7 the reality is nothing like what some will try to 8 make you believe today.</p> <p>9 The whales at SeaWorld are cared for, loved 10 and provided for like no other animal I have worked 11 with.</p> <p>12 (Audience interruption.)</p> <p>13 DR. NOLLENS: Let me set the record 14 straight. We do not separate dependent calves from 15 their moms unless the health of a calf is at risk. 16 We have not collected a killer whale from the wild 17 in more than 35 years. We have reaffirmed that 18 Orcas taken from the wild will not be part of our 19 collection as stated in the Virgin Pledge and again 20 in the project description.</p> <p>21 Today, we also clarify further our 22 commitment, also applies to any cetacean taken after 23 January 2012, including any whales that are 24 reportedly captured for the -- for the Russian Sochi 25 Olympics.</p>

<p style="text-align: right;">Page 62</p> <p>1 We know nothing more about the collection 2 of these Russian whales than what is reported 3 online. And we will not accept these whales, their 4 offspring or their genetic material.</p> <p>5 The killer whales at SeaWorld are healthy, 6 anyone working with marine mammals, possibly even 7 our opponents, will tell you that SeaWorld is the 8 world-wide leader in marine mammal veterinary care. 9 The killer whales at SeaWorld are not bored. Each 10 day there are husbandry exercise, learning, 11 relationship, play and research training sessions 12 that keeps the whales enriched and stimulated.</p> <p>13 The whales at SeaWorld are not stressed. 14 The animals at SeaWorld don't face many of the 15 factors that cause stress in the wild, and in fact, 16 when scientists study stress, they use sample from 17 animals at aquariums as baseline non-stress samples.</p> <p>18 Teeth. Killer whales naturally develop 19 worn teeth, that regardless of whether they are in 20 the wild or at SeaWorld. They explore and 21 manipulate their environment with their mouth, which 22 leads to dental wear.</p> <p>23 Many wild whales have been found stranded, 24 dead with worn, infected and abscessed teeth. 25 Unlike wild killer whales, we provide comprehensive</p>	<p style="text-align: right;">Page 64</p> <p>1 Our whales are thriving, which is evidenced 2 by how long they live. A recent peer-reviewed paper 3 in the Journal of Mammalogy, and a second 4 independent study by federal government researchers 5 found that killer whales at SeaWorld, and I quote, 6 "Live as long and sometimes longer than killer 7 whales in the wild." And the wild can be a 8 treacherous place. Disease, food shortages, boat 9 strikes. Wild whale populations are in peril. At 10 SeaWorld our oldest whale is over 50 years of age 11 and currently three generations of whales are living 12 as a family unit at SeaWorld San Diego.</p> <p>13 The whales are thriving because they are 14 reproducing. Breeding is a natural, fundamental and 15 important part of an animal's life. It is a sign 16 that an animal is living in a socially compatible 17 group with adequate resources and that they are in 18 good health.</p> <p>19 Likewise, offspring are significantly 20 enriching to groups of animals, especially for those 21 species and depend on extensive social contact and 22 cooperation such as killer whales.</p> <p>23 When calves are born, you see increased 24 activity, pod swimming and synchronized behaviors. 25 Those years where a calf is dependent are the years</p>
<p style="text-align: right;">Page 63</p> <p>1 medical care, comprehensive dental care that is 2 primarily based on prevent. Not one whale is 3 receiving anti-depressants.</p> <p>4 Medications are prescribed according the 5 same ethics and principles of best veterinary 6 practice. According to the same principles, your 7 veterinarian may prescribe medication for your dog, 8 or your family doctor may prescribe for yourself.</p> <p>9 If a whale has a bacterial infection it 10 will be prescribed an antibiotic. If something is 11 inflamed, we may prescribe an anti-inflammatory. A 12 mild sedative, such as Diazepam, may be prescribed 13 to make a specific medical procedure easier on both 14 the animal and the Staff, but it is not prescribed 15 to treat depression. The whales at SeaWorld don't 16 need anti-depressants.</p> <p>17 The whales are fed the highest quality 18 food. The seafood is caught specifically for places 19 like SeaWorld, so we can always maintain the highest 20 standards for quality and cleanliness. In addition 21 we follow the rigorous U.S.D.A. guidelines governing 22 how the fish are delivered, thawed and prepared.</p> <p>23 They are fed all their food every day. 24 Food items are indeed used as a training reward. 25 But we would never deprive our whales of their food.</p>	<p style="text-align: right;">Page 65</p> <p>1 that the closest bond a whale ever experiences. 2 Quite frankly, depriving a social animal of the 3 right to reproduce is simply inhumane.</p> <p>4 There is, by the way, no way to deprive a 5 whale of reproducing without compromising its health 6 and well being. The technology to anesthetize 7 whales does not yet exist. And therefore whales 8 cannot be neutered or spayed.</p> <p>9 Long-term oral contraception has never been 10 used, would be entirely experimental, and has been 11 associated with fatal side effects in several other 12 species. The only other option would be to separate 13 males and females, which would require breaking up 14 family units.</p> <p>15 However, Blue World was not developed to 16 increase our killer whale breeding capacity. Due to 17 a long gestation and nursing periods, whale 18 populations do not grow rapidly. The SeaWorld 19 killer whale population spread throughout our four 20 parks has only grown by three percent per year over 21 the last 15 years.</p> <p>22 Since we continued to honor our 35-plus 23 year practice and commitment to not collect animals 24 from the wild, it is not biologically possible for 25 this growth rate to substantially increase.</p>

<p style="text-align: right;">Page 66</p> <p>1 Moving our whales to sea cages, we put 2 their lives at risk. Our whales have been raised 3 under human care. Eight of the 11 Orcas at SeaWorld 4 San Diego were born in the zoological facility. Our 5 whales have been raised under human care, our whales 6 need human care to survive. 7 In the wild, these whales would suddenly 8 have to face the same natural and man-made threats 9 the wild whales are currently facing. They would be 10 exposed to parasitism, toxic algal blooms and other 11 contagious and potentially deadly diseases they have 12 never been exposed to before. 13 Water temperature fluctuation, bacterial 14 loads, industrial pollution, oil spills and fresh 15 water runoff after rainstorms could be deadly. 16 Animals living in sea cages often swallow trash and 17 rock, which can't be kept out of these enclosures. 18 Destructive weather and noise pollution from both 19 large complex enclosure and from shipping traffic 20 would be a significant issue. 21 And considering all these issues, these 22 mythical sea cages are not possibly a better 23 alternative than expanding, advancing and improving 24 the environment that is currently home to these 25 animals.</p>	<p style="text-align: right;">Page 68</p> <p>1 for 15 years. I have a degree in education and my 2 colleagues have bachelor's and master's degrees in 3 psychology, biology, zoology, animal science and 4 more. We have a combined over 140 years of 5 experience working with marine mammals. I work with 6 our whales every day. From 51-year-old Corky to new 7 baby Amaya, from grandma Kasatka to big brother 8 Nakai. I love them all. They are family to me. 9 I've spent all night monitoring Kasatka in labor, 10 I've marveled at the playfulness of Amaya, and I 11 took notice when Orkid didn't feel well. 12 One rainy night when we were anxiously 13 awaiting, we were anxiously awaiting our newest 14 calf, Amaya, to nurse. Hours had gone by and Amaya 15 was having trouble finding just the right spot and 16 position. We were starting to worry and wonder why 17 she wasn't catching on. That day the team watched 18 with amazement as Kasatka, an experienced mom, 19 brought her own youngster over to Kalia and 20 demonstrated right in front of her how to nurse. It 21 was such an incredible sight to see the new calf 22 nurse for the first time. 23 I'm a wife, mom, daughter and sister. 24 Becoming a mom has been of my life's greatest gifts, 25 and some day I look forward to my own daughters</p>
<p style="text-align: right;">Page 67</p> <p>1 I am a marine mammal health professional, 2 but I know that I speak here today on behalf of the 3 more than 150 members of my team when I saw that we 4 care for these animals as if they were family. We 5 have altered our professional and personal paths for 6 these animals for the opportunity to see them every 7 day and for getting to know and better understand 8 them. We have nothing but the whales' interest at 9 heart. 10 (Audience interruption.) 11 DR. NOLLENS: Not only do we care about 12 them deeply, we also see how they speak to future 13 generations. Just like they did to us. We want 14 these magnificent ocean ambassadors to continue to 15 inspire and educate others. And Blue World will do 16 exactly that. 17 Commissioners, I am here today to request 18 your approval for a bigger, better home for our 19 whales. I can tell you, Blue World is a win for our 20 whales. Now all we need is your support. Thank 21 you. 22 MS. DONAHUE: Good morning, Chairman 23 Kinsey, members of the Commission. My name is Lindy 24 Donahue, and I'm a supervisor of animal training at 25 SeaWorld. I have been caring for Orcas and dolphins</p>	<p style="text-align: right;">Page 69</p> <p>1 experiencing motherhood. At SeaWorld, watching 2 Kalia grow up, deliver her own calf, and experience 3 motherhood has been extremely special. 4 My hope is that once Amaya grows up she too 5 can experience motherhood herself. Denying Amaya or 6 any other Orca the opportunity to be a mother would 7 be cruel and inhumane. 8 During the development of SeaWorld my team 9 has had the opportunity to provide input on what 10 would be most dynamic for the whales. We spent most 11 of our time observing, bonding with, exercising 12 mentally and physically challenging, playing with, 13 feeding and caring for our family of whales. Blue 14 World will offer more space, length, depths and 15 opportunities for all of these activities. 16 We've been working hand in hand with 17 engineers designers, and veterinarians to help 18 develop the most state of the art habitat possible. 19 During our brainstorming sessions, we've discussed 20 new ways to use the fast water current for exercise 21 and research projects. Dynamic enrichment features 22 that actually give the whales choice and control 23 over their environment, and giant viewing windows 24 for better scientific observation. 25 The tremendous size of Blue World alone</p>

<p style="text-align: right;">Page 70</p> <p>1 provides for enhanced socializing among the whales. 2 We can't wait to see what the whales will come up 3 with on their own. At Blue World we will have more 4 opportunity challenge our whales with interactive 5 sessions. 6 I'm disappointed today that you'll hear 7 negative comments from former SeaWorld employees. 8 Some of these individuals have little experience 9 with killer whales, others haven't worked at 10 SeaWorld in decades. One who was removed from 11 working with killer whales over a safety violation 12 and has since made a career out of disparaging 13 SeaWorld. 14 (Audience interruption.) 15 MS. DONAHUE: They'll tell you -- they'll 16 tell you all kinds of misleading stories about our 17 treatment of whales. These are lies. 18 SeaWorld is the organization who pioneered 19 a positive reward-based training philosophy that 20 uses a variety of reinforcement items to interact 21 with our whales. This method has since been 22 universally adopted for conditioning both domestic 23 and zoo animals. Our animals get all of their food 24 every day and choose to participate in sessions. 25 Let me tell you, you cannot force a killer</p>	<p style="text-align: right;">Page 72</p> <p>1 researchers, students and guests. Thank you. 2 CHAIR KINSEY: Thank you, Mr. Riley. Now 3 we're going to move on, I'm going to invite 4 Dr. Ingrid Visser up from the Orca Research Trust, 5 who will have 15 minutes, and then Kim Ventre from 6 the Voice of the Orcas, will have 15 minutes, and 7 then we will take a lunch recess, and at that time 8 during that time, the Coastal Commission will also 9 meet in closed session, so we'll establish that 10 we'll come back into open session before we leave 11 the room. 12 And I want to compliment everyone, for the 13 most part it's been an idea in which to express your 14 support while respecting the speakers. So thank you 15 for that. And let's see if we can hold on to that 16 way of being. 17 With that, we're going to welcome 18 Dr. Visser. 19 DR. VISSER: Thank you very much for having 20 me here today. I have flown in from New Zealand 21 specifically to come to talk to you. I have not 22 been paid to be here. I've come voluntarily because 23 I am so concerned about the situation. 24 I've been very interested in hearing some 25 of the comments that have been presented here. I</p>
<p style="text-align: right;">Page 71</p> <p>1 whale to do anything. 2 (Audience interruption.) 3 MS. DONAHUE: I have given a lot of thought 4 to Blue World and what it will mean for our Orcas. 5 I care deeply for every one of the whales, and I've 6 always wanted what is best for them. We know our 7 habitat is not the same as the wild, but that 8 doesn't mean that our whales are not thriving. 9 Whales living in human care experience rich 10 fulfilling lives. 11 Life at SeaWorld is not better or worse 12 than the wild, it's just different. I have 13 dedicated my life to these animals and I would 14 never, ever do anything to harm them. I believe 15 from the bottom of my heart that the expanded 16 habitat, fast water current, rubbing beaches and 17 other enrichment opportunities of Blue World will be 18 a tremendous enhancement to our whales' lives. I 19 cannot wait to see them explore their new home. 20 Thank you very much. 21 MR. RILEY: In closing, I appreciate your 22 time today. We're here to answer any questions you 23 may have, but if I leave you with one thought: Blue 24 World is going to be a great enhancement to our Orca 25 habitat. First for our whales but also for</p>	<p style="text-align: right;">Page 73</p> <p>1 believe that as a scientist, it's important that we 2 separate the business rhetoric from the facts, and 3 that's what I'd like to do today. I do have some 4 slides, please. 5 Visser, V-i, double s, e-r. 6 Thank you, sir. 7 Okay. So I thought I would just give you a 8 little bit of a brief introduction to myself because 9 coming from New Zealand you may not know who I am. 10 I've been studying Orcas since 1992 in the wild, 11 from the polar waters of Antarctica to the tropical 12 waters of New -- Papua New Guinea, but also in 13 New Zealand. 14 I've been involved in eight different 15 rescues of Orca in the wild that have all been 16 returned to the wild. And I've published 20 peer 17 reviewed papers that specifically deal with Orca. 18 But I have also visited Orca in 11 different 19 facilities that are held captive. 20 That includes the three SeaWorld 21 facilities, and just yesterday I was in the 22 San Diego facility where interestingly I was 23 actually told I had to leave. Now, obviously 24 SeaWorld is concerned about me being here because I 25 am speaking as a scientist, and they're concerned</p>

<p style="text-align: right;">Page 74</p> <p>1 about what I've observed at their facilities. So</p> <p>2 I'll leave it at that, but just so that you know, I</p> <p>3 was told to leave.</p> <p>4 Now, I have also got experience working</p> <p>5 briefly with Keiko, who the industry will tell you</p> <p>6 was a non-success. You would probably know him as</p> <p>7 Free Willy. It was a success.</p> <p>8 (Audience interruption.)</p> <p>9 DR. VISSER: Now, we also work quite</p> <p>10 extensively with my project with Orca in the wild,</p> <p>11 and that's what I'd like to do today is speak to you</p> <p>12 about the comparisons between Orca in captivity and</p> <p>13 in the wild, put that into perspective for you.</p> <p>14 From research we know that Orca travel on average</p> <p>15 138 miles a day. Now, that's not just a one-day</p> <p>16 event. This is two different studies that have</p> <p>17 shown these animals are doing this over extended</p> <p>18 period. Sometimes for 44 days the average distance</p> <p>19 has been 138 miles.</p> <p>20 So I wanted to put that into perspective</p> <p>21 for you. If we take a circle around SeaWorld's</p> <p>22 proposed new tanks, and we do 122 kilometers or --</p> <p>23 sorry, 222 kilometers or 138 miles, that takes us</p> <p>24 well south of the border. If we did just two days'</p> <p>25 travel, that takes us up well north of here. That's</p>	<p style="text-align: right;">Page 76</p> <p>1 to life in tiny little concrete boxes.</p> <p>2 This is an example that you're going to</p> <p>3 probably see a few times today. Up in the very top</p> <p>4 inside the circle is a little blue box. That little</p> <p>5 blue box represents one of the tanks at SeaWorld.</p> <p>6 Albeit one at San -- sorry, Orlando, not at</p> <p>7 San Diego, but the concept still applies.</p> <p>8 The new proposed tank will be approximately</p> <p>9 the depth of the circle around this box. The yellow</p> <p>10 line represents an average dive for a single dive of</p> <p>11 a wild Orca. A single dive. They can do anything</p> <p>12 up to 500 of these in a day in the wild. So a tank</p> <p>13 that represents that little blue circle up in the</p> <p>14 top does not meet the needs of these animals.</p> <p>15 To put it again into perspective for you</p> <p>16 and something that you can relate to, I did not know</p> <p>17 the dimensions of the Statute of Liberty, I</p> <p>18 apologize, I had to look them up, but when I saw</p> <p>19 them, I was horrified. Four times the size of the</p> <p>20 Statute of Liberty for a regular dive for an Orca.</p> <p>21 So let's put that again into perspective of</p> <p>22 what you would see at this new proposed tank. The</p> <p>23 new proposed tank would be approximately at its</p> <p>24 maximum 50 to 55 feet deep. Okay.</p> <p>25 Now, the tablet that your wonderful Statue</p>
<p style="text-align: right;">Page 75</p> <p>1 two days.</p> <p>2 This new tank does not meet even these</p> <p>3 basic requirements, no tank ever will. No facility</p> <p>4 of any sort ever will. It's a true fact. It's a</p> <p>5 scientifically proven thing.</p> <p>6 Okay. Now, there are definitely some</p> <p>7 populations of Orca who don't travel those big</p> <p>8 distances. We know this, but it's their choice.</p> <p>9 They are not contained within tanks, they are not</p> <p>10 sent into medical tanks. They are not separated,</p> <p>11 they have a choice. And these animals in captivity</p> <p>12 around the world including SeaWorld's animals, do</p> <p>13 not have this choice.</p> <p>14 Now, we know that Orca have been around for</p> <p>15 a long time. They've been around for approximately</p> <p>16 five million years, depends on where you divide that</p> <p>17 line.</p> <p>18 Now, let's put that into the scale of</p> <p>19 humans, less than half a million years, but again</p> <p>20 where do you divide that line? We even go back to</p> <p>21 3.6 million years, but Orca still have evolved</p> <p>22 longer than we have. By having these animals first</p> <p>23 generation, second generation, third generation even</p> <p>24 in captivity, you still do not take away the fact</p> <p>25 that they evolved in the wild, they have not evolved</p>	<p style="text-align: right;">Page 77</p> <p>1 of Liberty holds is 23 feet long. So two times the</p> <p>2 length of the tablet, not four times the length of</p> <p>3 the statue. That's what they're proposing. This is</p> <p>4 just a bigger box.</p> <p>5 You will hear SeaWorld say many things</p> <p>6 about what they do. Some of them are actually</p> <p>7 pretty good. But some of them are atrocious.</p> <p>8 Making these animals do tricks is not what they</p> <p>9 should be doing. But I will tell you that coming</p> <p>10 out and seeing these sort of behaviors, this is</p> <p>11 normal behavior; it's not normal behavior. This is</p> <p>12 a trick. Okay. They liken it to the situation that</p> <p>13 you see with Orca in Argentina. This is a research</p> <p>14 project that I'm involved in.</p> <p>15 The Orca there come up onto the beach, but</p> <p>16 they do it for survival. They do it to hunt their</p> <p>17 food. This is not a trick. This is a risk for the</p> <p>18 animals at times, but this is very real. And</p> <p>19 SeaWorld tries to tell you coming out onto a slide</p> <p>20 is normal behavior. It's not. There are fewer than</p> <p>21 20 Orca in the world who have specialized in this</p> <p>22 particular behavior.</p> <p>23 Now, you've also heard about the teeth.</p> <p>24 This is a photograph that I took of an Orca in</p> <p>25 SeaWorld. These teeth are broken off, not because</p>

<p style="text-align: right;">Page 78</p> <p>1 of food handling as you were just told by the 2 esteemed (inaudible) I'm criticizing the concept of 3 what he's trying to portray to you.</p> <p>4 This animal here as tooth damage as an 5 individual, not at a population level, which we do 6 see, but as an individual because it is kept in 7 captivity, because it has chewed on the side of the 8 tanks, because it has chewed on the bars in the 9 tanks. This is not because it has been handling its 10 food. Food handling happens because in the wild, 11 they have to capture their food. In SeaWorld it's 12 shoved down their throat in handfuls.</p> <p>13 The animals do not handle their food. In 14 the wild, Orca are known to hunt sharks, I know 15 this, I'm one of the scientists who has published 16 about it. SeaWorld will tell you that it's -- they 17 get, Orca in the wild get tooth damage because of 18 handling sharks. And yes, it's believed that some 19 of them do, but it's not been proven.</p> <p>20 In New Zealand, these Orca which I see on a 21 regular basis also specialize in hunting for rays. 22 When they handle the rays and the sharks, this is 23 when we would expect to see teeth damage, if it is 24 as proposed by SeaWorld and their fairy tale 25 concept.</p>	<p style="text-align: right;">Page 80</p> <p>1 DR. VISSER: However, I truly believe as a 2 scientist that this was not from contact from a 3 tank. This was from aggression. Close up you can 4 see four puncture marks that match the spacing on 5 Orca teeth. And on my professional career, I swear 6 that I truly believe that this was from aggression. 7 Now, Nakai's wound on the right, you can see it's 8 nearly healed, but this is four years on and it's 9 still not completely healed.</p> <p>10 Aggression I have observed at SeaWorld 11 every time I have gone to any of the parks. This is 12 the same Orca, Nakai, hammering into the side of the 13 young calf so hard his rostrum is buried into the 14 side of that calf. I was absolutely horrified and 15 disgusted, not only by what I saw, but by the staff 16 member standing there laughing and telling the 17 public that his was play.</p> <p>18 (Audience interruption.)</p> <p>19 DR. VISSER: In the wild you never see 20 this. This is what you see. Two weeks ago, I spent 21 22 hours with a mother grieving over her dead calf. 22 She carried that calf lovingly for three days. That 23 is what happens in the wild. You get true family 24 bonds, not constructed by humans. You get families 25 who care for each other. You do not get aggression</p>
<p style="text-align: right;">Page 79</p> <p>1 But here we have a photograph of an Orca 2 handling a ray. This Orca I know also hunts sharks. 3 You can see very clearly there that its teeth are in 4 pristine, perfect condition. I know of not a single 5 Orca in the whole New Zealand population that has a 6 cracked or broken tooth.</p> <p>7 We recently had some Orca turn up in 8 New Zealand that all died. They stranded and died. 9 It was a very tragic event. But three of those 10 animals had worn-down teeth to the gums. But they 11 were worn down as an age-related food-handling 12 situation. Not because they were chewing on 13 concrete tanks or bars.</p> <p>14 So the size of the tank is not going to 15 alleviate the stress issue that has created this 16 problem. Now, also, when I was at SeaWorld I 17 photographed in San Diego the images both on the 18 left and on the right. This is young Nakai. Nakai 19 was injured. SeaWorld told everybody that it was 20 from contact with the side of the tank. Now, I 21 quote that. "Contact with the side of the tank." 22 If that's what their tanks are doing to 23 their animals, this is not a good concept for you 24 guys to be endorsing getting a bigger one. 25 (Audience interruption.)</p>	<p style="text-align: right;">Page 81</p> <p>1 where young makes are nailing young calves against 2 the side of tanks. It just doesn't happen.</p> <p>3 Now, these two photographs show two 4 animals. The one in the top is the mother of that 5 young calf. These are self-mutilation wounds. 6 These Orca have inflicted them themselves because of 7 the stress in their tanks. You can see scars where 8 this has happened previously. Now, the animal on 9 the bottom left, her name is Morgan. She was taken 10 from the wild, albeit under a rescue, yes, she 11 definitely needed help, we have never denied that. 12 The problem is that SeaWorld now owns her, and 13 SeaWorld holds her in an overseas facility and 14 SeaWorld's pledge conveniently excludes her.</p> <p>15 So her offspring will be used because she's 16 not included in your caveat that you guys have put 17 in place. Let's not even go down the whole thing of 18 the dorsal fins, but suffice it to say that in the 19 wild, less than one percent of adult males have a 20 dorsal fin that is collapsed. But in all aquariums 21 all around the world, one hundred percent of adult 22 males have collapsed dorsal fins.</p> <p>23 Now, you don't have to be a scientist to 24 work out that there's some correlation going on 25 there. How much money is SeaWorld going to spend on</p>

<p style="text-align: right;">Page 82</p> <p>1 this? There are all sorts of proposals. But you've 2 also been asked and told to look at the options of 3 sea pens. I know that's not on your mandate, I know 4 that's not in your jurisdiction, but I beg you as 5 individuals to consider it from the bottom of your 6 heart as something that can be recommended to 7 SeaWorld to look at.</p> <p>8 Cetacean sanctuaries do not have to be 9 scary, big things like the vets make them out to be. 10 These places can be monitored, they can be 11 controlled, and believe it or not, the ocean is 12 actually a great place. They'll tell you it's a 13 scary, bad place, but hundreds of thousands of Orca 14 manage to survive out there.</p> <p>15 But because these animals are coming from 16 captivity, they are in a compromised situation. We 17 realize that they may need some level of care beyond 18 just putting them in a sea pen. So it is feasible 19 to have medical pens in there. It is feasible even 20 to go to the extent where SeaWorld could have an 21 off-site facility where the public could go, the 22 public could still see Orca. Let's put these 23 animals into a retirement system, let's put them 24 possibly into a rehabilitation center. And even 25 possibly look at release into the wild.</p>	<p style="text-align: right;">Page 84</p> <p>1 teaching environmental science. Jeff and John were 2 trainers at SeaWorld's Orlando flagship working 3 closely with the Orcas I will describe.</p> <p>4 They've published peer-reviewed research 5 papers in a university textbook chapter on Orca 6 captivity. I'm Kimberly Ventre, an entrepreneur 7 with a master's degree in urban planning. I'm a 8 California resident and a California voter. We're 9 all three volunteers and give our time to 10 conservation for free.</p> <p>11 I only mention this because it speaks to 12 our motivation. There are many paid industry 13 representatives or employees who obviously support 14 SeaWorld's policies and practices. Jeff, John and I 15 are completely independent.</p> <p>16 We want to share some of the stories 17 SeaWorld does not publicize. None of these stories 18 will be made better by building bigger pools. 19 During Dr. Ventre's time at SeaWorld he found the 20 killer whale, the Kanduke, to be particularly 21 tragic. Like famous captive Tilikum, Duke weighed 22 12,000 pounds and had a collapsed dorsal fin. Like 23 Tilikum, he was less maneuverable and subdominant, 24 big, subdominant, and with no mother and status, he 25 was bullied, raked and beaten up.</p>
<p style="text-align: right;">Page 83</p> <p>1 The public doesn't have to be deprived of 2 seeing these animals that are now there, but we can 3 phase them out, and I really hope that you guys will 4 take the right step in the right direction. Thank 5 you very much.</p> <p>6 (Audience interruption.)</p> <p>7 CHAIR KINSEY: Thank you. Thank you. 8 Okay. Please, please remember what we're asking for 9 in the way of audience participation, and we're 10 going to move on now to the next speaker, Kim 11 Ventre. And after this we will be taking our lunch 12 recess and closed session. Welcome.</p> <p>13 MS. VENTRE: Hi. Thank you.</p> <p>14 CHAIR KINSEY: You have 15 minutes.</p> <p>15 MS. VENTRE: I'm actually sharing my time 16 with John Hargrove.</p> <p>17 CHAIR KINSEY: Certainly.</p> <p>18 MS. VENTRE: So I have some photographs 19 that are on there, but is it possible to just scroll 20 through them. They're not really, they're just 21 teeth photos and things like that.</p> <p>22 So thank you very much for having me. I'm 23 here today on behalf of Dr. Jeffrey Ventre and 24 Dr. John Jett. Dr. Ventre practices medicine, is 25 with patients today; Dr. Jett is a professor</p>	<p style="text-align: right;">Page 85</p> <p>1 Tormented in his captive world, Duke would 2 beat his head against the stage with such force you 3 could feel the impact of it during the shows. His 4 jaws would bleed regularly. Duke had no viable 5 teeth left from grinding them on the walls. My 6 brother describes applying black zinc oxide to his 7 back and dorsal fin as the skin would blister from 8 lying in the Florida sun. During the night, 9 hundreds of mosquitos would land on Duke's back, 10 biting his blistered skin until he decided to move 11 and swim below the surface.</p> <p>12 Another Orca, Taku, was captive born, but 13 no less tragic. As Jeff watched Taku grow, he 14 noticed that even at almost three years old, Taku 15 was still nudging his mom, Katina, for milk and 16 sometimes nursing.</p> <p>17 Unfortunately for Taku and mom Katina, when 18 he became sexually mature, he impregnated her, 19 producing a daughter who was also his sister in 20 2006. This in-bred Orca, Nalani, was created by the 21 confines of SeaWorld tanks. It sent a shock wave 22 through SeaWorld and Taku was quickly shipped away 23 from the only family he ever knew, dying just one 24 year later.</p> <p>25 Duke and Taku both had similar deaths in</p>

<p style="text-align: right;">Page 86</p> <p>1 unnatural environments away from their families. In 2 '90, Duke died of Saint Louis virus encephalitis. 3 In 2007 at the age of 14, Taku died of West Nile 4 virus. Both of these viruses were transmitted by 5 mosquito bites and are typically not fatal. These 6 viruses only attack the brain of victims with 7 compromised immune systems. 8 Both Duke and Taku had teeth rot, gum 9 disease, and were chronically medicated. Their 10 tragic deaths are not featured in SeaWorld's 11 literature. 12 Dr. Jett tells similar stories. Watching 13 Winnie, a very sweet, docile female being 14 continuously harassed, chased and beaten up was 15 heartbreaking for him. He watched her cower in the 16 corner, come out of the water onto the slide out 17 areas to escape attacks. During one event she was 18 raked and bleeding so badly that the entire pool 19 system was darkened with her blood. As a result, 20 the next show had to be cancelled. 21 John also describes listening to Goodrem 22 (sic) emit distressing vocals so loud they could be 23 heard everywhere through the park, even the employee 24 parking lot. Shamu shows were cancelled during her 25 chilling vocalizations which she would repeat</p>	<p style="text-align: right;">Page 88</p> <p>1 government administrators are pressured into 2 changing reports or citations, not to mention the 3 awful conditions from many other animals. 4 We hope these stories and voices are not 5 shouted down by corporate money and slick PR. The 6 Florida-based animal circus and captivity industry 7 has fallen out of favor and is in major decline. As 8 of 2014, only 21 percent of Americans actually favor 9 captivity. 10 SeaWorld as announced plans to expand to 11 China and the Middle East where laws and views are 12 more lenient. The expansion globally will only 13 encourage more captives world wide. SeaWorld's 14 financials show huge debt, multiple shareholder and 15 class action lawsuits, yet they continue to spend 16 enormous amounts on lobbying and advertising. As 17 attendance continues to drop, are local citizens 18 going to be left bailing out this project? 19 California leads the world in innovation, 20 tech, green energy, genetics, aerospace. We should 21 be seeking something better for our state, not 22 propping up a dying industry with bigger pools. 23 SeaWorld could be real heroes if they 24 evolved into the 21st century and changed their 25 business model. Today, let's seek the right side of</p>
<p style="text-align: right;">Page 87</p> <p>1 unchanged for hours on end. 2 Goodrem died from internal hemorrhaging 3 after SeaWorld vets manually pulled a dead fetus out 4 of her body. Hearing the details of how she died 5 and how long it took her to die is terribly painful. 6 Orca Nair (sic) died a slow death after two 7 years of being forced fed her food and medications. 8 Nair's mom, Goodrem, and the other whales had little 9 to do with her as she was disabled and permanently 10 separated from them. Nair's situation, like the 11 others mentioned, made John's view of killer whale 12 captivity in a completely -- made him view captivity 13 in a completely different light. 14 In terms of care, John and Jeff were always 15 concerned by the number and amount of drugs the 16 whales were given. It seems natural to ask what is 17 it about captivity that requires so much medical 18 intervention. 19 We think that the dental teeth damage and 20 drilling procedures that occur at places like 21 SeaWorld is probably the most tragic consequence of 22 captivity, and I know that Dr. Visser went over 23 that. Exploitation and marginalization with the 24 industry extends to low-wage employees, most without 25 benefits. Injured trainers are afraid to speak up,</p>	<p style="text-align: right;">Page 89</p> <p>1 history, the environmentally sound, transparent, 2 cruelty free and uplifting, something all of 3 California can be proud of. Blue World is old 4 world. I urge you to vote no on this old world 5 expansion. 6 (Audience interruption.) 7 MR. HARGROVE: Good morning. I'm John 8 Hargrove, and I'm here today to ask you to deny 9 SeaWorld's request for a permit to expand their 10 killer whale tanks. I'm a former senior killer 11 whale trainer for SeaWorld with 12 years of 12 experience with the company, both SeaWorld of Texas 13 and California, resigning my position in August, 14 2012. I was also a supervisor of killer whale 15 training with Marine Land in France. 16 The health effects due to confinement in 17 captivity is irrefutable. Due to boredom and 18 stress, the whales peel and eat the paint in the 19 tanks. They also wear down their teeth by 20 excessively rubbing their teeth on the concrete and 21 bite the stage and ledges from frustration, causing 22 the teeth to fracture. This damage forces us to 23 manually drill the teeth with a metal drill bit 24 without anesthetic. 25 Trainers, not vets, perform this risky</p>

<p style="text-align: right;">Page 90</p> <p>1 procedure. Once the holes are drilled, the whale 2 must endure daily multiple invasive irrigations with 3 a powered machine with a hydrogen peroxide solution 4 as we dig into the tooth with a metal catheter. 5 This now causes the whales to be at greater risk to 6 deadly infections and in fact this has happened. 7 Captive Orcas are heavily medicated. They 8 are treated for ulcers from chronic stress and for 9 countless infections from multiple types of 10 antibiotics. We have medicated a whale for epilepsy 11 and yet we still swam with him despite the obvious 12 dangers associated with both his condition and his 13 mental state being compromised due to the side 14 effects of the medication. 15 Often we witness self-mutilation as whales 16 due to boredom expressed obsessive behavior that 17 caused injury to their faces and rostrums which 18 became bloodied and bruised and often caused them to 19 what we refer to as shutting down or refusing to 20 eat. Despite our best efforts to extinguish this 21 undesirable behavior, through SeaWorld training 22 principles, we were unsuccessful. 23 In-breeding has now become a serious issue. 24 Despite the fact that science has prove Orcas don't 25 in-breed in their natural habitat, these social</p>	<p style="text-align: right;">Page 92</p> <p>1 years old she is just a kid, and years away from her 2 body being fully developed. This abomination has 3 led the world-renowned and respect Dr. Jane Goodall 4 to come forward and issue a public statement just a 5 few months ago stating, "SeaWorld's breeding program 6 is no longer defensible by science and should be 7 shut down." 8 SeaWorld still states they do not separate 9 mothers from their calves, even posting an image of 10 Takara and her calf Kohana on their SeaWorld 11 website, even though Takara is in Texas and Kohana 12 is in Spain. 13 (Audience interruption.) 14 MR. HARGROVE: After taking Takara from her 15 mother, Kasatka at age 12, even though they would 16 stay together for life in the wild, SeaWorld chose 17 not to tell the public the rest of the story. That 18 Kohana was taken from Takara at only three years old 19 when shipped to Spain to be in-bred by her uncle 20 Keto. Nor the fact that Takara was taken from her 21 second calf, Trua, also age three, when they shipped 22 her to Texas while she was seven months pregnant 23 with Sakari. 24 After I testified before the California 25 State Assembly for proposed legislation AB 2140,</p>
<p style="text-align: right;">Page 91</p> <p>1 mechanisms break down in captivity. Taku in-bred 2 his mother, and Keto, who killed Alexis Martinez, 3 and the uncle of Kohana, has currently in-bred her 4 twice by the age of eight resulting in two calves. 5 She rejected both calves and the second died within 6 their first year of life. 7 Important to note is that natural breeding 8 in the wild occurs between 13 to 15 years of age. 9 This brings me to discuss the artificial 10 insemination program at SeaWorld, which began in the 11 year 2000, and I was on the team that performed the 12 first successful AI procedure in the world on 13 Kasatka. I have trained this procedure many times 14 through the years and in control of the whales for 15 their procedure when performed. 16 There are two very disturbing aspects about 17 this. First, SeaWorld continues to ignore science 18 by artificially inseminating females with sperm from 19 Orcas they would never interact with in the wild, 20 and certainly not breed with. By forcing this 21 unnatural behavior on these captive Orcas, SeaWorld 22 is creating hybrid Orcas that have no true social 23 identity and do not exist in the natural world. 24 Kalia at the age of eight in 2013 was 25 forcibly artificially inseminated. At only eight</p>	<p style="text-align: right;">Page 93</p> <p>1 corporate vet Christopher Dold answered, "No, we 2 don't separate mothers from their calves," then only 3 to switch his story to say only in rare cases if the 4 calf is in imminent danger. 5 I am certain that SeaWorld is responsible 6 for taking at least 19 calves from their mothers, 7 and only two of these were medically necessary due 8 to extreme aggression by the mother toward the calf. 9 SeaWorld now attempts to classify a calf as 10 a nursing animal still dependent on their mother, 11 and therefore acceptable to separate them after they 12 stop nursing. Science has proven these animals stay 13 together for life in the wild, and SeaWorld 14 separated Keet from his mother, Kalina, when he was 15 only 20 months old and still nursing. 16 As an apprentice trainer in 1993, 1994, I 17 was responsible for detailed documentation of the 18 whales' behavior including calf nursing. It was 19 observed and documented that Keet still had milk in 20 his mouth, still nursing Kalina, when she was 21 shipped back to Florida. 22 Anyone who challenges or disagrees with 23 SeaWorld's business model of keeping captive animals 24 for entertainment and profit, are immediately 25 labeled as extreme animal rights activists in an</p>

<p style="text-align: right;">Page 94</p> <p>1 effort to discredit them.</p> <p>2 I reported potentially unsafe working</p> <p>3 conditions at SeaWorld of California to CalOSHA. An</p> <p>4 inspection by the agency resulted in current</p> <p>5 multiple safety violations and for preventing</p> <p>6 employees from reporting workplace hazards. I have</p> <p>7 been named on the government's witness list for this</p> <p>8 case.</p> <p>9 One only needs to go to the official NOAA</p> <p>10 government site to see all the ages and causes of</p> <p>11 death of all SeaWorld-owned whales to realize that</p> <p>12 despite what they try to sell you with their</p> <p>13 commercials and what they told you today, these</p> <p>14 animals are not living anywhere near their</p> <p>15 equivalent of their wild counterparts and are dying</p> <p>16 in painful and drastically premature ways. It's</p> <p>17 documents. It's in black and white. You cannot</p> <p>18 dispute it.</p> <p>19 SeaWorld's proposed expansion is deceiving.</p> <p>20 The expansion already includes existing real estate</p> <p>21 or tank space, the already built Dymo Shamu pool.</p> <p>22 Regardless, when you hear from the prominent marine</p> <p>23 mammal scientist and researchers today, the</p> <p>24 expansion does not offer any meaningful improvement</p> <p>25 in the life of an Orca compared to the life the live</p>	<p style="text-align: right;">Page 96</p> <p>1 anyone who speaks out against them is severe.</p> <p>2 SeaWorld sent multiple legally-threatening</p> <p>3 letters to me warning me not to publish my book and</p> <p>4 threatened to file an injunction to stop it. After</p> <p>5 SeaWorld publicly denied they sent any</p> <p>6 legally-threatening letters to me --</p> <p>7 (Audience interruption.)</p> <p>8 MR. HARGROVE: -- a San Diego-based</p> <p>9 journalist had one of the letters independently</p> <p>10 verified as a legally-threatening letter.</p> <p>11 Withholding fruit from the whales, this is very</p> <p>12 important, for behavioral reasons is common by some</p> <p>13 trainers including management. All five former</p> <p>14 SeaWorld trainers also featured in Blackfish,</p> <p>15 supported my claim and the animal training records</p> <p>16 which SeaWorld refuses to release proves it. A</p> <p>17 judge has already ruled SeaWorld cannot claim their</p> <p>18 training techniques and protocols are trade secrets</p> <p>19 when they perform these techniques -- because they</p> <p>20 perform these techniques in front of thousands of</p> <p>21 public guests.</p> <p>22 Caging and enslaving these animals so that</p> <p>23 you can have a fun day at SeaWorld is not the</p> <p>24 answer. An expansion of any size does not benefit</p> <p>25 the whales. SeaWorld has already stated they have</p>
<p style="text-align: right;">Page 95</p> <p>1 in their natural habitat.</p> <p>2 SeaWorld's world class veterinary care only</p> <p>3 exists to treat the ravaging consequences from</p> <p>4 living in captivity. Wild Orcas do not need their</p> <p>5 teeth drilled or be pumped full of drugs to treat</p> <p>6 infections, anxiety or ulcers. Hyper-aggression</p> <p>7 between whales forced into confined spaces who would</p> <p>8 never interact in the wild has resulted in a death</p> <p>9 of an Orca in California which has never been</p> <p>10 observed in the wild.</p> <p>11 Under management direction, I lied to the</p> <p>12 public for years, denying we used chlorine and other</p> <p>13 lethal chemicals in our water with the animals. I</p> <p>14 also lied about being disciplined for announcing</p> <p>15 over the radio that we could smell elevated ozone</p> <p>16 levels because we did not want the public to pick up</p> <p>17 on that. We were also directed to lie about</p> <p>18 circumstances about aggressions between us and the</p> <p>19 whales, despite the fact our aggressions with the</p> <p>20 whales were clearly documented.</p> <p>21 The SeaWorld spokesperson directly lied to</p> <p>22 the public, saying the trainers did not believe the</p> <p>23 whales' behavior was aggressive, which was patently</p> <p>24 false. There is a blatant lack of transparency by</p> <p>25 this company and history of retaliating against</p>	<p style="text-align: right;">Page 97</p> <p>1 no intention to stop their breeding program, nor</p> <p>2 their artificial insemination program, which means</p> <p>3 this incremental amount of space will soon be filled</p> <p>4 with more whales and whales artificially engineered</p> <p>5 that don't exist in the natural world.</p> <p>6 Important to note about this construction</p> <p>7 is that certain whales like Kasatka in California</p> <p>8 have a long history of becoming serious agitated</p> <p>9 during construction, escalating to coming out of the</p> <p>10 pool attempting to aggressively grab unsuspecting</p> <p>11 trainers.</p> <p>12 Approval of this expansion will promote</p> <p>13 this industry world wide and encourage wild captures</p> <p>14 elsewhere. Captivity is still captivity, no matter</p> <p>15 how gentle the jailer or size of the sail, these</p> <p>16 animals belong in their natural habitat. Thank you.</p> <p>17 CHAIR KINSEY: Thank you. Thank you both.</p> <p>18 (Audience interruption.)</p> <p>19 CHAIR KINSEY: That completes that</p> <p>20 presentation. We will -- we will now be going into</p> <p>21 our lunch recess and closed session. And I</p> <p>22 anticipate being back in this room between 1:30 and</p> <p>23 1:45. Thank you.</p> <p>24 (Lunch recess and closed session.)</p> <p>25 CHAIR KINSEY: Thank you. Welcome back.</p>

<p style="text-align: right;">Page 98</p> <p>1 Thank you your patience. I hope you've been 2 enjoying your time waiting. We are going to 3 continue and as we know, we have a number of folks 4 who are interested in speaking right down to the 5 individual. We're still going through some 6 organized presentations, and I wanted to invite up 7 Jared Goodman from PETA who would have 15 minutes -- 8 (Audience interruption.) 9 CHAIR KINSEY: There you go. Yeah. Get 10 that last, one last shout out because we're going to 11 not do that anymore. 12 (Audience interruption.) 13 CHAIR KINSEY: Okay. 14 (Audience interruption.) 15 CHAIR KINSEY: Enough. Okay. 16 COMMISSIONER GROOME: Need to report on 17 closed session. 18 CHAIR KINSEY: Thank you. That's only 19 fair. Before you begin, Jared, I wanted to make 20 sure that we have a report out of our closed 21 session, just to explain that. Turn to our chief 22 counsel. 23 MR. PEDERSON: Thank you very much, Chair 24 Kinsey. The Coastal Commission met in closed 25 session today to discuss the following matters of</p>	<p style="text-align: right;">Page 100</p> <p>1 MR. GOODMAN: So thank you, Chair Kinsey 2 and Commissioners for hearing from us today. I am 3 Jared Goodman on behalf of PETA and the 130,000 4 people who have joined us in urging you to vote 5 against SeaWorld's Blue World project. It would be 6 the best decision for the Orca and for the state of 7 California. 8 Approving SeaWorld's plan would be an 9 enormous step backward for animals abused in the 10 entertainment industry at a time when public opinion 11 has shifted away from supporting captivity and 12 decisions makers in the state are working hard and 13 tirelessly to put an end to it. 14 In just the past year, Oakland and 15 Los Angeles have passed laws to prohibit bull hooks, 16 which are weapons used to abuse elephants in the 17 circus, effectively banning those circuses from 18 entering the state -- or from those metropolitan 19 areas. Also Ringling Brothers announced that it 20 would stop using elephants in circuses after nearly 21 150 years, acknowledging that consumers have turned 22 against the archaic practice. 23 SeaWorld is nothing more than a marine 24 circus, and the Orcas are their elephants. SeaWorld 25 admits that its plan is to breed more Orcas for</p>
<p style="text-align: right;">Page 99</p> <p>1 litigation. AES Southland Development versus 2 Coastal Commission, Marina Coast Water District 3 versus Coastal Commission, Aqua Legacy Development 4 versus Coastal Commission, City of Dana Point versus 5 Coastal Commission, and a matter of potential 6 litigation. The Commission received litigation 7 advice, but took no action on those matters. In 8 addition, given the Commission status at this stage 9 of SeaWorld's pending application, the Commission is 10 facing a risk of pending -- of litigation being 11 filed, so there was discussion of potential 12 litigation risks as well. The Commission took no 13 action on that. Thank you. 14 CHAIR KINSEY: Okay. Thank you all for 15 your courtesy. I'm going to invite Jared to begin 16 at this point in time. 17 MR. GOODMAN: Thank you. I'm going to be 18 taking only about 12 and a half of the 15 minutes, 19 and the rest is going to be ceded to Ms. Pamela 20 Anderson, who will be coming up here. 21 (Audience interruption.) 22 CHAIR KINSEY: All right. There are seats 23 for those who will be part of a presentation. I 24 encourage you to be sitting and ready to go. Thank 25 you.</p>	<p style="text-align: right;">Page 101</p> <p>1 these new tanks, which would effectively undo any 2 marginal improvements to the quality of life that 3 alleges that these tanks would offer. 4 According to SeaWorld, the tanks would be 5 designed to accommodate up to 20 Orcas, but it holds 6 only 11 of them in the tanks now. Even by its 7 self-imposed limitation, it may nearly double the 8 number of Orcas in these tanks, which would leave 9 the individual Orcas with less space than they 10 currently have. 11 This project is about desperately trying to 12 improve its badly-damaged reputation, not about the 13 lives of the Orcas who are currently confined there. 14 The Commission's exercise of its authority over 15 captive marine mammals is consistent with the 16 Coastal Act's language, its intent, the Commission's 17 own precedent, and its history of unwavering 18 vigilance over all coastal resources. Accordingly, 19 we are urging the Commission to deny SeaWorld's 20 proposal, which would fuel the unregulated growth of 21 the company's Orca breeding program and cement this 22 failing business' place within the coastal zone. 23 The Coastal Act was enacted to protect, 24 maintain, enhance and restore the overall quality of 25 the coastal zone environment and its resources,</p>

<p style="text-align: right;">Page 102</p> <p>1 including marine resources and healthy populations 2 of all species of marine organisms. The legislature 3 considered it necessary to provide maximum state 4 involvement in activities that affect California's 5 coast and avoid long-term cost to the public, and a 6 diminished quality of life resulting from the 7 mis-use of coastal resources.</p> <p>8 Although the Coastal Act focuses on 9 protecting open spaces in wildlife in their native 10 state, it contains no limiting language that would 11 exclude captive wildlife. Rather, the legislature 12 required that the Commission protect all resources 13 that exist with the coastal zone as the Orcas at 14 SeaWorld plainly do, which is why we're hearing this 15 today.</p> <p>16 The Act applies to both natural and 17 artificial resources, whether they are on public or 18 private lands, to find that the Act protects only 19 open waters and free roaming animals would render 20 this language meaningless.</p> <p>21 The Commission has exercised its 22 jurisdiction over every part of the coast, from 23 pristine preserves to abandoned and decaying 24 industrial areas, and just as the Commission still 25 controls natural spaces that have been spoiled, it</p>	<p style="text-align: right;">Page 104</p> <p>1 the most applicable Coastal Act policy with regard 2 to marine mammals that are held in captivity at 3 SeaWorld.</p> <p>4 The Commission just asked the noisy ride 5 that was built might affect the captive dolphins. 6 Again, SeaWorld didn't challenge jurisdiction, but 7 simply provided a report that said there will be no 8 greater impact on the animals after as before the 9 ride was being built.</p> <p>10 Even now, as the Commission has come to 11 examine its jurisdiction over captive marine 12 mammals, its conditioning approval of SeaWorld's 13 expansion on noise mitigation efforts that must be 14 taken to protect these very same captive animals.</p> <p>15 In fact, the Commission has even exercised 16 its authority to prevent racial discrimination in 17 the coastal zone. In 1985 the Commission refused to 18 issue the Jonathan Club coastal development permit 19 unless the private club, which occupied a public 20 beach front, disavowed its discriminatory membership 21 policy.</p> <p>22 The club took its fight all the way to 23 court and lost, and like the club, SeaWorld is a 24 private organization that occupies coastal zone, it 25 profits from a practice that has become widely</p>
<p style="text-align: right;">Page 103</p> <p>1 also retains jurisdiction over Orcas within the 2 coastal zone who have been captured or who were born 3 in captivity.</p> <p>4 The Commission doesn't just retain 5 jurisdiction over marine mammals, but has also 6 repeatedly exercised its jurisdiction without 7 fanfare or debate. Just last year when asked to 8 authorize the repair and replacement of aging pools 9 at the Long Brain (phonetic) Laboratory in Santa 10 Cruz, the Commission specifically considered where 11 the displaced dolphins would be held during 12 construction. Although the Commission didn't 13 include an analysis of its jurisdiction over these 14 dolphins, none was needed. The Commission had no 15 reason to question the scope -- the scope of its 16 authority either then or now.</p> <p>17 To deflect controversy and criticism, 18 SeaWorld has for the first time tried to cast doubt 19 on the Commission's authority over captive 20 cetaceans. There was little doubt that the Act 21 applied to captive marine mammals when the 22 Commission considered SeaWorld's 2002 Splashdown 23 project that we've discussed, and in fact the 24 Commission specifically invoked Section 30230 of the 25 Act and noted, "It protects marine resources and is</p>	<p style="text-align: right;">Page 105</p> <p>1 recognized as unethical, and aims to curtail the 2 Commission's power through a narrow reading of the 3 Coastal Act.</p> <p>4 The Blue World project, however, represents 5 a far more tangible harm to marine resources of the 6 coastal zone than the Jonathan Club did.</p> <p>7 Since Orcas are due special protection 8 under the Act, any uncertainty about the 9 Commission's jurisdiction pursuant to the Coastal 10 Act must be resolved in the Orcas' favor.</p> <p>11 In an attempt to repair a fractured 12 reputation for its unethical business, SeaWorld is 13 misleading members of the public and hoping they 14 will believe that superficial aesthetic changes to 15 its tanks will lead to a better quality of life for 16 the Orcas who are confined to them.</p> <p>17 As you can see in SeaWorld's new plans that 18 they showed us today, the changes that the company 19 proposes are designed to attract more guests, not to 20 improve the lives of Orcas. In the wild, Orcas dive 21 up to 1,000 feet below the ocean surface, but the 22 tanks that SeaWorld is requesting permission to 23 build would reach only 50 feet at their very deepest 24 points. And SeaWorld wants to increase the depth of 25 its current tanks by only 15 feet from what it is</p>

<p style="text-align: right;">Page 106</p> <p>1 currently, which is not even the body length of an 2 adult Orca.</p> <p>3 This new glass enclosure and horticulture 4 outside the tanks would do nothing to benefit the 5 Orcas or enhance their quality of life. SeaWorld's 6 proposed new tanks are only 350 long, that's only 7 .07 miles. By contrast, as Dr. Visser told us, 8 Orcas have been observed swimming 138 miles in a 9 single day. SeaWorld has said that Orcas will swim 10 long distances in the wild only because they are 11 required to in order to search for food.</p> <p>12 But in fact, also as Dr. Visser noted, 13 these animals have evolved over millions of years 14 into far-ranging, deep diving top marine predators. 15 They travel in tight-knit groups, hunt 16 cooperatively, and pass down behaviors and unique 17 dialects to their young from generation to 18 generation. But at SeaWorld they're confined to 19 small concrete tanks and fed dead fish.</p> <p>20 This is indisputable. These conditions 21 lead to a number of abnormal types of behavior among 22 the Orcas including incessant logging or resting for 23 long periods at the surface of the tank, biting on 24 the sides of the tanks, and excessive aggression 25 directed towards trainers and each other.</p>	<p style="text-align: right;">Page 108</p> <p>1 occasion, the Orcas who are involved in the 2 altercation can simply swim away from each other.</p> <p>3 In captivity there's no way for them to 4 escape, which results in chronic stress and painful, 5 serious injuries as were observed on several of the 6 Orcas performing at SeaWorld. In fact, SeaWorld's 7 own veterinary records reveal that Orcas have been 8 given Diazepam or Valium to reduce the aggression 9 brought on by captivity, we heard Dr. Nollens that 10 the Orcas are not given anti-depressants. And given 11 Valium only when necessary for a medical procedure.</p> <p>12 SeaWorld's veterinary records show that 13 three Orcas were administered Diazepam because, one, 14 a new mother with a days-old calf was acting 15 aggressively towards her baby; another Orca was also 16 acting aggressively towards that calf; and a third 17 was trying to breed with him. Excuse me. With her. 18 This was a male Orca trying to breed with an 19 approximately 11-day old calf.</p> <p>20 Many of the Orcas including one as young as 21 five years old showed signs of dental trauma, 22 including missing and worn and broken teeth that 23 you've heard from others about today. Again, 24 according to SeaWorld's own veterinary records, the 25 drilling that they do and the flushing that they do</p>
<p style="text-align: right;">Page 107</p> <p>1 We've heard from others on these 2 detrimental effects of captivity, so I will only 3 address them briefly.</p> <p>4 Dr. Heather Rally, a PETA Foundation 5 veterinarian who has marine mammals, visited 6 SeaWorld San Diego in September and October of 2014, 7 and the other two SeaWorld facilities earlier this 8 year. Her observations confirmed the damage caused 9 by a life of deprivation at SeaWorld.</p> <p>10 Although in the wild Orcas spend up to 95 11 percent of their time submerged and are in motion 12 almost constantly, the male Orca Ikaika was observed 13 lying motionless at the surface of the tank for at 14 least 15 minutes, occasionally lifting head and 15 opening mouth as if he were trying to swallow air. 16 And another Orca floating motionless in a corridor 17 near the exit of the pool. A third Orca who is 18 housed in isolation was observed exhibiting a 19 repetitive swimming pattern which is uncommon in the 20 wild and believed to be a sign of psychological 21 stress and boredom in captivity.</p> <p>22 Dr. Rally identified rake marks on several 23 of the Orcas, these occur when the teeth of dominant 24 Orcas scrape against less aggressive animals, and in 25 the wild, while this certainly does happen on</p>	<p style="text-align: right;">Page 109</p> <p>1 is often unsuccessful. It means animals still often 2 suffer from chronic dental infections to the point 3 where pus will be exuding from the tooth and you 4 could feel the heat from the infection without even 5 touching the tooth.</p> <p>6 As observed by Dr. Rally and indicated by 7 Dr. Visser, every single captive adult male had a 8 collapsed dorsal fin, a condition that rarely occurs 9 in the wild, and in captivity is believed to be a 10 result of space limitation and extended time spent 11 at the surface of the water.</p> <p>12 These conditions take their toll on the 13 animals. In the last ten years, seven Orcas owned 14 by SeaWorld averaging under 13 years of age have 15 died, whereas in the wild Orcas have an average life 16 expectancy of 30 to 50 years and some can live to be 17 over 100. Again, these are facts, these are the 18 animals who have died at SeaWorld within the last 19 ten years, and the average age was less than 13.</p> <p>20 While SeaWorld is spending millions of 21 dollars desperately trying to repair its devastating 22 image, it spends less than one percent of its 23 revenue on rescue and conservation. The \$95 million 24 that SeaWorld is proposing to spend to construct these 25 new tanks is based on its 2014 spending more money</p>

<p style="text-align: right;">Page 110</p> <p>1 than it projects to spend on rescue and conservation 2 over the next 13 years. In fact, several studies 3 conducted by members of the zoological community 4 have concluded that unnatural portrayal of animals 5 used in entertainment actually undermines the 6 legitimate scientific welfare and conservation goals 7 of those who seek to protect them.</p> <p>8 While other studies have shown that seeing 9 animals in captivity actually fosters disrespect for 10 them rather than reverence. First and foremost, 11 SeaWorld is a business with profit as its goal, not 12 an educational or conservational institution.</p> <p>13 SeaWorld lost 1 million visitors last year. 14 Its second quarter earnings dropped 84 percent, and 15 more than 130,000 have already asked the Coastal Act 16 to vote against the park's plan to continue keeping 17 Orcas in tanks.</p> <p>18 If SeaWorld truly cares about the 19 well-being of Orcas, it will build state of the art 20 augmented or virtual reality experience that that 21 would allow visitors to observe an interactive 22 marine life in new and innovative ways as well as 23 offering actual educational value to a new 24 generation of people who don't want to see marine 25 mammals held captive and forced to perform</p>	<p style="text-align: right;">Page 112</p> <p>1 and I do look back and I see, you know, educate, 2 inspire and conserve, and those are three words that 3 do not describe SeaWorld.</p> <p>4 I often look out at the beautiful ocean and 5 wish the whales confined at SeaWorld had freedom, as 6 nature intended. SeaWorld's proposed expansion is 7 out of step with the times. L.A. has banned bull 8 hooks used to beat elephants, San Francisco banned 9 animal circuses altogether, and last month a judge 10 upheld the government's ruling bearing -- barring a 11 marine park from importing Beluga whales from 12 Russia, an issue I spoke about at a Russian forum 13 just a few weeks, just before the ruling.</p> <p>14 Approving a permit for a new awful Orca 15 tank would a major step backwards. Look closely at 16 SeaWorld's plan. It is designed to enhance the 17 tourist experience, not the animals' existence. 18 SeaWorld says it will use the extra space to breed 19 and imprison more Orcas. Approving this project 20 will mean immense suffering for the ocean's most 21 sophisticated animals.</p> <p>22 The construction alone will be very 23 distressing to SeaWorld's captive Orcas. Only one 24 of the existing tanks is being replaced, so the 25 Orcas will remain the others, and be subjected to</p>
<p style="text-align: right;">Page 111</p> <p>1 circus-style tricks. And they'd invest in coastal 2 sanctuaries where marine mammals can experience the 3 ocean, engage in natural behavior and live in an 4 environment that provides them with the physical and 5 mental stimulation that's crucial to their 6 well-being.</p> <p>7 In an effort to save the Commissioners 8 time, I'm going to ask that everyone who urges the 9 Commission to deny this permit to please stand up 10 quietly to show your support for this position. 11 This is in addition the hundred people outside who 12 simply couldn't fit and are watching from the 13 screens outside the building. Thank you.</p> <p>14 MS. ANDERSON: Hello. 15 (Audience response.) 16 MS. ANDERSON: Hi. I'm Pamela Anderson. 17 (Audience interruption.) 18 MS. ANDERSON: That's good. That's good 19 news. I am a California resident of Malibu, 20 actually, I was born and raised on Vancouver Island, 21 I was surrounded by this natural beauty, I was 22 surrounded by Orcas my whole life and I really love 23 them and appreciate them in the wild. There's 24 plenty of opportunities to see these beautiful 25 animals in the wild, which is much more education,</p>	<p style="text-align: right;">Page 113</p> <p>1 constant loud machinery. For marine mammals who 2 communicate through sonar vibrations, this is 3 torture. SeaWorld's own records reveal that 4 construction stresses the whales out. SeaWorld is 5 clinging desperately to the past, before people 6 understood these intelligent animals. But we now 7 know that captive go insane. And suffer terrible 8 depression when they are separated from their babies 9 and their families.</p> <p>10 If SeaWorld truly cared about animals, they 11 would remove -- they would move the Orcas to sea 12 sanctuaries which would be much less expensive, and 13 where they live some semblance of a normal life, 14 feel the ocean currents, perhaps even communicate 15 with their pods, even if they can never be released.</p> <p>16 As a resident of California I urge you, 17 please vote against SeaWorld's Blue World project. 18 I have --</p> <p>19 CHAIR KINSEY: Thank you. 20 MS. ANDERSON: -- unique situation, I get 21 to speak all over the world and I would love to tell 22 the world how the California Coastal Commission made 23 this really wonder, forward thinking compassionate, 24 and that I could tell everybody all over the world 25 just how it started here.</p>

<p style="text-align: right;">Page 114</p> <p>1 CHAIR KINSEY: Think you.</p> <p>2 MS. ANDERSON: And I know SeaWorld will be</p> <p>3 a thing of the past very soon. Thank you.</p> <p>4 CHAIR KINSEY: Thank you.</p> <p>5 (Audience interruption.)</p> <p>6 CHAIR KINSEY: Hey, hey, hey, hey, hey</p> <p>7 guys.</p> <p>8 (Audience interruption.)</p> <p>9 CHAIR KINSEY: Thank you. The next item is</p> <p>10 Kathleen Dezio from the Alliance of Marine Mammal</p> <p>11 Parks and Aquariums, and you'll have 15 minutes, and</p> <p>12 you'll be followed by the Earth Island Institute's</p> <p>13 International Marine Project.</p> <p>14 So is Kathleen available? Great. And any</p> <p>15 other speakers who come with you are welcome to sit</p> <p>16 beside you there, and we'll get this started. Thank</p> <p>17 you.</p> <p>18 A VOICE: The last name?</p> <p>19 MS. DEZIO: Dezio, D-e-z-i-o.</p> <p>20 Chairman Kinsey and members of the Coastal</p> <p>21 Commission, thank you for the opportunity to speak</p> <p>22 to you today in support of the Blue World project.</p> <p>23 I'm Kathleen Dezio, I'm executive director of the</p> <p>24 Alliance of Marine Mammal Parks and Aquariums. We</p> <p>25 are an international association, an accrediting</p>	<p style="text-align: right;">Page 116</p> <p>1 animal care in state of the art habitats, pioneered</p> <p>2 important scientific research on cetaceans, lent</p> <p>3 amazing time and resources to extensive rescue and</p> <p>4 rehab work with entangled animals along the coast of</p> <p>5 California.</p> <p>6 These high standards have rightfully earned</p> <p>7 them their stature as a global leader in the</p> <p>8 zoological community. However, despite meeting</p> <p>9 these high standards, in the days leading up to</p> <p>10 today's hearing, SeaWorld has been continuously</p> <p>11 attached and vilified in a stream of misinformation</p> <p>12 from organizations that do not believe there should</p> <p>13 be any -- any animals in human care at all. Not in</p> <p>14 zoos, not in aquariums, not in marine parks, no even</p> <p>15 as your pet.</p> <p>16 (Audience interruption.)</p> <p>17 MS. DEZIO: That is a view that is outside</p> <p>18 the mainstream of the American public, and it's not</p> <p>19 shared by most Americans.</p> <p>20 (Audience interruption.)</p> <p>21 MS. DEZIO: Many of these organizations</p> <p>22 make no secret of their desire to see SeaWorld in</p> <p>23 similar and similar institutions be forced out of</p> <p>24 business. And in a breathtaking display of</p> <p>25 hypocrisy, while many in these organizations have</p>
<p style="text-align: right;">Page 115</p> <p>1 body from marine parks, aquariums and zoos</p> <p>2 throughout the world. Our mission is to support the</p> <p>3 highest standards of care for marine mammals and to</p> <p>4 contribute to their conservation in the wild</p> <p>5 through public education and scientific research.</p> <p>6 We have 58 accredited members in the U.S.,</p> <p>7 Mexico, Canada, the Caribbean, Europe and Asia. And</p> <p>8 four research institution members. Alliance members</p> <p>9 together possess the largest body of marine mammal</p> <p>10 expertise and experience in the world, and our</p> <p>11 accreditation standards are the most comprehensive</p> <p>12 and stringent anywhere.</p> <p>13 SeaWorld San Diego is an accredited member</p> <p>14 of the Alliance, and as such it must meet or exceed</p> <p>15 our rigorous standards covering a dozen different</p> <p>16 areas, including animal husbandry, animal training,</p> <p>17 enrichment, water and environmental quality,</p> <p>18 breeding, transportation, scientific research,</p> <p>19 conservation and education among others. These</p> <p>20 standards optimize the welfare of and the</p> <p>21 environment conditions for marine mammals in our</p> <p>22 members' care and maximize their education and</p> <p>23 scientific value.</p> <p>24 In our work with SeaWorld San Diego over</p> <p>25 many years, they have demonstrated world class</p>	<p style="text-align: right;">Page 117</p> <p>1 for years criticized the size of SeaWorld's habitats</p> <p>2 and welfare of its animals, these very same people</p> <p>3 are now spending considerable amounts of money and</p> <p>4 time and resources to oppose the very project that</p> <p>5 would give SeaWorld's Orcas much larger, more</p> <p>6 dynamic and enriched environments and make possible</p> <p>7 greater animal welfare. That's just wrong.</p> <p>8 Even the San Diego Union Tribune today,</p> <p>9 editorial board, said that they -- they couldn't</p> <p>10 understand how the activists could possibly believe</p> <p>11 the whales at SeaWorld would be better off without</p> <p>12 this project. And they said there is no legitimate</p> <p>13 reason to deny them a permit.</p> <p>14 These groups are also advocating, though,</p> <p>15 for a ban on breeding, as you've heard, of</p> <p>16 SeaWorld's Orcas, and to be clear, that prohibition</p> <p>17 would not be in the best interest of the 11 Orcas</p> <p>18 there, but it also would not be in keeping with</p> <p>19 professional best practices in the accredited</p> <p>20 zoological community, and it would impede SeaWorld's</p> <p>21 ability to fulfill it's obligations under alliance</p> <p>22 accreditation standards and guidelines.</p> <p>23 Which, among other things, require them to</p> <p>24 optimize genetic diversity and maintain a sufficient</p> <p>25 population to serve current and future conservation</p>

<p style="text-align: right;">Page 118</p> <p>1 and education commitments.</p> <p>2 Successful breeding programs minimize the</p> <p>3 need to collect from the wild. SeaWorld's</p> <p>4 successful breeding, research and husbandry over 35</p> <p>5 years have led to a thriving Orca population in</p> <p>6 human care, and they are the reason SeaWorld has not</p> <p>7 collected a killer whale since then from the wild.</p> <p>8 As you consider this permit application, we</p> <p>9 urge you to keep in mind the tremendous benefits it</p> <p>10 will bring in the -- if the permit is granted as the</p> <p>11 Staff has recommended. It will improve animal</p> <p>12 welfare by giving them a much larger and innovative</p> <p>13 new environment. It will bring one of the most</p> <p>14 sophisticated spectacular killer whale habitats in</p> <p>15 the world to California. It will ensure that</p> <p>16 SeaWorld's cutting edge scientific research with</p> <p>17 Orcas is able to continue to benefit Orcas in the</p> <p>18 wild, and it will enable SeaWorld to maintain its</p> <p>19 impressive veterinarian expertise and facilities</p> <p>20 that make possible the always-on-call large scale</p> <p>21 rescue and rehab work with stranded animals along</p> <p>22 California's coast.</p> <p>23 In closing, people love what they know and</p> <p>24 they understand. While killer whales were once</p> <p>25 feared by some and used as target practice by</p>	<p style="text-align: right;">Page 120</p> <p>1 it. My name is Patrick Berry, I'm a board member of</p> <p>2 the Alliance of Marine Mammal Parks and Aquariums.</p> <p>3 Current chair of the Planning and Policy committee,</p> <p>4 and I've led the review of our standards and</p> <p>5 guidelines each year to continually strengthen and</p> <p>6 improve them and ensure they are current with best</p> <p>7 practices.</p> <p>8 I have also been an accreditation inspector</p> <p>9 for the Alliance for many years, and in this</p> <p>10 capacity have personally inspected two SeaWorld</p> <p>11 facilities myself.</p> <p>12 Alliance-accredited facilities must</p> <p>13 demonstrate they meet our requirements every five</p> <p>14 years through a comprehensive two-day on-site</p> <p>15 inspection by a team of experienced professionals.</p> <p>16 Our standards and guidelines encompass 42 pages with</p> <p>17 12 sections and 217 provisions.</p> <p>18 I would like to take a moment to touch on a</p> <p>19 couple points about our standards in the area of</p> <p>20 breeding programs. Accredited facilities such as</p> <p>21 SeaWorld must develop a comprehensive written</p> <p>22 propagation plan covering all aspects of breeding,</p> <p>23 designed to maximize the potential for successful</p> <p>24 breeding efforts in rearing of offspring.</p> <p>25 Breeding programs of accredited facilities</p>
<p style="text-align: right;">Page 119</p> <p>1 others, today they are one of the most iconic</p> <p>2 creatures. People know and love them and want to</p> <p>3 protect them. That is in no small part due to the</p> <p>4 work of SeaWorld over the last 51 years.</p> <p>5 On behalf of the Alliance of --</p> <p>6 (Audience interruption.)</p> <p>7 MS. DEZO: -- Marine Mammal Parks and</p> <p>8 Aquariums, I urge you to vote in a way that supports</p> <p>9 that work for the next 50 years, and I want to cede</p> <p>10 the rest of my time to my colleagues.</p> <p>11 (Audience interruption.)</p> <p>12 CHAIR KINSEY: Cut it out, please.</p> <p>13 (Audience interruption.)</p> <p>14 COMMISSIONER SHALLENBERGER: Go out and</p> <p>15 watch outside, because this is very disrespectful to</p> <p>16 the people testifying, regardless of their position.</p> <p>17 CHAIR KINSEY: Thank you. And so we've</p> <p>18 asked a number of times, please, I'm going to ask</p> <p>19 again, be respectful of all speakers, there's plenty</p> <p>20 of ways and plenty of opportunity to show your</p> <p>21 appreciation for the points of view. Let's give Mr.</p> <p>22 Berry our attention. Thank you.</p> <p>23 MR. BERRY: Thank you Chairman Kinsey, and</p> <p>24 members of the California Coastal Commission. Thank</p> <p>25 you for the opportunity to speak here, I appreciate</p>	<p style="text-align: right;">Page 121</p> <p>1 must include a range of elements such as the</p> <p>2 provision of appropriate maternity pools and</p> <p>3 monitoring pregnancy, calf delivery and rearing.</p> <p>4 Living animals require a substantial commitment of</p> <p>5 resources and thoughtful management and cannot be</p> <p>6 managed using short-term strategies.</p> <p>7 It is essential that facilities maintain</p> <p>8 healthy, genetically diverse populations that ensure</p> <p>9 their long-term sustainability, maximize the</p> <p>10 facility's contributions to research, and the</p> <p>11 public's knowledge of marine mammals and concern for</p> <p>12 their conservation in the wild.</p> <p>13 It's unfortunate that activist opponents of</p> <p>14 this project oppose breeding, because a ban on</p> <p>15 breeding is both impractical and unwise from an</p> <p>16 animal care and animal welfare standpoint. Breeding</p> <p>17 is natural. It is a vital part of an animal's life,</p> <p>18 and an indication that animals are healthy, thriving</p> <p>19 and compatible.</p> <p>20 To groups of animals that depend on</p> <p>21 extensive social contact and cooperation, offspring</p> <p>22 are significant and enriching. Any call to ban</p> <p>23 breeding is nothing more than a thinly-veiled</p> <p>24 attempt to force zoos -- to force zoological</p> <p>25 institutions to manage their animals into</p>

<p style="text-align: right;">Page 122</p> <p>1 extinction.</p> <p>2 The result, of course, is no more animals</p> <p>3 in zoos and aquariums. Studies of reproduction and</p> <p>4 calf development in human care are have provided</p> <p>5 important scientific advances that have assisted</p> <p>6 rescued animals and have the potential to be used in</p> <p>7 the field to protect endangered populations.</p> <p>8 Raising calves in marine parks and</p> <p>9 aquariums also provides the knowledge and practical</p> <p>10 hands-on skills for rescued and stranded animals.</p> <p>11 In closing, the Blue World project is a</p> <p>12 ground-breaking new venture that will enhance the</p> <p>13 welfare of SeaWorld's Orcas, and dramatically</p> <p>14 enhance guest experiences of these incredible</p> <p>15 animals, so guests leave inspired to help conserve</p> <p>16 these animals in the wild at a critical time.</p> <p>17 I appreciate your attention today. Thank</p> <p>18 you.</p> <p>19 MS. HENNESY: Good afternoon, ladies and</p> <p>20 gentlemen of the CCC. I shall be brief. My name is</p> <p>21 Carolyn Hennesy, I am a working actress, a</p> <p>22 best-selling author and host of my own radio</p> <p>23 podcast, Animal Magnetism, focusing on real world</p> <p>24 problems and rational solutions. I am also not paid</p> <p>25 to be here.</p>	<p style="text-align: right;">Page 124</p> <p>1 underwater current for both exercise and enrichment.</p> <p>2 This alone is of tremendous benefit to the health</p> <p>3 and well being of the animals as trainers will</p> <p>4 expand and enhance their world-class training and</p> <p>5 enrichment programs, a seminal point.</p> <p>6 The critics know that the MMPA prohibits</p> <p>7 releasing cetaceans born into human care as most</p> <p>8 SeaWorld killer whales are back into the ocean. The</p> <p>9 call to set them free is pure nonsense and nonsense</p> <p>10 is the more diplomatic word.</p> <p>11 (Audience interruption.)</p> <p>12 MS. HENNESY: So why do they oppose bigger</p> <p>13 habitats for animals that will by federal law and</p> <p>14 common sense always live in human care. PETA, the</p> <p>15 lardest -- the largest of these animal activist</p> <p>16 groups, values its own agenda, which includes as a</p> <p>17 video which Ingrid Visser shows, starting its own</p> <p>18 amusement part using sea pens and purloined Orcas</p> <p>19 from SeaWorld values it much more it does improving</p> <p>20 the lives of animals. Not surprising given the</p> <p>21 thousands of adoptable animals this organization</p> <p>22 kills each year at its so-called shelter --</p> <p>23 (Audience interruption.)</p> <p>24 MS. HENNESY: -- according to Virginia</p> <p>25 state records. And these are the people who want to</p>
<p style="text-align: right;">Page 123</p> <p>1 There is a common perception about actors</p> <p>2 in show biz, that we may tend to speak before we</p> <p>3 think. Or learn. Or know. Regarding animals, it's</p> <p>4 for fear of being labeled cruel, abusive and</p> <p>5 uncaring by radical activists. I have taken great</p> <p>6 pains to learn and understand the facts, the stats,</p> <p>7 who wants what and why. And what is ultimately in</p> <p>8 the best interest of the animals in question,</p> <p>9 because what is in their best interest is also in</p> <p>10 ours.</p> <p>11 I have explored all of SeaWorld. Watching</p> <p>12 humans and animals experience bonding, enrichment</p> <p>13 and education, SeaWorld is the very opposite of</p> <p>14 cruel and inhumane. It is, in fact, a national</p> <p>15 treasure. The request --</p> <p>16 (Audience interruption.)</p> <p>17 MS. HENNESY: -- to approve SeaWorld's</p> <p>18 massive Blue World expansion ought to be met with a</p> <p>19 resounding "yes" for all who want the best for these</p> <p>20 few animals thriving in San Diego. Yet animal</p> <p>21 rights groups are determine to deny improvements</p> <p>22 that will enhance the lives of animals you, your</p> <p>23 children and your grandchildren have come to know</p> <p>24 and love. Blue World will nearly double the size of</p> <p>25 the current Orca habitat and includes a fast swim,</p>	<p style="text-align: right;">Page 125</p> <p>1 tell you what to do with these whales. Most of what</p> <p>2 we know about killer whales comes from the research</p> <p>3 done by SeaWorld over the past five decades. The</p> <p>4 interconnected pools of Blue World reaffirm</p> <p>5 SeaWorld's commitment to continue to study and</p> <p>6 protect Orcas in the wild as well. Blue World is</p> <p>7 supported by numerous animal welfare, veterinary,</p> <p>8 zoological and academic experts.</p> <p>9 In closing, I ask that you vote with the</p> <p>10 recommendations of your own staff to ensure the</p> <p>11 zoo's ongoing dedication to the well being of its</p> <p>12 Orca population. To do otherwise would do immense</p> <p>13 harm to much-needed cetacean research, public</p> <p>14 education and conservation efforts.</p> <p>15 Blue World will enhance the lives of</p> <p>16 SeaWorld's killer whales. Expand the experience for</p> <p>17 park guests and students, provide much-needed jobs</p> <p>18 to the citizens of Southern California, and provide</p> <p>19 even greater opportunities for important scientific</p> <p>20 research.</p> <p>21 A final thought. If you would like to know</p> <p>22 successful was the story of Keiko. I invite you to</p> <p>23 read Killing Keiko by Mark Simmons, the truth is an</p> <p>24 entirely different and horrifying story. Thank you.</p> <p>25 (Audience interruption.)</p>

<p style="text-align: right;">Page 126</p> <p>1 DR. LUKE: Good afternoon. My name is</p> <p>2 Dr. Deborah Luke, and I am the Senior Vice</p> <p>3 President for Conservation and Science with the</p> <p>4 Association of Zoos and Aquariums, often referred to</p> <p>5 as the AZA. I earned my doctorate degree in</p> <p>6 cognitive neuroscience, and have over 20 years of</p> <p>7 animal research and conservation experience,</p> <p>8 including with marine mammals, in both wild and</p> <p>9 zoological settings. AZA is a non-profit</p> <p>10 organization whose independent accreditation</p> <p>11 commission oversees the world's toughest and most</p> <p>12 comprehensive standards and review processes for</p> <p>13 accrediting aquariums and zoos.</p> <p>14 SeaWorld San Diego is a member of the AZA</p> <p>15 in good standing that meets and exceeds AZA's</p> <p>16 accreditation standards. Within the scientific</p> <p>17 community we know that we learn the most about a</p> <p>18 species when we study animals both in the wild and</p> <p>19 in human care.</p> <p>20 By studying animals in the wild we are able</p> <p>21 to gain information about long-term observable</p> <p>22 patterns of behavior, ecology, and ethology for a</p> <p>23 species or a population.</p> <p>24 By studying animals in our care, we are</p> <p>25 able to gain more detailed knowledge about how their</p>	<p style="text-align: right;">Page 128</p> <p>1 (Audience interruption.)</p> <p>2 CHAIR KINSEY: -- Mister --</p> <p>3 (Audience interruption.)</p> <p>4 MR. PALMER: Excuse me, sir, yes. Mark</p> <p>5 Palmer, I'm Associate Director of the International</p> <p>6 Marine Mammal Project, of Earth Island Institute.</p> <p>7 CHAIR KINSEY: Okay. Thank you.</p> <p>8 MR. PALMER: Where to begin. We have a lot</p> <p>9 of discussion about the saving of endangered</p> <p>10 species, there is only one Orca species, subspecies</p> <p>11 actually, that is endangered, this is the Pacific</p> <p>12 Northwest population of Orcas that is found off the</p> <p>13 Puget Sound area of the United States. The reason</p> <p>14 why it is endangered is because of it had been</p> <p>15 seriously depleted by SeaWorld and various other</p> <p>16 people, we have Corky banner here coming up.</p> <p>17 The only reason why this species is</p> <p>18 endangered is because of the collection of animals</p> <p>19 back in the 1970s and '80s which depleted the</p> <p>20 population; therefore the animals have not been able</p> <p>21 to grow, we have a number of pollution problems as</p> <p>22 well, which SeaWorld is not dealing with. We have a</p> <p>23 number of other problems within Puget Sound, ship</p> <p>24 strikes, noise pollution, et cetera, which SeaWorld</p> <p>25 does not deal with or does not even mention in their</p>
<p style="text-align: right;">Page 127</p> <p>1 physiology allows them to thrive and how they</p> <p>2 perceive their environment. These two areas of</p> <p>3 study are complimentary. And when considered</p> <p>4 together offer an unparalleled scientific knowledge</p> <p>5 with substantial implications for conservation of</p> <p>6 animals in the wild. ACA accredited aquariums and</p> <p>7 zoos are devoting a constantly increasing amount of</p> <p>8 time, effort and resources to conservation and the</p> <p>9 protection of threatened and endangered species</p> <p>10 including marine mammals. They devote equal energy</p> <p>11 towards always improving standards of care and</p> <p>12 protection of the animals in their care.</p> <p>13 SeaWorld San Diego like all AZA-accredited</p> <p>14 zoos and aquariums dedicates itself to caring for</p> <p>15 all animals, including Orcas in everyday life.</p> <p>16 CHAIR KINSEY: Thank you for your comments.</p> <p>17 We'll now go to Mr. Palmer from the Earth Island</p> <p>18 International Marine Project.</p> <p>19 MR. PALMER: Close.</p> <p>20 CHAIR KINSEY: You'll have ten minutes.</p> <p>21 MR. PALMER: Close. Mr. Chairman, before</p> <p>22 the actresses here devolve down into a cat fight,</p> <p>23 I'd like to talk a little bit about, so my money, by</p> <p>24 the way, is on Pamela.</p> <p>25 CHAIR KINSEY: Is your name --</p>	<p style="text-align: right;">Page 129</p> <p>1 presentations.</p> <p>2 So I don't think that they're doing much</p> <p>3 for conservation. I don't think they're doing</p> <p>4 anything at all, and I can make an argument that</p> <p>5 they are doing a lot of -- great deal of damage to</p> <p>6 the people of the state of California through their</p> <p>7 mis-education of the public, their misstatements</p> <p>8 about what's going on.</p> <p>9 They talk about Corky, and here we have the</p> <p>10 Free Corky banner. Corky was captured in the</p> <p>11 Pacific Northwest, it is one of the only animals, I</p> <p>12 guess there are two animals at SeaWorld San Diego</p> <p>13 that was caught in the wild. We do have a</p> <p>14 possibility of returning Corky back to the wild</p> <p>15 because we know where Corky's brothers and sisters</p> <p>16 are. They've been watched and they've been studied</p> <p>17 for a number of years by biologists up in the area,</p> <p>18 so Corky is a possibility indeed for returning a</p> <p>19 wild Orca back to its home where it was once ripped</p> <p>20 off from.</p> <p>21 Remember, when you take an Orca out of the</p> <p>22 environment you are taking it away and putting it</p> <p>23 into captivity, you're taking it away from the two</p> <p>24 most important things in that animal's life. Its</p> <p>25 environment and the freedom of the seas, and the</p>

<p style="text-align: right;">Page 130</p> <p>1 whole aspect of the environment which as molded that 2 animal into the animal that it is. You remove that 3 from them.</p> <p>4 Even the Orcas that are born in captivity, 5 they are not meant for captivity. They are not 6 supposed to be there. Unfortunately as the people 7 said earlier, we can't release those animals, they 8 will have to be in public and private ownership for 9 the rest of their lives because they can't be 10 released. However, I will note that under the 11 Constitution of the state of California, this is 12 something California Coastal Commission should take 13 very close to your heart, under the Constitution of 14 the state of California, wildlife belongs to the 15 people. Those Orcas do not belong to SeaWorld. The 16 only reason SeaWorld has them is they have a permit 17 for --</p> <p>18 (Audience interruption.)</p> <p>19 MR. PALMER: -- them for their ownership, 20 for their care, but they belong to the people if 21 they belong to anyone. I would also point out 22 you've heard some of the put-downs from the SeaWorld 23 people coming into this. This is typical of 24 SeaWorld, they call us extremists, they call us -- 25 and various other names that you've heard today,</p>	<p style="text-align: right;">Page 132</p> <p>1 into the wild, most of them cannot be released back 2 into the wild. We do think that a sea pen operation 3 which is a natural enclosure, not an artificial 4 expansion of the concrete tanks, the expansion of 5 the prison is still a prison. What we want to see 6 is sea pens out in the ocean where these animals can 7 thrive, where they can feel the tides, where they 8 can feel the winds, where they can chase fish, where 9 they can do things that Orcas do instead of doing a 10 show each and every day on the hour, which is what 11 they do now --</p> <p>12 (Audience interruption.)</p> <p>13 MR. PALMER: -- in captivity.</p> <p>14 (Audience interruption.)</p> <p>15 MR. PALMER: These animals are not free, 16 they are working for their food. They will not do 17 their tricks if they're not hungry. So therefore 18 they have to be kept hungry in order to be fed. 19 Yes, they get the food at the end of the day, but if 20 they weren't hungry, they would not do the tricks 21 that you see before you in SeaWorld.</p> <p>22 I would also mention the litigation that's 23 ongoing that is going to test some of these issues. 24 We are working with the law firm of Covington and 25 Burling in San Francisco, Earth Island Institute in</p>
<p style="text-align: right;">Page 131</p> <p>1 including from the nice actress. And it seems to me 2 that we should take that into consideration as the 3 Commission can you trust SeaWorld, and I would tell 4 you that you cannot. They call us extremists, and 5 you have a letter before you from a number of 6 scientists including the terrible extremist 7 Dr. Laurie Moreno, Dr. Jane Goodall, Jean Michel 8 Costeau, they could not be here today, the reason is 9 no doubt that they're out doing something extreme.</p> <p>10 (Audience interruption.)</p> <p>11 MR. PALMER: We are not extremists. We are 12 organizations that are very deeply concerned about 13 these issues. We've been working on these issues 14 for years and years, we provided you with a copy of 15 Blackfish, each of you was sent one from Earth 16 Island Institute. Blackfish is not an animal 17 extremist documentary. Those were former SeaWorld 18 employees who spoke into it.</p> <p>19 Now, if SeaWorld has a problem with them, 20 they ought to look at their own employment policies 21 rather than claiming that they're animal rights 22 extremists or some other sort of derogatory language 23 that we've heard today. We are not extremists, 24 we're looking for a way to resolve this issue, the 25 solution indeed is not to release these animals back</p>	<p style="text-align: right;">Page 133</p> <p>1 Anderson versus SeaWorld which is in Northern 2 California court, which challenges these very claims 3 that SeaWorld has been making as a violation of 4 unfair business practices and violations of consumer 5 protection laws.</p> <p>6 That litigation is ongoing as I say, and 7 we're hopeful that we will get it, we're not asking 8 for a big chunk of money from SeaWorld, what we're 9 asking for is a court order against them making 10 these statements, these false statements that 11 they've been making, and indeed making the truth 12 available to the public about their Orcas in 13 captivity.</p> <p>14 And that's what we want to get out of it. 15 You can be a part of this effort to phase out the 16 captivity of Orcas in the wild, in captivity in the 17 state of California. We're working with the state 18 legislature, we've got the courts involved, here the 19 California Coastal Commission has a chance to make a 20 stand on this issue, you can deny the permit, which 21 the nice actress would like you to do, or we could 22 condition the permit on ending the breeding in 23 captivity of Orcas in the state of California.</p> <p>24 And you will hear more about that proposal 25 from Sara Wan when she gets up to speak with you.</p>

<p style="text-align: right;">Page 134</p> <p>1 One more mention on the Corky banner, thanks to the 2 volunteers who put it up. If we could run it around 3 so everybody else in the room could see it, and 4 I'll, it looks like I've beaten the clock, so I'll 5 say thank you very much for your time, and I hope 6 you do the right things. 7 (Audience interruption.) 8 CHAIR KINSEY: And I'd like to invite Dr. 9 Naomi Rose, from the Animal Welfare Institute, and 10 those who will be speaking with her. 11 DR. ROSE: Hello. I have a presentation. 12 Thank you very much for inviting all of us to speak 13 with you today on this important issue. And I am 14 here to ask you on behalf of the Animal Welfare 15 Institute to vote no on this proposal. And I know 16 that this might seem a strange thing for an animal 17 welfare advocate to propose that we don't give these 18 whales more space. 19 Well, the reason I'm voting -- I'm asking 20 you to vote no is because giving them incrementally 21 more space is ill advised at this time. There's a 22 number of reasons, I've written a letter to you on 23 this topic about the waste of resources this might 24 prove to be. If you put \$100 million into this big 25 hole in the ground at this point, events are</p>	<p style="text-align: right;">Page 136</p> <p>1 about those captures in Russia. I know a lot about 2 those captures in Russia. It's not actually really 3 hard as an advocate for conservation to know about 4 those captures in Russia. 5 They should more about those captures in 6 Russia, they are providing Orcas for the public 7 display industry, which they are a member of. I'm 8 rather surprised to hear that. That they don't know 9 very much about it. There have been 15 captures in 10 the last, since 2012, so that's the last three 11 years. Two were just this year, and ten of those 12 were before the date on the condition for this 13 permit. So even though I've heard today that they 14 are pledging additionally not to take those animals 15 or their offspring or genetic material from those 16 animals, it isn't clear to me that they are talking 17 about the ten before February 12th, 2014, or just 18 the five after February 12th, 2014. 19 So I do think that those Russian Orcas are 20 relevant to the discussion here, when it comes to 21 their welfare. I'm going to just run really quickly 22 through some free ranging versus captive animal 23 differences. This is something I've spent a lot of 24 time discussing in my job. I have been addressing 25 the issue of the public display and the welfare of</p>
<p style="text-align: right;">Page 135</p> <p>1 starting to move forward on several different 2 levels, including in the legislature here in 3 California, and there's a drought going on, and 4 public opinion is changing, and quite frankly it 5 might be best at the very least to reconsider the 6 timing of this to at least wait, you know, until 7 certain events play out and we see where things 8 stand in two or three years. 9 Building this enclosure now and SeaWorld 10 investing this kind of money and the City of 11 San Diego and the state investing this kind of money 12 into this enclosure, just seems bad timing to me. 13 And I think it will be in the end, events will 14 overtake this decision here today, and it will be 15 waste of resources if you vote yes on this. 16 I think I have the ability move my own. 17 Yes. 18 So there are 58 Orcas on display in eight 19 countries in the world, most of them are here in the 20 United States, but there are some all over the -- 21 all over the world, there is some in Asian, there's 22 some in Russia, there's some in Europe. So in 23 Russia, there's a capture operation going on right 24 now. They've taken -- I found it very interesting 25 that SeaWorld said that they don't know anything</p>	<p style="text-align: right;">Page 137</p> <p>1 captive marine mammals including Orcas since 1993. 2 So for 22 years I've been working on this 3 issue, I am an Orca biologist, I studied them in the 4 Pacific Northwest, I'm most familiar with the 5 northern residents, which are threatened under 6 Canadian law, but I'm always familiar with the 7 southern residents, which are endangered under U.S. 8 law. 9 So in terms of space, you've seen this 10 slide already so I won't spend too much time on it. 11 As Dr. Visser pointed out, this is one short period 12 of a day what one Orca did, he dove to 600 feet and 13 he moved a great deal of horizontal distance and 14 that little blue box in the upper corner is what the 15 whales at SeaWorld have to move around in. 16 And so no matter what they do in terms of 17 building larger concrete enclosures, they cannot 18 give the animals what they need. This is a species 19 that is very high on the list of species that don't 20 belong in captivity. There are some species that 21 are too large, too socially complex, too intelligent 22 to thrive in captivity, and Orcas top that list. 23 Elephants are also on that list. Polar bears are on 24 that list because they're so wide ranging. They 25 simply do not thrive in captivity.</p>

<p style="text-align: right;">Page 138</p> <p>1 We're not talking about all zoos and 2 aquariums. I've heard that also today, that we're 3 somehow or other radically trying to close down all 4 zoos and aquariums. That's not the case. We're 5 talking about a species that does not thrive in 6 captivity, and I think this slide is real indicative 7 of why.</p> <p>8 There are a lot of researches who work with 9 Orcas in the wild who are opposed to their public 10 display. Who support the legislation by Assemblyman 11 Bloom for example. They wrote a letter supporting 12 it. Because of this very simple math. Large 13 animal, small concrete enclosure.</p> <p>14 Social groupings. Their family bonds are 15 broken. No matter what you've heard about the 16 separation of mothers and calves, they do separate 17 mothers and calves. Depends on how you define a 18 calf. If you're just talking about a dependent calf 19 that's still nursing, sure, they don't break those 20 bonds unless there's some medical need. But once 21 they stop nursing, SeaWorld is free to move these 22 animals under their own policy.</p> <p>23 Well, the fact is is that in nature, even 24 with the populations that do have some dispersal, a 25 young Orca will not leave its mother side until ti's</p>	<p style="text-align: right;">Page 140</p> <p>1 fast-rising floor, which is so far luckily not been 2 tested, but in fact they removed all of the features 3 from this enclosure to put in that fast-rising 4 floor.</p> <p>5 If you look at these architectural designs, 6 which are part of the application, you will notice 7 that most of the features, most of the landscaping 8 is on land. It's for the people. There's not very 9 much marine-scaping going on there.</p> <p>10 This is still just going to be a concrete 11 tank with a lot of glass. It's going to be for the 12 viewing public, not really for the whales. Just one 13 of the examples of why this is so different for 14 them. If you notice in those artistic -- artist's 15 renderings that SeaWorld showed, the visibility in 16 those tanks is wonderful, you can see all the way to 17 the back and all the way to the bottom, it's utterly 18 clear to maximize the visitor's experience.</p> <p>19 That's not natural. The ocean is turbid, 20 it's got a lot of other features in it that cause 21 visibility to be low, and then of course there's 22 just depth where the light drops out. If any of you 23 are divers, you know how fast the light drops out. 24 30 feet, 40 feet, you're getting into darkness. 25 These animals routinely drive -- dive as yo</p>
<p style="text-align: right;">Page 139</p> <p>1 five to ten years old. All right. So there are 2 some populations that show some dispersal, but not 3 until they five to ten years old. That is the 4 earliest you should be separating any calf from its 5 mother. But in fact the populations which form the 6 basis, the foundation of the SeaWorld collection as 7 they call it, are in fact North Atlantics and North 8 Pacific whales.</p> <p>9 And those whales show long term family 10 bonds that last for life. So to take a calf that is 11 ten years old, 12 years old, 15 years old, 20 years 12 old, and move it to a different park is breaking a 13 family bond.</p> <p>14 Environmental quality and complexity. 15 Well, that's the tank at SeaWorld that's going to be 16 the equivalent of the tank at SeaWorld that's going 17 to be demolished. This is G pool in Orlando. It 18 used to have rock features. It used to have 19 landscaping. They took all of that out when the 20 trainer was, Dawn Brancheau was killed in February 21 2010. They removed those rock features. I actually 22 was foolish enough to believe that those were 23 permanent rock features, but they in fact were just 24 an overlay that they very easily just lifted out and 25 removed. That was so that they could put in the</p>	<p style="text-align: right;">Page 141</p> <p>1 saw in the slide I showed, to 600 feet. They're in 2 pitch black darkness, and they use their echo 3 location to navigate. This tank is a completely 4 unnatural environment for them. And it's the 5 biggest one they're ever going to build for these 6 animals.</p> <p>7 One of the reasons we were hoping to 8 encourage the promotion of sea -- sea pen -- not sea 9 cage, I thought that was pretty funny, actually, sea 10 pen sanctuaries is because it will allow them to 11 live in more natural environment. It still won't be 12 perfect, it won't be as deep as they should be 13 diving, it won't be as big as they should be -- you 14 know, in terms of horizontal distance that they 15 should be swimming, but it will be bigger than this, 16 and this is as big as they can financially feasibly 17 make it. All right?</p> <p>18 But it will be -- if we are able to work 19 together to create sea pen sanctuaries, it will be 20 larger than this. And we are going to have a 21 workshop at the Society for Marine Mammalogy in 22 December this year. I invite all of you to attend, 23 it's open to the public, on sea pen sanctuaries, and 24 we will have speakers from a wide variety of 25 disciplines to talk about the logistics, the actual</p>

<p style="text-align: right;">Page 142</p> <p>1 nuts and bolts of what it would mean to have a sea 2 pen sanctuary in operation, whether it's the state 3 of California or Oregon or Washington or Maine, for 4 that matter, we don't know where it will be, it will 5 be carefully located so it won't have all of the 6 problems that Dr. Nollens talked about.</p> <p>7 I hope he's been talking to the U.S. Navy 8 about these problems, because there's a sea cage 9 facility right next to SeaWorld which they don't 10 seem to have a problem with, but then I'm not sure 11 why they have a problem with the concept that we're 12 proposing.</p> <p>13 And finally, behavioral restrictions. 14 These are predators. The ocean's top predators. So 15 you've got this, this is what they should be doing, 16 and I've got a picture in a moment of them herding 17 fish, so don't -- don't think I'm trying to say 18 they're all marine mammal hunters, some of them are 19 fish eaters. But this what they should they should 20 be doing, and this is what they do in captivity.</p> <p>21 Again, what about those teeth? Okay. The 22 wearing down of the teeth. It's not from what they 23 eat, okay? It's not how they eat. Because their 24 teeth never touch their food. All right. They have 25 fish dropped right down into their gullets. Yes,</p>	<p style="text-align: right;">Page 144</p> <p>1 the walls and the gates is actually abnormal. 2 That is not what they do in the wild. They 3 don't chew on logs or rocks in their environment. 4 They don't do that. All right. Now, this is fish 5 herding in Norway, a very cooperative behavior, they 6 make a big herring ball and then they cooperatively 7 take turns moving through it and feeding on these 8 animals -- feeding on these fish. It's a family 9 affair when they do it, and that's what happens in 10 captivity, right down the gullet.</p> <p>11 How do they wear their teeth? Not through 12 handling their prey. I would love SeaWorld to do a 13 scientific study on why their whales wear their 14 teeth. There's almost no literature on this, and 15 it's not certainly not coming from SeaWorld. 16 SeaWorld has published 50 Orca papers in the last 50 17 years, which is a very low output, incidentally. A 18 50 year scientific career should produce 200, 300, 19 400 papers, not 50.</p> <p>20 But nevertheless, not one of them is about 21 dentition. Not one of them is about why their 22 whales break and wear their teeth. Instead of 23 explaining what's going on in captivity, they tell 24 you it's normal. And so they don't have to study 25 it. But it's not normal. That's normal. That's a</p>
<p style="text-align: right;">Page 143</p> <p>1 occasionally they'll pick up a fish that has fallen, 2 you know, into the water, but basically they are not 3 touching the fish with their teeth. This is not how 4 they wear their teeth in the natural sort of way, 5 either through their feeding methods, they wear 6 their teeth from other neurotic behaviors.</p> <p>7 And one of the reasons I have trouble with 8 SeaWorld isn't because of any cruelty. I don't 9 think they're being cruel to these whales, I think 10 they love these whales. I think they really do, 11 especially the trainers. There's no doubt about it 12 they feel an extremely strong bond with these 13 animals, but they don't understand them. They think 14 they do. They think they're the world's experts, 15 but they have never spent any time observing these 16 animals in the wild, and if they don't know what 17 normal is, then they cannot know what abnormal is. 18 They cannot recognize abnormal if they don't know 19 what normal is.</p> <p>20 All right. And you actually, if you talk 21 to some of them, you'll find out they've never even 22 seen a wild whale. Those are the people who are 23 responsible for their welfare. People who've never 24 seen a wild whale. That disturbs me, all right, and 25 so they can't know that, you know, the chewing on</p>	<p style="text-align: right;">Page 145</p> <p>1 stranded resident whale in the Pacific Northwest, so 2 it's dead. That's why it looks so terrible, it is 3 dead. But look at its teeth. Absolutely gorgeous. 4 That's a resident whale eating salmon in the Pacific 5 Northwest. Those are captive whales. Now, there 6 are wild populations of killer whales with worn 7 teeth, Dr. Visser mentioned them, Dr. Nollens 8 mentioned them.</p> <p>9 There are such populations, but their teeth 10 wear at the population level. All the whales in 11 that particular population have worn teeth. It's 12 because of the way they feed, and we're still trying 13 to figure all of that out. Is it because they -- of 14 the type of prey they handle, is it because of the 15 way they're handling the prey? We actually don't 16 know, but it's at the population level. Most 17 populations have those beautiful, gorgeous teeth.</p> <p>18 So if in some populations they have tooth 19 wear it's because of the way they're handling their 20 prey, or because of their prey. Maybe they're very 21 abrasive. We don't know yet. Why are they like 22 that in captivity? Why are they broken? Why are 23 they worn down to the gums? It's probable that in 24 the wild populations it's a health problem.</p> <p>25 It's probably causing problems for those</p>

<p style="text-align: right;">Page 146</p> <p>1 populations that suffer from that tooth wear because 2 of the way they handle the prey. So when SeaWorld 3 tells you there are no health problems to this 4 condition, that's imply not logical. Bad teeth 5 affect human beings. Of course bad teeth are a 6 problem for their health. 7 Why isn't there more literature on this in 8 the zoo biology journal or the veterinary journals 9 out there? 10 So you also heard about survivorship, the 11 paper by Drs. Jeff and Ventre, and also by Dr. 12 Robeck. Look at the last line there, "Survivorship 13 rates in captivity are comparable to populations in 14 the northeastern Pacific Ocean that are endangered 15 and threatened." 16 That's as good as it gets at SeaWorld. 17 SeaWorld's habitat allows their whales to survive 18 just as well as endangered and threatened 19 populations. That's who they're comparing their 20 whales to in that paper. They say that they live as 21 long as they do in the wild. Yes, but those whales 22 in the wild are endangered and threatened. So 23 that's not actually something to shout about. 24 Then finally in conservation I'm going to 25 wrap up really quickly here, because I only have a</p>	<p style="text-align: right;">Page 148</p> <p>1 MS. NASSER: Good afternoon, Commissioners. 2 My name is Carney Ann Nasser, I am the legislative 3 counsel for the Animal Legal Defense Fund, and I'm 4 just going to take a couple of moments and then pass 5 the baton over to Christopher Berry, litigation 6 attorney at ALDF and Sara Wan, who as you all I'm 7 sure have had the opportunity to talk to, is here on 8 behalf of ALDF and as a former chair of this 9 commission. 10 I just wanted to reiterate our position, 11 that this permit should not be granted. But if it 12 is, that the Commission is compelled to absolutely 13 mandate the end of the captive breeding program at 14 SeaWorld San Diego. And I -- I would like to add 15 one -- one footnote, just as a mother. I have a 16 five year old and I have an 18 month old. And I 17 have read the reports by medical doctors who 18 specialize in early child development, and they have 19 spoken at length and unequivocally about the fact 20 that there is not only no education value to taking 21 our children to a facility like SeaWorld or to a 22 circus like Ringling Brothers. 23 It actually sends our message to our kids 24 that other living beings, whether they are animals 25 or humans, are merely here for our amusement, they</p>
<p style="text-align: right;">Page 147</p> <p>1 minute, these are the captures in Russia. All 2 right. As I said, 10 of those were before February 3 12, 2014. Five of them have been since. They are 4 in China and Russia. Again, SeaWorld's Dr. Nollens 5 told you he had no idea where these whales were. 6 Well, I know where these whales are, why doesn't he 7 know where these whales are? He should know. This 8 is something that the public display industry is 9 doing, he should know what his brethren are doing. 10 All right. 11 The fact is is that we now know that eight 12 of them are in China. I am going to be Beijing later 13 this year to do a press conference to announce a 14 campaign to address the welfare of those whales. It 15 is not a good thing that they're going to China, but 16 that's where they are, and I happen to know that, so 17 I'm just confused as to why SeaWorld does not. 18 All right. If they're a conservation 19 organization they ought to know where these captive 20 whales are going. And that is all I have to say, 21 and thank very much again for having us here. 22 (Audience interruption.) 23 CHAIR KINSEY: Thank you. Mr. Berry, 24 Christopher Berry will be here for ADLF (sic), and 25 they will have 15 minutes for their presentation.</p>	<p style="text-align: right;">Page 149</p> <p>1 are here for us to manipulate, control and use for 2 our own personal whims. 3 And so at that, I would appear to you as a 4 parent and hand over the rest of our time to 5 Christopher Berry and Sara Wan. Thank you. 6 MR. C. BERRY: Thank you for the 7 opportunity to speak, Commissioners, my name is 8 Christopher Berry, and I'm a staff attorney at the 9 Animal Legal Defense Fund, and I would like to spend 10 a couple minutes of time just talking about your -- 11 your legal authority to act, and in particular I am 12 very concerned about the staff report's refusal to 13 account for the welfare of captive Orcas as marine 14 resource impacts under the Coastal Act. 15 The report's refusal to consider captive 16 Orca welfare skews the balance of the entire 17 analysis, and its recommendation that you approve 18 the permit with the very limited conditions, and in 19 particular Section 30230 of the Public Resources 20 Code requires that marine resources shall be 21 maintained, enhanced and where feasible restored. 22 Unquestionably this extends to animals, and moreover 23 there is no distinction in the statutory language 24 between captive animals and animals in the wild. 25 In fact, the Coastal Act and other</p>

<p style="text-align: right;">Page 150</p> <p>1 environment laws are regularly concerned with 2 environmental and other impacts that happen in urban 3 areas. The commission itself as the Staff report 4 points out has in fact considered captive marine 5 mammal welfare in the past in conjunction with -- 6 with other permits that it has granted, so there is 7 precedent for the Commission to take that into 8 account.</p> <p>9 While the best reading of Section 30230 is 10 that it requires impacts on captive wildlife to be 11 considered, at the very least the staff report 12 points out that the issue is open to interpretation. 13 In other words, as Commissioners you, at the very 14 least, have the discretion to consider the misery of 15 captive Orcas at SeaWorld and the future Orcas that 16 it will breed into existence if the -- if breeding 17 is not limited by your possible approval the permit.</p> <p>18 Now, the Commission not only is authorized 19 to consider captive Orca welfare in making its 20 decision, but is uniquely situated to do so, and in 21 light of fact that the federal government isn't 22 strongly regulating this, nor is the Fish and 23 Wildlife regulations in the state of California.</p> <p>24 A couple of hours ago SeaWorld attorney 25 David Watson stood up here and told you</p>	<p style="text-align: right;">Page 152</p> <p>1 extend to Orcas, leaving the ball in your court, and 2 putting you in a unique and special situation to 3 take the welfare of captive Orcas and do what 4 counts.</p> <p>5 Accordingly, we implore the Commission to 6 consider the inherently inhumane nature of Orca 7 captivity in making its decision today, and SeaWorld 8 must not be empowered to build more tanks that allow 9 it to collect and breed more Orcas who will fatally 10 suffer and languish in captivity.</p> <p>11 (Audience interruption.)</p> <p>12 MS. WAN: My name is Sara Wan, speaking on 13 behalf of ALDF. The keeping of Orcas in captivity 14 for entertaining is cruel and totally unjustified, 15 regardless of what SeaWorld says. It is 16 inconsistent with current thinking and what we now 17 about what happens to these whales in captivity. I 18 will not repeat what others have said about federal 19 law or the absurdity of considering a tank to be 20 habitat.</p> <p>21 I will focus on what I know best. The 22 Coastal Act. And your ability to use it. The Staff 23 has stated you cannot apply 30230 to animals in 24 captivity as your standard of review. But frankly, 25 that's false. Not only is the application of 30230</p>
<p style="text-align: right;">Page 151</p> <p>1 unequivocally that the Marine Mammal Protection Act 2 expressly preempts this Commission from imposing 3 Orca captivity standards. However, comments 4 submitted by SeaWorld to the National Marine Fishery 5 Service in opposition to some proposed amendments to 6 the Marine Mammal Protection Act in 2007. SeaWorld 7 said and I'm quoting verbatim here, "The 1994 8 amendments to the Marine Mammal Protection Act 9 unequivocally established that the National Marine 10 Fishery Service has no role in the care, maintenance 11 and general oversight of marine mammals, once they 12 leave the wild and enter into the United States."</p> <p>13 SeaWorld also said that NM at best would be 14 overreaching and improperly extending its 15 jurisdiction and authority by regulating Orcas and 16 other marine mammals once they are out of the wild.</p> <p>17 So it seems as though SeaWorld is willing 18 to say whatever it needs to say when it's 19 commercially expedient.</p> <p>20 Of course, the Animal Welfare Act does 21 provide some minimal baseline standards, but it 22 encourages explicitly state and local governments to 23 go further and to do more, which is exactly what the 24 Commission should do here. And of course 25 California's Fish and Wildlife regulations don't</p>	<p style="text-align: right;">Page 153</p> <p>1 up to interpretation, which Staff admits, and the 2 Coastal Act states that 3009, that this division 3 shall be liberally construed to accomplish its 4 purposes and objectives. But you have applied it 5 previously, and you cannot simply ignore that fact. 6 Particularly since that was the one instance that I 7 am aware of where the issue of impacts to captive 8 marine resources was an issue, and I've at this, at 9 the Commission for over 30 years.</p> <p>10 Once you use 30230 and you did use it and 11 apply it, I was on the commission when you did, you 12 cannot now say you do not have the right to use it. 13 In fact your Staff goes on to use 30203 by making 14 the claim that Special Condition One makes the 15 project consistent with 30230. And relative to 16 noise impacts, that the propose project is in 17 conformance with the marine resource protection 18 policies of Chapter 3, i.e., 30230.</p> <p>19 It is completely up to you, the 20 Commissioners, to decide what makes the project 21 consistent. If you don't agree with the Staff's 22 position about what constitutes consistency, you are 23 free to substitute your judgment as to what does. 24 In this instance, there is no way that Condition One 25 makes this project consistent. Condition One gives</p>

<p style="text-align: right;">Page 154</p> <p>1 SeaWorld free rein to use the new tank as a breeding 2 tank, because there are no marine mammal accredited 3 reproductive guidelines. 4 The only two professional accredited 5 programs for cetacean facilities that exist, and 6 they were here and they didn't tell you they have 7 those kinds of guidelines that the staff refers to, 8 they don't have any reproductive guidelines specific 9 for Orcas. And what this means is that the 10 condition that you have in front of you from your 11 staff does not place any limitations on SeaWorld's 12 ability to breed as many Orcas as they wish. 13 Your Staff has said that the tank can hold 14 up to 94 whales. So even if SeaWorld should agree 15 to put an upper limit of 20 on it, which they 16 indicated, on the number of whales, the new tank may 17 hold according to them what amounts to twice as many 18 Orcas as there are, and it doesn't change anything 19 relative to what we've been talking about. 20 It would mean that even with that, that the 21 current whales will not have any additional room. 22 More importantly, whatever number they choose, that 23 would only limit how many whales they could keep at 24 any one time. They would be free to breed and ship 25 and breed again.</p>	<p style="text-align: right;">Page 156</p> <p>1 hold or display the currently existing whales in its 2 park, I won't go through their names, and that 3 SeaWorld be prohibited from the captive breeding of 4 Orcas either through mating or artificial 5 insemination, including the collection of gametes. 6 This is what would make the project 7 consistent with 30230. And it is the only way that 8 the new tank will ever give the Orcas any more room. 9 If SeaWorld says no to this, then it really does 10 show their real intent. 11 This condition would send, also send a 12 statement that the Commission is in agreement with 13 the current view that using these whales for 14 entertainment purposes is not acceptable. 15 The state of South Carolina has banned it. 16 The nation of Canada has banned it. Assemblyman 17 Bloom's bill is seeking to have California join 18 South Carolina in banning this. And the nation of 19 India has declared Orcas to be non-human persons. 20 How can this Commission in good conscience turn its 21 back on them? You have heard about how these 22 beautiful, intelligent beings literally live their 23 captive lives being tortured. You have the 24 opportunity to be on the right side of history. I 25 urge you not to turn away from your responsibility</p>
<p style="text-align: right;">Page 155</p> <p>1 By the way, putting a cap on the number of 2 whales that they will be -- what they can breed just 3 proves that the purpose of this tank is for breeding 4 and for the public to view, which is what we've 5 always suspected. It's not to benefit the whales. 6 And contrary to your Staff's contention that captive 7 breeding lessens the need to capture Orcas from the 8 wild, the opposite is true, as long as breeding is a 9 business that generate income by breeding and 10 selling the Orcas there will be a need for taking 11 the whales from somewhere to avoid problems with 12 in-breeding. 13 Does the Virgin Pledge take care of that? 14 Frankly, not. Okay. It doesn't deal with breeding 15 at all. And regardless, this Commission can put in 16 place a condition that does have a meaningful 17 impact. And that's what I said. Okay. Okay. 18 That does have a meaningful impact. While 19 still allowing SeaWorld to continue exhibiting those 20 whales already in their possession, the condition we 21 asked for will result in the gradual phasing out of 22 the use of Orcas and actually providing more room to 23 the existing Orcas by failing, by prohibiting 24 breeding, that's what you do. 25 We ask that SeaWorld only be permitted to</p>	<p style="text-align: right;">Page 157</p> <p>1 to give them the protections that legally can be 2 provided to them, and you can give it to them 3 legally. 4 Unless this condition is substituted in its 5 entirety for the current Condition One, there will 6 be no additional room for the existing Orcas, and 7 then the project should be denied. Thank you. 8 (Audience interruption.) 9 MS. WAN: And I'm going to hand this out, 10 this is our substitute motion that we'd like you 11 to -- to substitute for Condition One. Thank you. 12 CHAIR KINSEY: Thank you. Okay. I'm going 13 to ask Jennifer Fearing to come forward from the 14 Humane Society. You'll have three minutes, and that 15 would be followed by Scott Andrews from (inaudible). 16 MS. FEARING: Hi, good afternoon, Chairman 17 Kinsey and Commissioners. My name is Jennifer 18 Fearing, and I'm here today on behalf of the Humane 19 Society of the United States, the nation's largest 20 animal protection organization. 21 I flew down this morning from Sacramento, 22 where just four days ago Governor Brown signed 23 Speaker Atkins' landmark legislation cracking down 24 on the pernicious trade in elephant ivory and rhino 25 horn. In recent years California legislators and</p>

<p style="text-align: right;">Page 158</p> <p>1 regulators have, among numerous new legal 2 protections for animals, seen fit to stop the cruel 3 and wasteful trade in shark fins, phase out toxic 4 lead ammunition when shooting wildlife, restrict the 5 use of super poisonous rodenticides, and end 6 commercial bobcat trapping.</p> <p>7 There can be no doubt, as a consequence, 8 that Californians are deeply about the plight and 9 conservation of wild animals here and elsewhere, 10 stopping needless suffering and improving welfare, 11 and we look to our policymakers to curb business 12 activities which violate these values.</p> <p>13 You have an opportunity to be part of this 14 legacy today, because progress is not accomplished 15 by legislation alone. As regulators, you play a 16 vital role in advancing the goals of the policies 17 you are entrusted to implement, and as Commissioner 18 Bochco said just last night when discuss the Newport 19 Banning Ranch Project, the Coastal Act is a very 20 broad act, it invites interpretation in many areas.</p> <p>21 The plight of captive Orcas is your 22 business. SeaWorld has made it your business by 23 bringing this project to you. And captive Orcas 24 deserve better. They have paid an enormous price, a 25 price too high for nearly any justification one</p>	<p style="text-align: right;">Page 160</p> <p>1 step, and your moral compass insists that you do. 2 After all, this is California, and we are used to, 3 actually we're proud of getting on the right side of 4 history early. Thank you.</p> <p>5 (Audience interruption.)</p> <p>6 CHAIR KINSEY: Thank you. Scott, thank you 7 for being present and ready to go. Appreciate it. 8 You have five minutes.</p> <p>9 MR. ANDREWS: For our Commissioners, I'm 10 referring to this handout, it's a colored map of 11 South Shores, which is the project site, I'm going 12 to talk briefly about land use. As you can see on 13 the right hand, there is a vast expanse of acreage, 14 the city of San Diego in that acreage cancelled 15 South Shores Park, and they cancelled a Ramada Inn 16 resort project. They cancelled these projects 17 because the area is contaminated with toxic waste 18 and has methane and hydrogen sulfide gas from end to 19 end.</p> <p>20 Now let's go to where the circles are. 21 Those are technically outside the landfill 22 boundaries. You'll see the boat launch ramp, the 23 backhoe operator hit hydrogen sulfide gas, a pocket 24 of it, and he was -- he died in the hospital. 25 Because the gas destroys your organs.</p>
<p style="text-align: right;">Page 159</p> <p>1 might try to make, but certainly for human 2 entertainment. And it's not enough to pull the plug 3 on dangerous human handling and silly shows, it's 4 not enough to give the a bit more room to pace, and 5 it's not enough to say that no more wild caught 6 Orcas will be subjected to captivity.</p> <p>7 For these amazing creatures, a captive 8 setting, any captive setting is insufficient to meet 9 their physical, social and behavioral needs 10 regardless of where they were born. You have the 11 opportunity today to begin the end of this sad 12 chapter. You can vote to approve SeaWorld's request 13 to enlarge this habitat for 11 captive Blackfish. 14 The Humane Society of the United States urges you if 15 you are inclined to support that project to do so 16 only with the requirement that these are the last of 17 the Orcas to suffer in California tanks.</p> <p>18 (Audience interruption.)</p> <p>19 MS. FEARING: If you approve without this 20 condition, you are dooming an untold number of Orcas 21 to miserable captivity, and you will only be punting 22 to legislatures in Sacramento what you are more than 23 capable of doing today.</p> <p>24 Prohibit the breeding and transfer of 25 whales, your legal authority allows you to take this</p>	<p style="text-align: right;">Page 161</p> <p>1 You'll see, and this is SeaWorld's own 2 studies, by the way they did not provide those 3 studies on the project checklist to Staff. So 4 you'll see one of their wells, seems like whenever 5 they drill in their area, outside the official 6 boundaries of the garbage landfill, they hit gas. 7 Up top I have the LE well where they hit hydrogen 8 sulfide and methane, and had to evacuate under 9 emergency status.</p> <p>10 The middle wells show that this is 11 attributable to an aerospace industry dump heavy 12 metals, a plume of trichloroethane, chromium and 13 2 butanone. Those are toxic waste from industrial 14 processes. Just so you know, that's from World War 15 II plants nearby that produced 25,000 bombers. The 16 last one I'll refer to, the J well hit hydrogen 17 sulfide at 1820 parts per million. It can kill you. 18 It is in fact fatal at 100 parts.</p> <p>19 So we wonder why Staff does not require at 20 minimum EIR and for these -- this reason, the fact 21 that gas forms unpredictably over time, you need to 22 deny the permit for a project that keeps people 23 underground where the gas will see vapor intrusion.</p> <p>24 MR. HERMAN: Good afternoon, Commissioners. 25 Patrick Herman, counsel on behalf of Sea Shepherd,</p>

<p style="text-align: right;">Page 162</p> <p>1 just like to follow up on a couple of points that 2 Mr. Andrews made. I -- I run down in Mission Bay 3 and the South Shores Park area on a regular basis. 4 I see families down there with their kids splashing 5 around in that water. And I'm sure that they are 6 unaware of how contaminated that water really is. 7 The -- it's well known among long-time 8 San Diegans that this was a municipal dump from at 9 least 1947 to 1959. What's less well known is that 10 it was an industrial dump that Mr. Andrews just 11 mentioned. They -- the aerospace industry was 12 depositing barrels and barrels of heavy metals, 13 acetone, thallium, arsenic, and other toxic 14 chemicals, which are now buried beneath an earthen 15 cap, which is somewhere between 12 and 15 feet 16 thick, which covers these toxins. 17 The proposed Orca tank by SeaWorld is going 18 to go down 50 feet. They will be churning up all of 19 this toxic material, and it will be subject to 20 release in the Mission Bay both from tidal flushing 21 and from the dewatering which will have to take 22 place as they're pumping water out of this project 23 as it's going forward. 24 This will further pollute Mission Bay and 25 further expose the residents and visitors to</p>	<p style="text-align: right;">Page 164</p> <p>1 And I'm here on behalf of Sea Shepherd as 2 well as the hundreds of thousands of supporters who 3 back what we do on a daily basis. All of those 4 supporters urge you strongly to deny this Blue World 5 application by SeaWorld. 6 If you grant this to SeaWorld, this would 7 disregard strong public opinion that has come about 8 against captivity, against the cruel practices 9 associated with forcing these highly intelligent 10 beings into tiny tanks and forcing them to do tricks 11 on a daily basis just to get their food. 12 Now, SeaWorld has argued that this matter 13 lies outside the jurisdiction of the Commission. I 14 think we've shown that that's not true. They've 15 also argued that this is preempted by federal law, 16 but you guys cited earlier Section 30411(b) which 17 shows that it is within your authority to address 18 this. 19 What we're urging is to listen to the 20 hundreds of thousands of people who have beseeched 21 you to deny this. Here's a few reasons why you 22 should deny this. 23 Regardless of the size of the tank, 24 captivity is cruel, inhumane and absolutely 25 unjustifiable. Sea Shepherd is a global leader in</p>
<p style="text-align: right;">Page 163</p> <p>1 San Diego. The EPA did a study of this site in June 2 of 1990 and they compared to be as contaminated as 3 the Stringfellow acid pits up in Riverside. This is 4 a Class 1 industrial waste site, which really should 5 have Superfund money going in to remediate it. 6 So -- so there's no way that this 7 excavation is not going to be penetrating into the 8 toxic contaminants that are there. By the way, the 9 worker who died as a result of the gas leak, his 10 name was Harrison Carter, and he was exposed on 11 October 6th, 1988, along with seven other workers. 12 The other seven survived, but Mr. Carter 13 unfortunately did not. And the same factors that go 14 into creating these gas plumes are still present 15 today. So I urge you to deny the permit. Thank you 16 for your time. 17 CHAIR KINSEY: Thank you. I'd like to 18 invite Sea Shepherd representatives up, and you will 19 have 12 minutes, and that will complete the public 20 organized presentation, so we'll move into the 21 public comments, and we'll begin with Deanna Spain. 22 MR. HANCE: Good afternoon, Commissioners. 23 Thank you for hearing us. My name is David Hance, I 24 am the campaign coordinator for Sea Shepherd 25 Conservation Society.</p>	<p style="text-align: right;">Page 165</p> <p>1 cetacean protection, and we have spent decades 2 bearing witness to and working to end cetaceans in 3 captivity, including Orcas. And I don't know if 4 you've seen the way these animals are brought into 5 slavery but it is definitely something that is not 6 nice to witness. I myself have been in some of 7 these countries and I've watched this, and I've 8 watched these babies ripped from their mothers, and 9 I've listened to the cries of the mothers as their 10 babies are taken away from them. 11 Imagine if you will, Ms. Bochco, if next 12 year at your familiar reunion there's a hundred 13 Bochcos standing around, and a group of armed men 14 come in and they take your uncle and they put him in 15 a prison pen, and they take your brother and they 16 put him here, and they kill your father in front of 17 you. What's the difference between that and what 18 happens here? 19 SeaWorld has told us these are highly 20 intelligent beings, they're very similar to humans, 21 they show feelings they show empathy, so you tell 22 me, what's the difference? 23 You know, since the release of the movie 24 Blackfish, SeaWorld has -- has been reeling from 25 profit losses, loss of attendance, and they've gone</p>

<p style="text-align: right;">Page 166</p> <p>1 on a big campaign to green wash. And if you look at 2 the things that they're doing, everything that they 3 talk about is highly contradictory. When they're 4 talking about this Blue World project, on one hand 5 they're claiming, oh, the Orcas are going to have 6 more space. 7 But in the same breath, they're admitting 8 that they every intention of enslaving even more 9 Orcas. So I'm sorry, someone buy me a new 10 calculator -- 11 (Audience interruption.) 12 MR. HANCE: -- by my calculations, more 13 Orcas means less space. 14 (Audience interruption.) 15 MR. HANCE: SeaWorld tells you that their 16 Orcas engage in natural behaviors. If that's not 17 the most absurd statement I've ever heard, find me 18 another one. You tell me that these magnificent 19 creatures are forced to spend their day leaping 20 through hoops and sliding up onto platforms holding 21 their mouth open to get food when this is something 22 they could do naturally in their own environment, 23 you tell me how that's a natural behavior. 24 SeaWorld claims they are educational. I 25 don't see anything educational about seeing whales</p>	<p style="text-align: right;">Page 168</p> <p>1 where natural disasters are just a heartbeat away, 2 and this is something that no one has talked about 3 yet. 4 Consider what happened last week in Europe 5 at the French Riviera, when torrential rains and 6 floods washed through one of the largest marine 7 parks in the world, certainly the largest in Europe, 8 Marine Land. 9 Since that flood, sharks, rays, turtles 10 have been swept away, some of them buried, some of 11 the never found. There's still some killer whales 12 that may be missing. The takes of the Orcas from 13 this flood still to this day remain buried in mud, 14 their filtration systems are completely useless. 15 Now, we're talking about the french Riviera, but if 16 you think that can't happen here, you need to think 17 again. 18 Yes, we are the land of the four-year 19 drought, I know we're all hopeful for El Niño, but 20 let's say we don't have torrential rains? What 21 happens if there's just a slight tremor from the 22 Rose Canyon fault line that runs right through the 23 middle of San Diego what's going to happen to these 24 poor animals? What about a mid-size wave, tsunami 25 wave from a distant tremor off the ocean? What's</p>
<p style="text-align: right;">Page 167</p> <p>1 jump through hoops or carry a trainer around on 2 their back. What are we learning from that? They 3 say they want to educate their children. Children 4 can be educated about whales through film, through 5 classrooms, through books, they can go out on 6 whale-watching expeditions. 7 You know, the price of a ticket to SeaWorld 8 is very close to the price of a ticket on a 9 whale-watching vessel. If you can go to SeaWorld in 10 Orlando or in San Diego, both of which are right 11 next to the ocean, you certainly buy a ticket and go 12 out on a whale-watching vessel. SeaWorld is not and 13 never has been an educational facility. 14 The last speaker has already mentioned the 15 environmental contaminants. This -- this project is 16 slated to be built on one of the most polluted areas 17 of California and SeaWorld already has the 18 unenviable position of being one of the largest 19 pollutants in California. If they -- if they go 20 forward with this project, what they do here 21 could -- could blow all of the other polluters out 22 of the water. And I mean that quite literally. 23 We have very serious concerns about the 24 safety of marine animals in captive facilities in 25 general. But particular here in Southern California</p>	<p style="text-align: right;">Page 169</p> <p>1 going to happen then? What about rise in sea level? 2 The list goes on as to why this is -- this 3 is not a good idea for SeaWorld, if -- if 4 Marineland, Europe's largest captive marine facility 5 can't stave off Mother Nature, I'm certain SeaWorld 6 cannot either. 7 We did some research and we found out that 8 when people are talking about these conditions, and 9 one of the things we found out is that right now you 10 guys have nearly 2,000 pending Coastal Act 11 violations. Some of them going back almost ten 12 years. If you issue these conditions for SeaWorld 13 how do we know that -- that this committee will be 14 able to monitor them if you -- if you're already 15 backdated ten years, I don't see how you can follow 16 up on any further violations by SeaWorld. 17 All we're doing is merely asking that you 18 stand by your mission. And I went on your website 19 last night, because I wanted to make sure that I got 20 it correct, and your mission states you are here to 21 protect, conserve, restore and enhance environmental 22 and human-based resources of the California coast 23 and ocean for environmentally sustainable or prudent 24 use by current and future generations. 25 The only way to uphold your mission is to</p>

<p style="text-align: right;">Page 170</p> <p>1 deny this permit outright. Now, I look around today 2 and I see these signs from SeaWorld, "Educate, 3 inspire, conserve." I think we've already seen and 4 shown that there's no such thing as education. Not 5 when it comes to this place. Inspire. I think the 6 only thing that's being inspired is people around 7 the world are being inspired to stop spending their 8 money at these horrible facilities that do nothing 9 for animals.</p> <p>10 And the biggest joke of these signs is the 11 word "conserve." "Conservation." The only thing 12 they're concerned about conserving is their bottom 13 dollar.</p> <p>14 (Audience interruption.)</p> <p>15 MR. HANCE: It has nothing to do with 16 animals. Now, all these signs, somebody had 17 everyone stand up. You see all the signs opposing 18 this motion. All of these people are here on their 19 own, we didn't have to bus them in, we didn't have 20 to give them free t-shirts, we didn't have to give 21 them free tickets to SeaWorld, we didn't have to buy 22 them lunch.</p> <p>23 (Audience interruption.)</p> <p>24 MR. HANCE: They came here on their own 25 because they believe in what is right and because</p>	<p style="text-align: right;">Page 172</p> <p>1 assembly, Toni Atkins. She sent a letter in for the 2 record that you should already have, but she wanted 3 me to reinforce her beliefs for this project.</p> <p>4 "Chairman Kinsey and members of 5 the Commission, I write in strong 6 support of the coastal development 7 permit that would enable the replacement 8 and expansion of the existing killer 9 whale habitat with the marine 10 aquarium-themed exhibit and immersive 11 killer whale habitat experience.</p> <p>12 "The proposed design is consistent 13 with the existing master plan and will 14 expand the swimming opportunities or the 15 killer whales due to the significant 16 increases in the side of the pools.</p> <p>17 "Replacing a set of restrooms and a 18 bakery from the 1980's that is 19 approximately 5500 square feet in size 20 with a new 2900 square foot restroom 21 facility that will use sea water rather 22 than fresh water will save over one 23 million gallons a year and reduce the 24 bulk and scale of the building. New 25 pathways for the public to use, lighting</p>
<p style="text-align: right;">Page 171</p> <p>1 they want you to uphold your mission. So please 2 listen to them and not the paid people, and uphold 3 your mission. Thank you.</p> <p>4 CHAIR KINSEY: Okay. Thank you. We're 5 going to move into public comments, we'll have to 6 minutes per speaker from this point on, and I want 7 to just encourage, before we begin, we're going to 8 start with a number elected officials and their 9 representatives and move into others, but you know, 10 if, even if you've signed up for a speaking card, if 11 you feel as though your voice has been expressed, 12 the reason we gave this organized presentations, the 13 time to go first and go give them an extended period 14 of time, is to get information to our commission. 15 So if you don't feel you have anything to add other 16 than your strong support, you do not need to take 17 the time to speak.</p> <p>18 But if you do want to speak I'm going to be 19 calling out a number of names, and I'd encourage you 20 to come up and be sitting in the chairs here so that 21 we can move more quickly. So after Deanna speaks, 22 I'm going to invite up Guy Strong, and then 23 Councilmember Lorie Zapf. Welcome, Deanna.</p> <p>24 MS. SPAIN: Thank you. I'm Deanna Spain, 25 I'm special assistant for policy for speaker of the</p>	<p style="text-align: right;">Page 173</p> <p>1 and audio enhancements are welcome 2 additions.</p> <p>3 "SeaWorld has its own storm water 4 treatment facility and all storm water 5 will be treated on site.</p> <p>6 "The process as proposed will not be 7 visible outside of the SeaWorld 8 leasehold, and will be consistent with 9 the 30-foot height limit.</p> <p>10 "I encourage the Commission's support 11 of the coastal development permit that 12 will enhance the experience for both the 13 killer whales and the public. Warmly, 14 Toni G. Atkins, speaker of the 15 Assembly."</p> <p>16 CHAIR KINSEY: Thank you. Guy, then 17 Councilmember Zapf, and then Andrea Cardenas, and 18 then Dave Grubb.</p> <p>19 MR. STRONG: Good afternoon, Chairman 20 Kinsey and Commissioners. I'm Guy Strong, the 21 legislative director for Assemblymember Richard 22 Bloom. And he apologizes he couldn't make it today, 23 he's outside the country. I'm going to read his 24 statement from him, it's: 25 "Assemblymember Bloom introduced AB</p>

<p style="text-align: right;">Page 174</p> <p>1 2140 in 2014. AB 2140 sought to 2 prohibit all captive breeding Orcas and 3 to limit SeaWorld's display to the 11 4 whales currently in their" that they 5 have. I'm sorry. 6 "Assemblymember Bloom elected to 7 study the issue (inaudible) AB 2140, for 8 the more we learn, the more committed we 9 are to phasing out the display of 10 captive Orcas. He fully intends to 11 pursue this objective such it would be 12 extremely unfortunate and counter 13 productive if the Coastal Commission 14 were to grant an entitlement to SeaWorld 15 to expand their captive breeding 16 program. (Sic) 17 "Fortunately, your broad 18 jurisdiction under the Coastal Act gives 19 you the authority to advance protective 20 measures for these magnificent marine 21 mammals and play an important role in 22 phasing out captivity practices. 23 "Your staff report does an 24 excellent job of establishing that you 25 are not legally preempted by any state</p>	<p style="text-align: right;">Page 176</p> <p>1 Zapf and then Andrea, then Dave, and then James 2 Duff. 3 MS. ZAPF: Thank you. Hello, 4 Commissioners. I am Lorie Zapf, and I am a San 5 Diego City Councilmember. I represent District 2, 6 which includes Mission Bay where SeaWorld is 7 located. SeaWorld has always been a great partner 8 to the City of San Diego and a part of the fabric of 9 our community for the past 50 years. 10 The park provides thousands of jobs, and is 11 one of the largest employers of youth. For so many 12 high school and college students, SeaWorld is their 13 first employer, their very first paycheck. It has a 14 huge economic impact on the city of San Diego, in 15 fact the entire region. SeaWorld provides tens of 16 millions of dollars in sales tax, payroll tax, 17 property tax, TOT as well as lease -- lease 18 payments. SeaWorld is also a leader in 19 environmental conservation. They voluntarily 20 eliminated plastic bags and polystyrene products at 21 their own expense because it was better for the 22 environment as well as the marine animals. 23 Animal care is clearly a top priority for 24 SeaWorld, and after visiting SeaWorld myself and 25 taking a look and visiting with the trainers, the</p>
<p style="text-align: right;">Page 175</p> <p>1 or federal law from regulating these 2 activities. 3 "The staff report also correctly 4 identifies 30230 as the applicable 5 Coastal Act section giving you specific 6 authority over SeaWorld's marine mammal 7 breeding and display practices." 8 Sorry. 9 "But your staff's recommendation 10 does not go far enough. Prohibiting the 11 display of the whales captured offshore 12 California the display of utilization of 13 wild-caught whales or gametes with wild 14 individuals capture after February 12, 15 2014 is largely symbolic. It will do 16 little to protect the wild whales and 17 nothing that will limit the continued 18 production of captive Orcas who will 19 live out their lives in grossly 20 inadequate circumstances. (Sic). 21 Again, we come to this thing where it's 11 22 whales if the tank gets better it's better for those 23 11 whales, but if they're adding more whales, it 24 doesn't get better for them. Thank you. 25 CHAIR KINSEY: Thank you. Councilmember</p>	<p style="text-align: right;">Page 177</p> <p>1 animal care experts, the vets and their research 2 center, I saw firsthand just how much the SeaWorld 3 employees really love their jobs, but more 4 importantly I saw how much they truly loved the 5 animals that they care for. 6 I saw surgery centers and animal care labs 7 that were as sophisticated as any I have seen at 8 human hospitals. Over the years SeaWorld has 9 rescued, rehabilitated and released back to the 10 ocean tens of thousands of animals, well over 900 11 just in the past year alone. They surely would have 12 perished, these animals would have perished were it 13 not for SeaWorld. 14 They also are very generous to the 15 community. They give back through nonprofits and 16 educational outreach. 17 CHAIR KINSEY: That's your time, so if you 18 just would wrap up your comments. 19 MS. ZAPF: Absolutely. I encourage you to 20 please support the Blue World project. I timed 21 this, I don't know what happened. I came in at 22 1:59. 23 CHAIR KINSEY: That's okay. 24 MS. ZAPF: So thank you, it will improve 25 not only their quality of life, but enhance</p>

<p style="text-align: right;">Page 178</p> <p>1 education and research opportunities. So thank you 2 very much. 3 (Audience interruption.) 4 CHAIR KINSEY: Thank you. Andrea, then 5 Dave, then James Duff. 6 MS. CARDENAS: Thank you, Chairman and 7 Commissioners. I am going to keep my remarks short. 8 I am here on behalf of San Diego Mayor Kevin 9 Faulconer to offer our support for SeaWorld 10 San Diego's new Blue World project. I also want to 11 echo the same sentiments as Councilmember Zapf on 12 the partnership that we've always had with SeaWorld 13 San Diego. 14 We recognize that this project will expand 15 educational opportunities at SeaWorld San Diego by 16 promoting deeper knowledge of whales and their ocean 17 environment. 18 Additionally we believe that this project 19 will help further conservation and research efforts 20 and benefit SeaWorld's goal to protect marine life 21 in the wild. Our office appreciates your 22 consideration and respectfully urges you to approve 23 this application. Thank you so much for your time. 24 (Audience interruption.) 25 CHAIR KINSEY: Thank you. Please, come</p>	<p style="text-align: right;">Page 180</p> <p>1 amusement and to make money. 2 (Audience interruption.) 3 MR. GRUBB: So I would ask you as 4 Commissioners to do everything in your power to end 5 this practice of torturing animals for fun and 6 profit. Thank you. 7 (Audience interruption.) 8 CHAIR KINSEY: Thank you. 9 (Audience interruption.) 10 CHAIR KINSEY: James Duff, followed by Pam 11 Heathering, Lexal Bree, and Lindsay Lares, and then 12 CeeCee Kumar. 13 MR. DUFF: Good afternoon, my name is James 14 Duff. Thank you for listening. I'm here because 15 it's been brought to my attention that nobody really 16 has talked about the earthquake issue, and they're 17 building a disaster here between two earthquake 18 zones. David Hance mentioned one of them, he 19 mentioned the Rose Canyon fault, there's another 20 fault called the Point Loma fault. And this 21 information is all factual and it's found in the 22 City of San Diego's seismic safety study published 23 in 2008. 24 This map is from grid 20, it shows nothing 25 but yellow, high potential liquefaction zone, is</p>
<p style="text-align: right;">Page 179</p> <p>1 forward. That's great. Yes. 2 MR. GRUBB: Good afternoon, Chair Kinsey 3 and Commissioners. My name is David Grubb, I am 4 representing Sierra Club California. And the many 5 other organizations that signed on to the group 6 letter which I'm sure you have all seen. 7 Since I'm sure you've seen the letter, I'm 8 not going to repeat all of the points that are made 9 in it. And try to just boil this down to the 10 essential element. If you look back at human 11 history, there are many, many examples of casual and 12 thoughtless cruelty to animals. I'm thinking about 13 dog fights, cock fights, bull fighting, bear 14 baiting, all of those gruesome spectacles speak to a 15 dark side of human nature that is part of our being 16 that allows us to laugh at a cripple trying to walk, 17 or applaud as an animal is tormented for our 18 amusement. 19 But we can do better than that. We are 20 better than that. Our social norms have evolved, 21 our ethics have evolved, and there is a growing 22 understanding that SeaWorld's animals and particular 23 the Orcas are suffering. 24 So essentially what I'm here to ask is it's 25 time to stop torturing animals for people's</p>	<p style="text-align: right;">Page 181</p> <p>1 probably one of the worst seismic dangers you can 2 have in the entire state of California. San Diego 3 has done this study, the science is there, I'm not 4 making it up, it's factual. And it's liquefaction 5 and it says "high potential of hazard." It's been 6 completely ignored, I haven't seen anybody else talk 7 about it except David Hance. 8 And you would be doing yourselves a favor 9 to look into this subject before you make any 10 decision. If there's an earthquake, and a 40-foot 11 hole, you can imagine what would happen with the 12 people trying to get out of that hole, let alone the 13 animals, they'd be stuck, there's no disaster plan 14 to move five million gallons somewhere else. So I 15 want to leave you with that thought and introduce 16 you to Joe. He's from Bell, California. 17 (Audience interruption.) 18 MR. MORENO: Hi, it's an honor to be in 19 front of you guys because I've always dreamt of this 20 day. Excuse me for my poor speech, I just got my 21 braces, I'm sorry. 22 (Audience interruption.) 23 MR. MORENO: But it seems like all you guys 24 are kind of like bored out of your mind, because 25 everybody is saying something, and somebody is</p>

<p style="text-align: right;">Page 182</p> <p>1 saying something else. But I actually have proof 2 and as many has thought, that we're trying to tell 3 you do your job. What -- what I'd like to do is I'd 4 like to give the people an opportunity to decide for 5 themselves. I -- and I've done an experiment and 6 I've told kids in my class about SeaWorld. I've 7 told them what they do to these animals, and even 8 one of my friends, I told him ten things about 9 SeaWorld, and after those ten things, she looked at 10 me like (indicating) and I told my friends this is 11 exactly what they do, and my friend told me she 12 would never go again, and I've been doing this for 13 years and years. 14 (Audience interruption.) 15 CHAIR KINSEY: Thank you, Joe. We've got a 16 whole of folks who want to speak, but I want to 17 thank you for taking the time to speak today. Very 18 well done. 19 MR. MORENO: Thank you. 20 (Audience interruption.) 21 CHAIR KINSEY: Okay. So this is Pam and 22 then Lex and then Lindsay and then CeeCee. 23 MS. HETHERINGTON: Thank you, Chair Kinsey 24 and Commissioners. My name is Pam Hetherington, and 25 I'm speaking today on behalf of the Environmental</p>	<p style="text-align: right;">Page 184</p> <p>1 Your mandate is to protect whales and other 2 marine mammals. Short of transferring the existing 3 captive Orcas to sea pens, your next best 4 alternative is to help SeaWorld exit their current 5 business model of using creatures for entertainment 6 into a model of education and compassion. 7 Humanity's true moral test, its fundamental 8 test consists of its attitudes towards those who are 9 at its mercy, the animals. Thank you. 10 (Audience interruption.) 11 CHAIR KINSEY: Thank you. Lex -- thank 12 you. 13 MS. LEX (No last name provided): I think I 14 had time ceded to me, I don't know that I'll need 15 it. 16 CHAIR KINSEY: You do. You have eight 17 minutes. 18 MS. LEX: Okay. Oh, I don't think I need 19 that much. Thank you. 20 CHAIR KINSEY: Yep. 21 MS. LEX: I'm here -- 22 CHAIR KINSEY: Thank you. 23 MS. LEX: I'm here on behalf of the 5,000 24 members of Unite Here local 30 in San Diego. We are 25 not extremists, we are actually a labor</p>
<p style="text-align: right;">Page 183</p> <p>1 Center of San Diego. I want to take a few minutes 2 to talk about the moral dimension of why we are here 3 today. When we talk about animals in captivity, we 4 generally don't grant them a moral sense. But it's 5 not a question of can they reason or can they talk. 6 But rather can they suffer. We know Orcas in 7 captivity suffer. 8 Cruelty to animals is contrary to man's 9 duty to himself. Because it deadens in him the 10 feeling of sympathy for their sufferings. And thus 11 a natural tendency that is very useful to morality 12 in relation to other humans is weakened. The 13 assumption that animals are without rights and the 14 illusion that our treatment of them as no moral 15 significance is positively outrageous. 16 (Audience interruption.) 17 MS. HETHERINGTON: Western cruelty and 18 barbarity, universal compassion is the only 19 guarantee of morality. The Commission has an 20 opportunity to set a moral compass today that will 21 save -- serve generations to come, and a couple 22 points on these compass -- on this compass needs to 23 be the cessation of Orcas as entertainment, and the 24 prohibition of captive breeding, whether by mating 25 or artificial insemination.</p>	<p style="text-align: right;">Page 185</p> <p>1 organization, just to point that out, and we support 2 the respectful humane treatment of all species, 3 human and animal. We are very concerned that 4 captive display for entertainment purposes sends the 5 wrong message to society and to our children. That 6 wild animals are primarily for our amusement, no 7 matter how unhappy and unhealthy they are in 8 confinement. 9 We're also concerned about the way in which 10 SeaWorld treats its employees. There are multiple 11 safety violations CalOSHA has filed against SeaWorld 12 as well as a violation for preventing employees from 13 reporting workplace hazards or workplace safety 14 relative to the handling and training of Orcas. 15 SeaWorld's argument that its safety 16 protocols and operant conditioning program provides 17 sufficient protection to its trainers is disproven 18 by the 600 pages of incident reports. We have heard 19 that SeaWorld has been attempting to harass and 20 intimidate at least one of the witnesses against it. 21 This is unacceptable to our union. 22 We expect respect for all and their 23 behavior towards their present employees and 24 ex-trainers is not acceptable. Neither is their 25 treatment of Orcas. A concrete tank is not a</p>

<p style="text-align: right;">Page 186</p> <p>1 habitat, it is a concrete tank, and these Orcas will 2 be subjected to all of the cruel treatment required 3 to keep them in captivity and performing. 4 Blue World is only marginally acceptable if 5 it is coupled with the message that SeaWorld will be 6 required to phase out its use of Orcas and actually 7 provide some additional swimming room. Allowing 8 them to continue breeding will prevent this from 9 happening. 10 The Commission should only approve this 11 proposal if there are conditions on it to allow use 12 only by the current Orcas and to prohibit breeding. 13 The current staff recommendation does just the 14 opposite. We are therefore asking that you delete 15 Condition One and substitute the Condition One by 16 the Animal Legal Defense Fund. This will make the 17 project consistent with the Coastal Act and provide 18 some benefit to the existing Orcas. 19 And just as a resident of San Diego 20 separate from my comments on behalf of the 21 organization, SeaWorld is not a national treasure, 22 SeaWorld is an international disgrace. Thank you. 23 (Audience interruption.) 24 CHAIR KINSEY: Lindsay. 25 MS. KIRCHEN: Actually can I take some of</p>	<p style="text-align: right;">Page 188</p> <p>1 on behalf of Lane working since 1993 for 2 good jobs, Thriving communities and a 3 health environment for all. Part of a 4 healthy coast including marine animals. 5 Regarding the project before your 6 SeaWorld's Blue World project, we urge 7 this Commission to take strong steps to 8 prevent the breeding of captive Orcas 9 and to prevent the sale or transport of 10 Orcas to any location other than a sea 11 pen. 12 "Even the proposed extended enclosure 13 is not a sufficient home for these Orcas 14 given that certainly no additional 15 animals should be housed in this 16 project. 17 "Prior to any approval of this 18 project, conditions should be placed 19 that would prohibit this breeding, sale 20 or transport given how studies have made 21 clear that captivity has substantial 22 negative consequences to Orcas health. 23 "The Coastal Act protects our 24 communities' coastal access and the 25 protection of coastal resources like</p>
<p style="text-align: right;">Page 187</p> <p>1 Lex's -- 2 CHAIR KINSEY: No. 3 MS. KIRCHEN: -- her time -- 4 CHAIR KINSEY: You can't. 5 MS. KIRCHEN: -- local 11 -- 6 CHAIR KINSEY: But you do have five 7 minutes. 8 MS. KIRCHEN: Yeah, well, I'm with local 11 9 Unite Here as well. Can I make a brief comment? 10 CHAIR KINSEY: I'm going to give you -- oh, 11 I see what you're saying. 12 MS. KIRCHEN: Yeah, I'm sorry, it was a 13 little confusing. 14 CHAIR KINSEY: Please, you're (inaudible). 15 MS. KIRCHEN: All right. Well, my name is 16 Carly Kirchen, I'm a boycott organizer with Unite 17 here Local 11. I live -- I work out here in Long 18 Beach. I'm going to make a brief statement, I'll 19 read a letter from Janine Pierce. 20 "I'm with Los Angeles Alliance for 21 a New Economy, and the Long Beach 22 Coalition for Good Jobs and a Healthy 23 Community." 24 So she says: "Dear Chairman Kinsey 25 and Coastal Commissioners. I'm writing</p>	<p style="text-align: right;">Page 189</p> <p>1 these animals. Institutions like 2 SeaWorld should foster respect for a 3 healthy environment, not put worker and 4 animal at risk through dangerous 5 practices. This Commission has the 6 opportunity help protect Orcas in our 7 coastal environment by conditioning this 8 projet to require the use of captive 9 Orcas to be phased out. Sincerely, 10 Janine Pierce." 11 Thank you. 12 CHAIR KINSEY: Thank you. Lindsay. Will 13 be followed by CeeCee Comer, and then Susan Millis. 14 A VOICE: And Lindsay. He said Lindsay. 15 MS. COMER: CeeCee Comer? 16 A VOICE: Lindsay first, right? 17 CHAIR KINSEY: Lindsay first. 18 MS. COMER: Oh. 19 CHAIR KINSEY: That's fine. Lindsay, then 20 CeeCee. 21 MS. LARRIS: Hi, I'm Lindsay Larris, I'm 22 the regional director in Southern California for the 23 Animal Legal Defense Fund. I feel like everybody 24 has pretty much said what I would want to say, so 25 I'm going to give my time to Pam over here.</p>

<p style="text-align: right;">Page 190</p> <p>1 CHAIR KINSEY: Thank you, but, you know, I</p> <p>2 am going to object a little bit. We gave the Animal</p> <p>3 Legal Defense Fund a number of minutes for an</p> <p>4 organized presentation just so that we wouldn't have</p> <p>5 individual speakers coming up as well.</p> <p>6 So it just -- it's in fairness to the</p> <p>7 presentation today. Thank you.</p> <p>8 MS. PRICE: Do you have my speaker slip,</p> <p>9 Pam Slater Price?</p> <p>10 CHAIR KINSEY: I'm sure that we do. We</p> <p>11 have hundreds of speaker slips.</p> <p>12 MS. PRICE: Okay. Well --</p> <p>13 CHAIR KINSEY: When that time comes.</p> <p>14 MS. PRICE: I just wanted to make sure you</p> <p>15 do.</p> <p>16 CHAIR KINSEY: Thank you.</p> <p>17 MS. PRICE: And I'll wait.</p> <p>18 CHAIR KINSEY: So, CeeCee will be followed</p> <p>19 by Susan Millis, and then Dr. Reese Holter, and then</p> <p>20 Ron Braden.</p> <p>21 MS. COMER: Hello, members of the board, my</p> <p>22 name is CeeCee Comer, and I'm from San Diego. I</p> <p>23 live in Claremont, very close to SeaWorld. I go to</p> <p>24 SeaWorld during my lunchtime, I just go there and I</p> <p>25 love the animals. I support what SeaWorld does,</p>	<p style="text-align: right;">Page 192</p> <p>1 would be extremely shallow and very tiny for Orca,</p> <p>2 which are at least 24 feet long and six tons of</p> <p>3 weight that like to dive as deep as 1,000 feet, swim</p> <p>4 hundreds of miles per day, and live with their</p> <p>5 families.</p> <p>6 Tanks are horribly inadequate -- inadequate</p> <p>7 for the needs and size of Orca. This new tank will</p> <p>8 create lifelong physical and psychological torture</p> <p>9 for even more Orca. We are robbing these animals of</p> <p>10 everything. The joy of experiencing the ocean,</p> <p>11 traveling great distances, group life, deep diving,</p> <p>12 they have a natural and social life, keeping this</p> <p>13 alive.</p> <p>14 We have no right to exhibit them or have</p> <p>15 them entertain us. By keeping Orca in prison in</p> <p>16 these times what we are really doing is teaching our</p> <p>17 children that it is fine to torture, enslave, abuse</p> <p>18 and exploit other beings. For the good of Orca and</p> <p>19 of people, please vote no.</p> <p>20 (Audience interruption.)</p> <p>21 CHAIR KINSEY: Thank you. Please state</p> <p>22 your name for the record.</p> <p>23 MR. BRADEN: Yes, my name is Ron Braden,</p> <p>24 you folks all deserve medals for going through this</p> <p>25 process, but we do appreciate it. I have three</p>
<p style="text-align: right;">Page 191</p> <p>1 that's just my personal opinion, and also want to</p> <p>2 say hello to all the PETA people and all the</p> <p>3 SeaWorld people that are here, this is amazing, I</p> <p>4 never been to one of these things before, and I'm so</p> <p>5 glad that there is different sides. You know,</p> <p>6 because every (inaudible) has two sides, but I love</p> <p>7 SeaWorld, I love Shamu, and I do want to see Shamu</p> <p>8 in a bigger pool. There's 11 whales, we have a few</p> <p>9 additions for babies, and I will really, that's my</p> <p>10 opinion, I would love to see a bigger pool so my</p> <p>11 whales can have more fun and I can go there and say</p> <p>12 hello. Thank you. Go Blue World.</p> <p>13 CHAIR KINSEY: Thank you. Susan? Okay.</p> <p>14 I'm going to go through this. Susan Millis, if</p> <p>15 you're not here, I'm going to keep moving.</p> <p>16 Dr. Reese Holter, Ron Braden, Elizabeth Lamm,</p> <p>17 Graciela Paraguirre (phonetic). Okay. And I would</p> <p>18 ask people to come up and sit until you have an</p> <p>19 opportunity speak. And then Vicky Seravo. Just</p> <p>20 please have a -- one of you come forward it would be</p> <p>21 just fine. If your name was just called, yeah. Any</p> <p>22 of the speakers whose names were called. Thank you.</p> <p>23 MS. PARAGUIERRE: Graciela Paraguirre,</p> <p>24 West Hollywood. Good afternoon. Please vote on the</p> <p>25 SeaWorld application. The new 50-foot-deep pool</p>	<p style="text-align: right;">Page 193</p> <p>1 things to say. First of all, I've heard that</p> <p>2 there's objections that you don't have jurisdiction.</p> <p>3 That's a bogus argument.</p> <p>4 Number one, SeaWorld wouldn't have</p> <p>5 submitted their project to you if you didn't have</p> <p>6 jurisdiction.</p> <p>7 Number two, you wouldn't have accepted it</p> <p>8 if you didn't have jurisdiction.</p> <p>9 The second thing is, is that speakers</p> <p>10 opposing this project have come up here with example</p> <p>11 after example after example. Bent dorsal fins,</p> <p>12 broken teeth, slashed lacerations in their skin, and</p> <p>13 not one person from SeaWorld or those supporting it</p> <p>14 have come up with any evidence that that was not</p> <p>15 caused by SeaWorld. That silence is an admission on</p> <p>16 their part that they are harming these animals.</p> <p>17 The third thing is is that if you took you</p> <p>18 folks in this room on the Commission either</p> <p>19 individually or collectively, locked these doors,</p> <p>20 and kept you in here for the rest of your life, or</p> <p>21 anybody else in this room, or all of us --</p> <p>22 (Audience interruption.)</p> <p>23 MR. BRADEN: -- collectively, that would be</p> <p>24 cruel and unusual punishment. For those reasons I</p> <p>25 urge you to vote no on the SeaWorld tanks.</p>

<p style="text-align: right;">Page 194</p> <p>1 (Audience interruption.)</p> <p>2 CHAIR KINSEY: Thank you. I'm going to</p> <p>3 call out a number of other names now. Cherie</p> <p>4 Shankar, Cheney Dowd, Kirby Kottler, Lauren Boucher,</p> <p>5 Martha Sullivan. Any of those speakers coming</p> <p>6 forward, we will speak -- you can just speak and</p> <p>7 identify your name as you do speak, it would be</p> <p>8 helpful, I'll also invite up Bill Cohen and Teran</p> <p>9 Baylor. And any of you who has arrived, you can</p> <p>10 speak and just state your name so I can grab it.</p> <p>11 Thank you.</p> <p>12 MS. SHANKAR: Hi. Cherie Shankar. Thank</p> <p>13 you all for your patience today on this issue.</p> <p>14 Everybody has a lot to say. I just want to point</p> <p>15 out that SeaWorld can still educate, they can do</p> <p>16 marine life rescue, they can rehab and continue to</p> <p>17 employ people without subjecting these intelligent</p> <p>18 and magnificent creates to a lifetime of captivity.</p> <p>19 (Audience interruption.)</p> <p>20 MS. SHANKAR: Listen to your gut. Do you</p> <p>21 really think the biggest mammals in the world belong</p> <p>22 in any type of confinement? Where do you think we</p> <p>23 can learn more about conservation and the natural</p> <p>24 lives of whales. I bet many of you have already --</p> <p>25 have been on a whale-watching tour or even seen a</p>	<p style="text-align: right;">Page 196</p> <p>1 more, but we're not going to be able to extend the</p> <p>2 time. Thank you. Joe, go ahead.</p> <p>3 MR. MORENO: Okay. So I think that we all</p> <p>4 need to play our parts in life. Because life is not</p> <p>5 just about one individual, it's about all of us</p> <p>6 together united. Because that is what we are, the</p> <p>7 United States of America, the land of the free. And</p> <p>8 look, it's not just free, isn't just for us. It's</p> <p>9 for animals as well. Because animals deserve</p> <p>10 freedom, whether humane or not, because you know</p> <p>11 what? Animals were here long before humans. And we</p> <p>12 took over this world like nothing. And we left them</p> <p>13 aside like if they were garbage.</p> <p>14 But now we have the opportunity to speak</p> <p>15 up. And SeaWorld, they have a lot of money to do</p> <p>16 this, but they have chosen not to. So we took</p> <p>17 action, and we are not people who are bad, we are</p> <p>18 people who try to speak out for those who cannot.</p> <p>19 Thank you.</p> <p>20 CHAIR KINSEY: Thank you.</p> <p>21 (Audience interruption.)</p> <p>22 MR. COHEN: Joe is a tough act to follow.</p> <p>23 My name is Bill Cohen, and I own a company here in</p> <p>24 Long Beach called Edge Systems, and employ about 150</p> <p>25 people and speak for quite a few of them.</p>
<p style="text-align: right;">Page 195</p> <p>1 video, and you know how breathtaking it is to see</p> <p>2 them in their true home, the big blue ocean.</p> <p>3 Please either vote on the expansion or if</p> <p>4 you do, please make sure it's on the condition that</p> <p>5 there is no more breeding. Thank you for your time.</p> <p>6 CHAIR KINSEY: Thank you. I'll just take</p> <p>7 any of you next and then just state your name for</p> <p>8 the record after you've been called. Please come</p> <p>9 forward.</p> <p>10 MS. SULLIVAN: Hello, I'm Martha Sullivan,</p> <p>11 I'm a resident of San Diego and a small business</p> <p>12 owner. And I want to just make an observation.</p> <p>13 Social media, today is Throwback Thursday, and</p> <p>14 that's exactly what SeaWorld's proposal is. It's a</p> <p>15 throwback to an old business model, it's a throwback</p> <p>16 to a toxic waste dump. It's a throwback to a time</p> <p>17 when we didn't know better than to build in seismic</p> <p>18 liquefaction zones. And it's time for us to look</p> <p>19 forward, it's time for us to be part of the 21st</p> <p>20 century. And to that end, I'm going to let Joe --</p> <p>21 Joseph Moreno here speak to the 21st century and</p> <p>22 what we need to be doing. And what you can help to</p> <p>23 bring about.</p> <p>24 CHAIR KINSEY: You know, Joe has already</p> <p>25 spoken, I'm going to let him speak a little bit</p>	<p style="text-align: right;">Page 197</p> <p>1 I wanted to really point out to the people</p> <p>2 in blue here where your boss has asked you to come</p> <p>3 up and paid you to wear your shirts and be here,</p> <p>4 during --</p> <p>5 (Audience interruption.)</p> <p>6 MR. COHEN: -- '13 to 2014, your sales have</p> <p>7 dropped 14 percent. At the same time, California</p> <p>8 amusement park at Disneyland has risen 3.5 percent,</p> <p>9 and Universal Studios has gone up 11 percent. The</p> <p>10 Hail Mary in the hundred million dollars you're</p> <p>11 investing into a pool, you might want to consider</p> <p>12 SeaWorld, you have a pathetic nine rides.</p> <p>13 Disneyland has 58 rides.</p> <p>14 CHAIR KINSEY: If you could please speak to</p> <p>15 us, just for both transmission and --</p> <p>16 MR. COHEN: Sure. My -- my kids, my</p> <p>17 family, they like the rides. Nine rides versus 58,</p> <p>18 Disneyland continues to grow. At the same time, the</p> <p>19 hundred million that you're spending, you could look</p> <p>20 at a different vision. You could move toward an</p> <p>21 amusement part and an entertainment park where you</p> <p>22 invest perhaps in a movie, must like Walt Disney did</p> <p>23 back in the '60's, you could tie your movie into one</p> <p>24 of your rides or the experience there at Disneyland,</p> <p>25 but hanging on to the Orcas just isn't the future of</p>

<p style="text-align: right;">Page 198</p> <p>1 Dis -- of SeaWorld, it isn't in the best interest of 2 SeaWorld and people don't really want to go to it. 3 One thing to ask yourself is when you go to 4 Las Vegas, how many of you go to a live animal 5 circus? No one. There aren't any. Cirque du 6 Soleil has taken over, nobody really wants to go see 7 a chubby guy in a wetsuit ride a whale. People want 8 to go see Cirque de Soleil, that's what they go see, 9 and Disneyland. Something that the board should 10 consider is that in 10 to 15 years if this Hail Mary 11 doesn't work out, me as a taxpayer, and I pay a lot 12 of California state taxes, will be saddled with this 13 issue with this bankrupt company. I urge you to 14 vote no. 15 CHAIR KINSEY: Thank you. 16 (Audience interruption.) 17 CHAIR KINSEY: While the next speaker is 18 coming up, I'm going to also invite up Teren Baylor, 19 Pauline and Janine Noriega, and Bradley and Lindsay 20 Wells. Hi. 21 MS. BOUCHER: Good afternoon, 22 Commissioners. My name is Lauren Boucher and I 23 would like to donate my time to a fellow activist 24 who is here named Genesis. 25 MS. BUTLER: Hi, my name is Genesis Butler,</p>	<p style="text-align: right;">Page 200</p> <p>1 many times, and I -- I've been following her a 2 couple times, so it's always tough. 3 I just want to say that I am a volunteer 4 with Ric O'Barry's dolphin project, and I've spent 5 the last five weeks in Japan documenting and 6 witnessing dolphins being captured for captivity. 7 Ric O'Barry in the '60s was training Flipper, and if 8 you remember Flipper, I -- I -- you may remember the 9 TV show and the movie, but Ric O'Barry was 10 definitely involved with that, he trained all of the 11 dolphins that became Flipper in that TV show. 12 Well, this TV show is very popular in 13 Japan. And when I see what's actually happening 14 with the capture of dolphins, it really hurts me 15 because you can see the brutality of the process. 16 Now, SeaWorld hasn't taken any animals in 17 quite some time from the wild. But when they start 18 talking about genetic diversity, they are talking 19 about getting animals from the wild again. There's 20 no way you can do that. There's no way you can get 21 genetic diversity except for getting more animals 22 from the wild. 23 How are they doing it? They're not doing 24 it themselves. They're paying somebody else to do 25 it. So when they talk about genetic diversity and</p>
<p style="text-align: right;">Page 199</p> <p>1 and I'm eight years old. I'm here because I am 2 worried about the pollution Blue World project will 3 cause in this area. The ocean and land is already 4 polluted, and this will just add to it. It makes me 5 really sad to know the environment, how -- how come 6 adults don't do more to protect the earth for the 7 children? I want to ask you to please help protect 8 the environment for my generation and future 9 generations. You have the power to protect the 10 ocean, and you have the responsibility too. Please 11 vote know on Blue World project, and remember, we do 12 not inherit the area -- the earth from our 13 ancestors. We borrow it from our children. Please 14 protect the land and oceans. The future of children 15 like me depends on it. 16 (Audience interruption.) 17 CHAIR KINSEY: Thank you. 18 MS. BOUCHER: Thank you, Commissioners. 19 And with another -- please vote no. 20 (Audience interruption.) 21 CHAIR KINSEY: Please any of the other 22 folks that I have invite up, please come forward. 23 There are chairs available. 24 MR. BAYLOR: My name is Teren Baylor, I -- 25 I have fallen -- I -- I -- I've listened to Genesis</p>	<p style="text-align: right;">Page 201</p> <p>1 wanting to fill that new pool and produce more Orcas 2 that's exactly what they're talking about. 3 We need to stop this from occurring. 4 Because the Orcas that are in the wild are being 5 taken from the wild and their numbers are 6 diminishing rapidly. The Orcas in Washington state 7 were taken, over 50 were taken. Washington banned 8 SeaWorld from taking them ever again. 9 Somebody else mentioned Shamu. I just want 10 to mention one thing that SeaWorld did to the very 11 first Shamu. The way that they would capture 12 Shamu -- I'm sorry. 13 CHAIR KINSEY: Time is up. 14 MR. BAYLOR: I'm going to try and get it 15 out as fast as I can. 16 CHAIR KINSEY: Yep, please, just -- your 17 time is up, so just say where you land on this. 18 Thank you. 19 MR. BAYLOR: Okay. No on this project. 20 CHAIR KINSEY: Thank you very much. 21 MR. BAYLOR: Thank you. 22 CHAIR KINSEY: Joey Racano, Vince Lawler, 23 Alexander Sharruck, and Britney Holstrom and Cheryl 24 Nicole and Scott Nicole. Welcome. 25 MS. BRADLEY: Native California, Ann</p>

<p style="text-align: right;">Page 202</p> <p>1 Bradley. I am begging you today to take a look at 2 something very important. I'm here for these 3 extraordinary animals, but this a failed business 4 model. Ladies and gentlemen, you're all incredibly 5 intelligent, and I speak particularly to Supervisor 6 and Commissioner Cox. I love the people of 7 San Diego. I care deeply about the workers in 8 San Diego.</p> <p>9 You would be giving your yes to something 10 that would end up being a complete waste and a 11 failure. We are having business at the speed of 12 thought. Not my quote. But look at us here today. 13 This is a reflection of the millions around the 14 world. These parks are closing down because nobody 15 is spending their money there.</p> <p>16 If you were only looking at this as whether 17 it will be good for the citizens of San Diego, if 18 you were only looking at this as a revenue producer, 19 this is a failed model. Vote no. Thank you.</p> <p>20 (Audience interruption.)</p> <p>21 MR. RACANO: Honorable Commissioners, 22 Staff, friends, friends at home, Joey Racano, I'm 23 the director of the California Ocean Outfall Group. 24 And we urge you to vote not, no conditions, no 25 nothing, just no.</p>	<p style="text-align: right;">Page 204</p> <p>1 the oversizing provisions of the Coastal Act.</p> <p>2 So do the math, because it's -- it's -- 3 it's -- it's 94 Orcas at \$8 million apiece, that's 4 \$758 million, that's a billion dollar business 5 without one person paying at the gate. And I urge 6 you to make the difference that you can right now. 7 You've done some great work, now it's time to stand 8 strong, because this is inhumane. And I thank you 9 for this opportunity to address you today.</p> <p>10 (Audience interruption.)</p> <p>11 CHAIR KINSEY: Please. Keep coming. Yes.</p> <p>12 Well, no, I'm just -- I have a number of 13 name cards. If you just come up next -- next and 14 state your name, please, it will help.</p> <p>15 MS. WELLS: My name is Lindsay Wells, and I 16 came here from Salt Lake City, Utah, to speak on 17 this key issue, and I'm against the Orca expansion. 18 As a child, my family brought me there to SeaWorld 19 to visit these beautiful marine animals, which I 20 love. And upon watching the circus-like shows, I 21 just remember feeling saddened at the bathtub size 22 spaces they were living in. And all for our 23 selfish, brief enjoyment. I believe they should be 24 living in their natural environment with their 25 family.</p>
<p style="text-align: right;">Page 203</p> <p>1 (Audience interruption.)</p> <p>2 MR. RACANO: Now, let me make it absurd. 3 What if everyone wanted to have an Orca, what if we 4 all wanted an Orca in our swimming pool. This is a 5 private corporation. Why do they have Orcas? You 6 know. When everybody else couldn't have an Orca, 7 you know. Like I said, observe.</p> <p>8 (Audience interruption.)</p> <p>9 MR. RACANO: Now, the lady from the 10 aquarium business, she said this would minimize 11 SeaWorld's need to go out and bring in wild Orcas. 12 Yes, but minimize doesn't cut it. That means they 13 are going to go out there and deplete that resource 14 somehow, some way. Maybe not them, but they're 15 going to need that genetic diversity inflow.</p> <p>16 And so it's a violation of 30230. Now, 17 SeaWorld isn't expanding a tank here, that's not 18 what this is. SeaWorld is expanding, period. Now, 19 tank expansion gives room for 94 Orca and they can 20 sell those Orcas and it doesn't matter if the Orcas 21 are whole fish or if the Orcas are in a sperm vial. 22 They sell them overseas and not just to -- to parks, 23 but to refrigerators. And -- and -- and that would 24 cause the building of parks that might not otherwise 25 be built making this growth inducing, a violation of</p>	<p style="text-align: right;">Page 205</p> <p>1 The only humane solution is for the 2 remaining Orcas to be released to seaside 3 sanctuaries where they can life with freedom and 4 boredom (sic) from loneliness and -- where they, you 5 know, loneliness and boredom where they can't 6 thrive. Also to cease breeding them in captivity 7 where they cannot thrive.</p> <p>8 Finally, SeaWorld can continue to educate, 9 inspire and conserve through state of the art 10 technology, which simulates the lives of these 11 majestic creatures. There's no much with 12 technology, there's so many ways to do that without 13 having these live animals imprisoned.</p> <p>14 You know, I think for SeaWorld employees to 15 say they do care about the whales, which I believe 16 they do, I do believe they work here because they 17 love animals. Unfortunately, I feel that maybe 18 they're misinformed or have the wrong idea about 19 what is happening here with the whales.</p> <p>20 And I believe it's likened to prison 21 wardens saying they care about their inmates because 22 they're imprisoned.</p> <p>23 So I would urge the people who work here 24 for SeaWorld to look inside their heart and think 25 about what it is they do, and if this does get shut</p>

<p style="text-align: right;">Page 206</p> <p>1 to think of there's some other jobs they could get 2 that would be very worthwhile. They could still 3 make a living and they don't -- they don't need that 4 for their financial gain, and I would ask the -- I 5 would ask you as the counsel to look at this as 6 well. Thank you for your time. 7 CHAIR KINSEY: Thank you. Just keep 8 coming, please. Thank you. 9 MS. HOLSTROM: Hi, I'm Britney Holstrom 10 from Los Angeles. And I oppose SeaWorld's Blue 11 World project, and I hear a lot of people today 12 talking about profits and other reasons why we 13 should go forth with the Blue World project, but 14 instead of focusing on profits like SeaWorld saying 15 today, I think the issue really is focusing on the 16 well being of the Orca whales and animals here at -- 17 or animals at SeaWorld, and if -- all I know is if I 18 was an Orca whale and I was in the place of an Orca 19 whale, and if I had the choice between a small, tiny 20 concrete tank, a marginally larger but still tiny 21 concrete tank or a seaside pen, I would undoubtedly 22 choose a seaside pen, so please vote no on 23 SeaWorld's Blue World project. 24 CHAIR KINSEY: Thank you. And while the 25 next speaker is coming up, I'll also invite up Tyler</p>	<p style="text-align: right;">Page 208</p> <p>1 also create numerous off-site positions such as 2 project managers, project administrators, project 3 coordinators, through all the aforementioned reasons 4 that Whiting-Turner supports this project, and we 5 encourage you to do the same. Thank you. 6 CHAIR KINSEY: Thank you. 7 (Audience interruption.) 8 MS. NICHOL: Hi, my name is Cheryl Nichol 9 and I am from Coronado and I'm here in support of 10 SeaWorld and I -- 11 (Audience interruption.) 12 MS. NICHOL: -- first of all, the lie about 13 us being paid to be here is a lie. Anyway, I've 14 seen first hand the good that SeaWorld has done. We 15 have had a lot of animals come shore, baby sea 16 lions, especially this year, and sea lion -- or 17 SeaWorld is who they call. You don't see PETA. 18 SeaWorld is who comes and helps these animals. 19 (Audience interruption.) 20 MS. NICHOL: They do so much good. As a 21 child I went to SeaWorld and it's what gave me a 22 love for these animals. Otherwise it would just be 23 a big fish in the sea. My boys are the same way, 24 and hopefully my grandchildren will be that way. I 25 feel like it's just brought so much focus to these</p>
<p style="text-align: right;">Page 207</p> <p>1 Starr, Caitlyn Hawks, Mariam Lehman, Anna Gerringer, 2 Emily Routan. Thank you. 3 MR. LAWLER: Good afternoon, Commissioners, 4 my name is Vincent Lawler, I'm a superintendent for 5 the Whiting-Turner Contracting Company. We have 6 regional offices in San Diego, Irvine and 7 Los Angeles. 8 With your approval I will be on site to 9 manage the construction of the Blue World project, I 10 have extensive experience managing previous projects 11 which have employed similar construction methods. 12 This unique project will be constructed 13 over the next two and a half years. During this 14 time the Blue World project will generate hundreds 15 of well-paid construction jobs which will equate to 16 several hundred thousand man hours for such trades 17 as carpenters, cement mason, laborers, ironworkers, 18 operating engineers, electricians, plumbers, 19 pipefitters, glazers, tile setters, roofers, 20 painters and landscapers. Along with the use of 21 local subcontractors comes the purchase of local 22 construction supplies and materials, which in turn 23 will also help support the local economy. 24 In addition to the hundreds of on-site 25 positions, the Blue World project will create, will</p>	<p style="text-align: right;">Page 209</p> <p>1 wonderful animals that our children I don't think 2 would have. So, and I think most of us are here 3 because of a love for these animals. Thank you. 4 CHAIR KINSEY: Thank you. 5 (Audience interruption.) 6 MR. NICHOL: Hi, my name is Scott Nichol, 7 I'm also from Coronado. SeaWorld wants to build an 8 additional space for a tank for its fish, for its 9 whales. They had these tanks, whales in tanks for 10 years, and now they want to give them more room. 11 That's all they're asking for. They're not asking 12 for anything in particular, anything else. They 13 want -- they want to be to give them room and learn 14 from the last tank they built, this one they'll add 15 more safety to it or, you know, what the whales 16 need. Also I know working for the shipyards and 17 stuff, the coast line, any time they do any kind of 18 construction along the water, the EPA is always 19 involved, so they're not going to let them build if 20 there's any problems with any kind of hazards. 21 Thank you. 22 CHAIR KINSEY: Thank you. 23 MR. CHARRIK: Good afternoon, 24 Commissioners. My name is Alex Charrik and I live 25 in Los Angeles, and I wanted to say that we live in</p>

<p style="text-align: right;">Page 210</p> <p>1 a time when people deny science for their own 2 personal benefit. I think that's something to keep 3 in mind today as you consider this proposal. And 4 whether this project brings in ten jobs or 10,000 5 jobs, it doesn't make it right. Doesn't make it 6 good, it's wrong to the core, and the bottom line is 7 that this is about the Orcas and we care about the 8 Orcas and we want them in their natural habitat 9 where animals belong, in the wild. So please vote 10 no on this proposal. Thank you.</p> <p>11 CHAIR KINSEY: Thank you. And as the next 12 speaker is coming I'll invite Lola Kay, Jim Green, 13 Wendy Morris, Dan Fullen, and Gabby Soto.</p> <p>14 MR. STARR: Commissioners, thank you all so 15 much for your time, it's very much appreciated, and 16 I would like thank all of the animal protection 17 organizations who have come to voice their concerns 18 as well.</p> <p>19 CHAIR KINSEY: Your name?</p> <p>20 MR. STARR: Tyler Starr from Los Angeles, 21 California.</p> <p>22 A wise man once said there will come a time 23 when you will have to choose between what is easy 24 and what is right. I understand the pressure on you 25 all by SeaWorld to approve this, and I understand it</p>	<p style="text-align: right;">Page 212</p> <p>1 aught to my grandchildren. In order to maintain 2 this high standard of conservation, care and 3 education that I experienced, my family experienced, 4 my friends from the midwest experienced, that impact 5 millions of people a year, I believe that SeaWorld 6 should be allowed to expand the Orca enclosure. 7 Thank you.</p> <p>8 CHAIR KINSEY: Thank you.</p> <p>9 MS. KAY: Hi, Commissioners. My name is 10 Lola Kay, I live in El Segundo, California. I think 11 everything has been said, so I don't have a fancy 12 speech. Just an observation. SeaWorld claims they 13 want to build a Blue World. I would like to remind 14 them that Blue World already exists. It's the 15 ocean, and that's where the Orcas belong. They 16 don't belong --</p> <p>17 (Audience interruption.)</p> <p>18 MS. KAY: -- in swimming pools. So what 19 SeaWorld is trying to build is a glamorized prison 20 cell in which they intend to exploit their prisoners 21 for their own profits. Please vote no on this 22 horrible, horrible idea, because we know that 23 enslaving intelligent animals is wrong, and no 24 corporate profits can justify it. Thank you.</p> <p>25 (Audience interruption.)</p>
<p style="text-align: right;">Page 211</p> <p>1 may seem easy, but forcing Orcas to swim in endless 2 circles in a tank that is a little bit bigger in 3 chemically treated waters would not be what is 4 right.</p> <p>5 People who oppose SeaWorld don't want 6 bigger tanks, we want empty tanks, and the Orcas 7 want it, too. I ask that you please vote no on 8 SeaWorld's Blue World. Thank you all so much.</p> <p>9 (Audience interruption.)</p> <p>10 CHAIR KINSEY: Thank you. The next --</p> <p>11 MS. LEHMAN: Good afternoon, Commissioners. 12 My name is Mariam Lehman, and I live in San Diego 13 County. I strongly support the SeaWorld Orcas 14 inclusion expansion. After all, it's a home 15 improvement, yes. SeaWorld is home to the Orcas 16 that already live there. Growing up in the midwest, 17 my family and I never had the chance to observe any 18 sea life until we went to SeaWorld. Yes, we had 19 fun, but if there's anything I can remember from 20 that first trip is being taught a lesson on 21 conservation and respect for our oceans, and all the 22 sea life.</p> <p>23 SeaWorld taught my husband, my children and 24 I a lesson in conservation that resonated throughout 25 our lives. I'm hoping these lessons can now be</p>	<p style="text-align: right;">Page 213</p> <p>1 MR. FULLEN: Good afternoon, Commissioners. 2 My name is Dan Fullen, I'm a resident of San Diego. 3 Speaking of a member -- as a member of the San Diego 4 Hospitality Community that employs 173,000 people in 5 the city of San Diego, I would assert that SeaWorld 6 is an essential lynch pin and has been for 50 years 7 to our hospitality, our tourism economy.</p> <p>8 Speaking as a neighbor on Mission Bay, I 9 know first hand of SeaWorld's stewardship of the 10 environment including the rescue of many, many 11 hundreds of distressed animals in Mission Bay this 12 year alone, and beyond Mission Bay.</p> <p>13 And as a father of three sons, I thank 14 SeaWorld for the education provided them over their 15 development, over their developmental years. One 16 of -- one of those boys grew up and began a career 17 in veterinary medicine recently influenced in no 18 small measure by his experience from innumerable 19 trips to SeaWorld. I urge you to support this 20 petition, and I thank you for your time.</p> <p>21 CHAIR KINSEY: Thank you.</p> <p>22 (Audience interruption.)</p> <p>23 CHAIR KINSEY: As the next speaker comes 24 up, I'll invite Catherine Sanders, Michael Hammers, 25 Kathy Cohen, and Robin Curry. Thank you.</p>

<p style="text-align: right;">Page 214</p> <p>1 MR. GREEN: Good afternoon and thank you. 2 My name is Jim Green, I'm the general manager of the 3 Bahia Resort Hotel on Mission Bay. Evans Hotels is 4 fully supportive of SeaWorld's Blue World project 5 proposal for which Coastal Act Commission Staff has 6 recommended approval. 7 Evans Hotels and SeaWorld have been 8 pioneers and long-term partners in helping to make 9 Mission Bay the fun, leisure and entertainment 10 center it is today. Evans and SeaWorld have been 11 mutually supportive for more than 50 years. The 12 Bahia was built in 1953, SeaWorld was built in 1964. 13 It is one of the top attractions coming into 14 San Diego, and it is the number one requested 15 activity of our hotel guests at the Bahia and 16 Catamaran Hotels, and draws visitors wanting to stay 17 at our Mission Bay properties, so that includes all 18 hotels. 19 I employ over 400 people at the Bahia 20 alone, who have had service with me for 25, 30, or 21 35 years that have indirect support from SeaWorld 22 and their families. We believe the Blue World and 23 expanded exhibits space will improve the health and 24 welfare of Orcas in human care. 25 We also believe that Blue World will</p>	<p style="text-align: right;">Page 216</p> <p>1 pregnancies, and none of her calves, all of who were 2 father by her cousin, survived more than 46 days. 3 Her last stillborn fetus was found at the bottom of 4 her holding tank. Corky was continuously pregnant 5 for almost ten years. As a mother, this is a true 6 heartbreak, but this SeaWorld's breeding program. 7 Corky was taken from her home and her 8 family in 1969 when she was about three years old. 9 She has endured the longest captivity of any wild 10 captured Orca trapped in a tank for more than 40 11 years. Corky is reportedly blind in one eye, and 12 she has worn teeth and decay like so many others. 13 She has known nothing but misery for almost 50 14 years. 15 Commissioners, I hope that you agree that 16 Orcas do not deserve a life sentence and I urge you 17 to vote no on SeaWorld's Blue World project. Thank 18 you. 19 (Audience interruption.) 20 CHAIR KINSEY: Thank you. 21 MS. SANDERS: Hi, I'm Catherine, and I'm 22 going to cede my time Stephanie Shaw. 23 MS. SHAW: Good afternoon, my name is 24 Stephanie Shaw, I'm a California resident, a 25 California voter. Today I'd like to share the story</p>
<p style="text-align: right;">Page 215</p> <p>1 provide enriching interactive and inspiring programs 2 for families that they could not enjoy in the wild. 3 SeaWorld shows an unwavering commitment to marine 4 science and animal conservation, which is why it 5 enjoys such a broad base. 6 I have two blind seals that cannot be 7 released back into the wild, and SeaWorld gladly 8 comes over and assists them, any time we need help 9 with their health issues. 10 Evans Hotels is proud to join the elected 11 officials, scientists, business leaders, community 12 groups, animals welfare organizations, veterinary, 13 zoological and academic experts along with more than 14 35,000 individuals. Please approve this proposal. 15 Thank you very much. 16 (Audience interruption.) 17 CHAIR KINSEY: Thank you. 18 (Audience interruption.) 19 MS. SOTO: Hello, my name is Gabby Soto, 20 and I would like to donate my time to Tracy Reiman. 21 CHAIR KINSEY: Thank you. 22 MS. REIMAN: Hi, I'm Tracy Reiman, and I 23 live in South Pasadena. I'd like to share a very 24 brief story about one of SeaWorld San Diego's 25 prisoners, Corky. Corky has suffered seven forced</p>	<p style="text-align: right;">Page 217</p> <p>1 of SeaWorld San Diego prisoner Kasatka, who was 2 captured off the coast of Iceland when she was just 3 a year old. Instead of being nurses and nurtured by 4 her mother, Kasatka was shipped to SeaWorld 5 San Diego where she has lived for the last 36 years, 6 forced to perform as many as eight shows each day. 7 Like any other would, Kasatka becomes 8 extremely agitated when separated from her calves. 9 A former SeaWorld trainer describe Kasatka crying 10 out in anguish as one of her calves was taken from 11 her. She is aggressive towards her tank mate -- 12 excuse me, tank mates, and reached her breaking 13 point in 2006 when she nearly killed a trainer. 14 SeaWorld's own log notes acknowledge that 15 Kasatka becomes agitated by construction noise and 16 commotion. Please, Commissioners, do not doom more 17 Orcas to this grim existence. Vote no on the Blue 18 World project. 19 (Audience interruption.) 20 MR. DAVIS: Hello, my name is Eric Davis 21 and I run a large conservation website called 22 Osmotion (phonetic) and I want to put some context 23 to what you've heard today. We have two sides right 24 now, you have one side full of people who dedicate 25 their lives, their time and energies to the rescue,</p>

<p style="text-align: right;">Page 218</p> <p>1 rehabilitation and care of marine mammals, 26,000 2 animals rescued and rehabilitated at SeaWorld over 3 the past 50 years. Incredible effort. 4 On the other side we a number of people who 5 have agendas that one might find dubious, one might 6 be, you know, Earth Island, for example, they had an 7 Orca named Keiko, they had a sea pen where Keiko 8 was, and they had a plan to set him free. They ran 9 out of money. When AHUS, who also spoke, their 10 senior scientist, Naomi Rose, who was in charge at 11 the time, when Keiko chose humans and chose to 12 interact with humans, she chose a solitary life for 13 him where Keiko died sick, and a painful death. A 14 horrific death for an animal that loved humans and 15 loved interaction. 16 We then look at Ingrid Visser, who right 17 now is booking a cruise in Norway where tourists can 18 snorkel with killer whale, for 3100 Euros. This one 19 is profiting off of wild whales, and interacting 20 with wild whales while condemning a safe environment 21 with humans in captivity. This is repugnant, this 22 double standard that these people have. 23 They look at John Hargrove, someone who 24 said the N word five times, seven times in five 25 minutes.</p>	<p style="text-align: right;">Page 220</p> <p>1 MS. COHEN: My name is Kathy Cohen, I live 2 in Los Alamitos, California. The following video 3 was captured by a documentary film crew at SeaWorld 4 just yesterday, October 7th, 2015. 5 CHAIR KINSEY: We're awaiting -- that's 6 fine. 7 (Video played.) 8 MS. COHEN: I urge you to vote no on this 9 application. 10 (Audience interruption.) 11 CHAIR KINSEY: Thank you. I'm just going 12 to encourage folks once again, please be 13 considerate. We have a long -- we have many more 14 speakers to come. Thank you. Welcome. 15 MR. HAMMERS: Hi, I'm Michael Hammers, I 16 live in the Los Angeles area. I think we have a lot 17 in this commentary that SeaWorld offers a lot of 18 jobs and they help rehabilitate a lot of animals, 19 which I think is definitely true, and I think no one 20 here would deny that, but the issue here are the 21 resources and the impact this product will have on 22 the coast and also the animals at SeaWorld. 23 I just want to say that if you vote no, 24 there are so many organizations you've heard from 25 here today that would be willing to make the sea</p>
<p style="text-align: right;">Page 219</p> <p>1 (Audience interruption.) 2 MR. DAVIS: It's repugnant. These people, 3 again, they're asking you, they're pleading with 4 you, they're pulling with your heartstrings, they're 5 saying a number of things. But look at what the 6 agenda really is. They had their chance with Keiko 7 and they killed him. And now they come here 8 condemning SeaWorld. How dare they? I stand with 9 the people who rescue and rehabilitate animals. I 10 stand with people who care for them. They give up 11 their holidays, their weekends, these people have 12 the best of intentions and when they say they 13 want -- they want compromise, SeaWorld gives little. 14 When you ask activists like Ellen Erickson, 15 like I did today, is there any compromise? She said 16 no, there is no compromise, it's her way. So again, 17 i ask you to please stand (inaudible) vote yes and 18 support conservation in San Diego. Thank you very 19 much. 20 (Audience interruption.) 21 CHAIR KINSEY: Thank you. While the next 22 speaker is coming up I'm going to invite up Illan 23 Rancer (phonetic), Josh McFarren -- McFarred, Jim 24 Cunningham, Ciet (phonetic) and Genesis Butler. 25 Please.</p>	<p style="text-align: right;">Page 221</p> <p>1 pens a reality. The only two options aren't just 2 leave the Orca in the old pens or do the new ones. 3 You've seen other alternatives here, and everyone 4 here today would be willing to make that happen. We 5 want to see the best case scenario for these Orcas. 6 And I believe that the best way to do that is to 7 vote no on this proposition so that they can further 8 investigate those other opportunities. Thank you. 9 (Audience interruption.) 10 MR. MCFARLAND: Good afternoon, 11 Commissioners. My name is Joshua McFarland, I live 12 in Whittier, California. I don't represent any 13 organizations, I just came down here today because I 14 heard about what's going on. Yesterday I was 15 walking where I live in the Whittier Hills and I was 16 just thinking, you know, how great it is to be able 17 to be free and just to be able to move around and 18 make the choices about where I want to go, and I 19 realize that these creatures, they don't have that, 20 you know, and I thought, am I going to come down 21 today? And I thought, I am going to come down 22 today, because it is important, because they can't 23 speak and I'm going to offer my voice for them, you 24 know. 25 I think we got a lot of issues going on in</p>

<p style="text-align: right;">Page 222</p> <p>1 our country right now, you know, we had the thing in 2 Roseburg last week, and, you know, even the 3 president standing up and he's asking, you know, why 4 is this going on, maybe we need to think about our 5 choices with compassion, and I think a lot of what 6 we lack is just -- it's just simple compassion, you 7 know, and the children got up here, I think if we 8 filled up this room with kids, and we just asked 9 their simple opinion about whether they think it's 10 wrong or right, I think the answer would be pretty 11 clear.</p> <p>12 I don't think any of them would want to see 13 these creatures in a tank, you know, and I feel the 14 same way. And I found it interesting the 15 correlation between one of the slides that showed 16 that in the United States we had the highest number 17 of imprisoned Orcas versus the other countries, and 18 as I was just sitting here thinking, I thought isn't 19 that interesting how we're in a country where we 20 have the highest number of prisoners, you know, 21 there's something that's going on here and I'm not 22 trying to go down a whole bunch of different alleys 23 here, but I'm just saying, please be compassionate, 24 you know, like I said, I don't have an agenda to be 25 here, I didn't get paid to be here, I didn't get a</p>	<p style="text-align: right;">Page 224</p> <p>1 been a for profit amusement park. It's only in 2 recent years after a growing public concern for 3 animal welfare has SeaWorld started including their 4 marketing strategy a pretense that they business is 5 vital to wild conservation efforts. But there is no 6 evidence, there is not quantifiable results from 7 their decades of capturing and breeding Orcas 8 besides research that only helps SeaWorld keep Orcas 9 in captivity that suggests this claim is true.</p> <p>10 The fact is, SeaWorld intends to use new 11 tanks, this new tank to breed new Orcas. Please do 12 the right thing and vote no on the Blue World 13 project. Thank you.</p> <p>14 (Audience interruption.)</p> <p>15 MR. BREWER: Hi, my name's Scott Brewer 16 from the Los Angeles area. I'd just like to echo 17 what Liam just said and say please vote no. Think 18 of the Orcas and think of the future.</p> <p>19 (Audience interruption.)</p> <p>20 CHAIR KINSEY: Thank you. Please come 21 forward.</p> <p>22 MR. CUNNINGHAM: Good afternoon, 23 Mr. Chairman, thank you. My name is James 24 Cunningham, I'm business representative with 25 Plumbers and Pipefitters Local 230 in San Diego. I</p>
<p style="text-align: right;">Page 223</p> <p>1 free lunch, and I didn't even eat lunch. You know, 2 and I'm thirsty right now, you know.</p> <p>3 (Audience interruption.)</p> <p>4 MR. MCFARLAND: I'd probably do a trick 5 right now if I was going to get a fish, you know. 6 But the main thing is is just I don't know if your 7 decisions are already made, you know, I've wondered 8 about that, and I've thought about that before I 9 came down here, I thought, you know, does it even 10 make a difference, is there a point, but I thought, 11 you know what, I'm going to do it. So I'm just 12 asking you, you know, please when you're thinking 13 about it and whatever it is, other thoughts and 14 everybody's arguments which have been, you know, 15 beautiful, just please choose compassion. Thank 16 you.</p> <p>17 CHAIR KINSEY: Thank you.</p> <p>18 (Audience interruption.)</p> <p>19 MS. RAMSER: Hi, I'm Alana Ramser, and I'd 20 like to cede my time to Liam Cronin.</p> <p>21 MR. CRONIN: Hi, my name is Liam Cronin, 22 I'm a Los Angeles resident. I urge you to vote no 23 on SeaWorld's Blue World project. SeaWorld never 24 intended to be an organization with a mission to 25 protect and conserve. SeaWorld is and always has</p>	<p style="text-align: right;">Page 225</p> <p>1 represent 1700 union members in San Diego and 2 Imperial Counties. I rise in support of the Coastal 3 Commission's recommendation for approval of the 4 SeaWorld's Blue World project. Moving forward with 5 this -- with this project will in the short term 6 create hundreds of well-paying construction jobs, 7 and in the long term provide a better quality of 8 life for these magnificent Orcas. Thank you.</p> <p>9 CHAIR KINSEY: Thank you. While your next 10 speaker is coming up, I'll invite up Jerry Sanders, 11 Connie Pearson, Janine Noriega, Cathy Myrick, Daniel 12 Prater, and Liam Cronin.</p> <p>13 MS. LAMM: Hello, Chairman Kinsey, I 14 apologize, I was called earlier and didn't hear.</p> <p>15 CHAIR KINSEY: That's fine.</p> <p>16 MS. LAMM: My name is Elizabeth Lamm. I 17 was out in the lobby.</p> <p>18 CHAIR KINSEY: That's fine.</p> <p>19 MS. LAMM: I'm hoping that I can cede my 20 time to Allison Chow, who is a small business owner 21 in San Diego. Thank you so much.</p> <p>22 CHAIR KINSEY: Thank you.</p> <p>23 MS. CHOW: Do we have permission to do so?</p> <p>24 CHAIR KINSEY: Please, just go ahead.</p> <p>25 MS. CHOW: Okay. Sorry I'm a little</p>

<p style="text-align: right;">Page 226</p> <p>1 unprepared for this. But I'm --</p> <p>2 CHAIR KINSEY: Your name again? Just --</p> <p>3 MS. CHOW: Valerie Chow.</p> <p>4 CHAIR KINSEY: Thank you.</p> <p>5 MS. CHOW: I've been a San Diego business</p> <p>6 owner, lived in San Diego for 21 years, I rely on</p> <p>7 tourism for my business, I own an art gallery, and I</p> <p>8 am unlike many of the people here, I am not a PETA</p> <p>9 member, I am a conscious capitalist, I believe that</p> <p>10 SeaWorld could reinvent and evolve. 17 -- 18 years</p> <p>11 ago my daughter and I went to SeaWorld. And we left</p> <p>12 in tears because of Opie, a walrus that was banging</p> <p>13 his head against an enclosure. And it traumatized</p> <p>14 me and 20 other children that left in tears that</p> <p>15 day. And I had that experience with that walrus and</p> <p>16 I'll never forget that. And my daughter left saying</p> <p>17 she wanted to help the animals when she grew up.</p> <p>18 And she's now studying to be a lawyer and wants to</p> <p>19 be an animal rights activist, a lawyer.</p> <p>20 (Audience interruption.)</p> <p>21 MS. CHOW: So I think that you're charged</p> <p>22 to be leaders, and Governor Brown appointed you</p> <p>23 because you cared about the environment. I'm not a</p> <p>24 Democrat but I voted for Governor Brown because I</p> <p>25 wanted to protect the environment. And as trustees,</p>	<p style="text-align: right;">Page 228</p> <p>1 and expand San Diego's economy. SeaWorld's an</p> <p>2 integral part of the San Diego community, because of</p> <p>3 the research efforts they lead and the jobs that</p> <p>4 they create. SeaWorld is also an important part of</p> <p>5 San Diego's tourism industry.</p> <p>6 SeaWorld is one of our region's finest</p> <p>7 corporate citizens, and one of the world's most</p> <p>8 distinguished zoological organizations. They're</p> <p>9 also a pillar of our region, drawing millions of</p> <p>10 visitors every year and employing thousands of</p> <p>11 San Diegans.</p> <p>12 I've been to SeaWorld countless times and</p> <p>13 have seen the dedication and commitment of the</p> <p>14 employees there to the animals and to the</p> <p>15 experience. I strongly urge you to support the Blue</p> <p>16 World project. Blue World would be a tremendous new</p> <p>17 attraction, and enhance SeaWorld's efforts around</p> <p>18 education, conservation and research.</p> <p>19 (Audience interruption.)</p> <p>20 MR. PRATER: Hi. My name is Danny Prater,</p> <p>21 I live in North Hollywood, California. First off, I</p> <p>22 want to start by echoing the spirit of a comment</p> <p>23 made by Commissioner Shallenberger earlier today. I</p> <p>24 think it's a ridiculous and irresponsible time for</p> <p>25 us to be talking about building swimming pools right</p>
<p style="text-align: right;">Page 227</p> <p>1 you are given this amazing job to vote not in favor</p> <p>2 of Blue World, because everything about Blue World</p> <p>3 is wrong. It's wrong. It's wrong for San Diego,</p> <p>4 it's wrong for environmental reasons that my</p> <p>5 predecessors delineated, and as a conscious</p> <p>6 capitalist, I want to see SeaWorld thrive for the</p> <p>7 economy of San Diego, but they must do so with a</p> <p>8 paradigm shift. They're living in a time warp of</p> <p>9 the '70s, and they can't continue to operate like</p> <p>10 this.</p> <p>11 I drive by the park every day to go to</p> <p>12 work, and attendance is down, and that's a</p> <p>13 reflection of our society and humanity and the voice</p> <p>14 of the people of San Diego, and all over the</p> <p>15 country, so I hope that when you look in the mirror</p> <p>16 tomorrow morning when you brush your teeth that you</p> <p>17 feel you did the right thing, created a legacy for</p> <p>18 future generations, and you know in your conscience</p> <p>19 that you did the right to vote against Blue World.</p> <p>20 (Audience interruption.)</p> <p>21 MR. SANDERS: I'm Jerry Sanders, president</p> <p>22 and CEO of the San Diego Regional Chamber of</p> <p>23 Commerce. Thank you for taking the time to</p> <p>24 thoughtfully consider SeaWorld's Blue World project.</p> <p>25 At the chamber we work hard every day to create jobs</p>	<p style="text-align: right;">Page 229</p> <p>1 now.</p> <p>2 (Audience interruption.)</p> <p>3 MR. PRATER: The Blue World project will</p> <p>4 not enrich the lives of the Orcas held by SeaWorld</p> <p>5 for one reason, and I'm going to tell the reason is</p> <p>6 because what the Orcas at SeaWorld have can barely</p> <p>7 be described as a life, not when you compare it to</p> <p>8 the lives as all the facts we've seen today have</p> <p>9 shown us, that Orcas in the wild have, I will tell</p> <p>10 you that the only true approximately sized habitat</p> <p>11 for these animals is the ocean, is a sea pen, and</p> <p>12 that's what we need to be doing today. You cannot</p> <p>13 enrich a life that you've stolen, that you've</p> <p>14 bastardized and destroyed for profit, especially</p> <p>15 when you're measuring that in feet.</p> <p>16 The animals need to be retired immediately</p> <p>17 to a seaside sanctuary, to the ocean where they</p> <p>18 belong, and I hope all of you vote not today, if for</p> <p>19 no other reason you've all got a better view than we</p> <p>20 had in the back, and just what I've been hearing,</p> <p>21 the flapping of yes fans versus no fans, you've got</p> <p>22 no fans that are flapping when people are appealing</p> <p>23 to compassion, appealing to these animals to what's</p> <p>24 best for our state, and you've got yes, yes flags</p> <p>25 that are flapping the hardest from what I've heard</p>

<p style="text-align: right;">Page 230</p> <p>1 all day when we're talking about money or how crazy 2 animal rights activists are. 3 And that is not our of line with anything 4 SeaWorld has been doing, and I hope you can all 5 realize that. Thank you. 6 (Audience interruption.) 7 MS. PEARSON: Hi there. I will keep this 8 short and sweet. My name is Connie Pearson, there 9 is nothing educational about seeing whales in 10 unnatural conditions perform bizarre, unnatural 11 acts. Please don't give in to the greed of these 12 animal exploiters. Please vote no. You have the 13 power to greatly improve the lives of future 14 generations of Orcas. Thank you so much. By the 15 way, I fully support rescue, rehabilitation and 16 release. If that's all SeaWorld did, I would 17 support them myself. Thank you. 18 CHAIR KINSEY: Thank you. And as the next 19 speakers are coming up, I'll invite up Joe Kassaw, 20 Dr. Ann Bowles, and, excuse me, Harold Weiss and 21 Dr. Sam Dover, and Aaron Long. 22 (Audience interruption.) 23 CHAIR KINSEY: Welcome. 24 MS. PAULINE NORIEGA: Hi, good afternoon, 25 my name is Pauline. And this is --</p>	<p style="text-align: right;">Page 232</p> <p>1 MS. JANINE NORIEGA: Thank you. 2 (Audience interruption.) 3 CHAIR KINSEY: Thank you. Yep. Please 4 come forward. 5 MR. LONG: Hello. Thank you for having me. 6 My name is Aaron Long, I'm from Salt Lake City, 7 Utah. I'm part of Direct Action Everywhere. First 8 I just want to say that the SeaWorld video that they 9 presented earlier was phenomenal, those 3D fake 10 animated whales looked so happy. 11 (Audience interruption.) 12 MR. LONG: I do have a speech prepared. 13 But first if I can just request whoever is speaking 14 yes, no, just please be respectful, let them speak 15 their heart. That's what they're doing here, 16 they're pouring their feelings out, just let talk. 17 All right? Stop being rude, no snide remarks. All 18 right? Please just let us talk. Thank you. All 19 right. 20 So -- 21 CHAIR KINSEY: You're stealing my lines. 22 (Audience interruption.) 23 MR. LONG: So I'm here today to help 24 everyone here understand that by voting yes is only 25 aiding to more abuse and imprisonment. You need to</p>
<p style="text-align: right;">Page 231</p> <p>1 MS. JANINE NORIEGA: My name is Janine. 2 MS. PAULINE NORIEGA: And we are in support 3 of SeaWorld's blue conservation and tank, big tank. 4 First of all, if it's for benefit or the better of 5 the whales to be in a much bigger area to just get 6 their exercise and whatever it is that the whales 7 need, why not do it, I mean, it is their home and we 8 are susceptible also to be adoptable to places, 9 whether it be humans or pets, whales, everybody 10 is -- everybody is capable of being adoptable in 11 certain places or areas where, you know, everyone, 12 I'm sorry, where, you know, everyone is -- is 13 held -- or not held, I'm sorry, where everyone has a 14 place to live. 15 CHAIR KINSEY: Thank you. 16 MS. JANINE NORIEGA: I would also say if 17 the others want to not have Blue World, I say if 18 they put them out in the wild and the open ocean, I 19 just realized something, if they're over there, 20 they, you know how some hunters come, go over there, 21 they could kill them. So it's not safe for them. 22 But in SeaWorld they help prevent that happen -- 23 from happening. They -- they help cure, curing them 24 from -- from -- and love them. 25 MS. PAULINE NORIEGA: Thank you.</p>	<p style="text-align: right;">Page 233</p> <p>1 understand that these animals that are locked up at 2 SeaWorld are prisoners. Forced to perform circus 3 tricks, and for SeaWorld profit for your 4 entertainment. I'm a six-year Air Force veteran, 5 I've used my military status to accept free 6 admission to SeaWorld numerous occasions. Before 7 the start a show SeaWorld would ask all military 8 past and present to stand so that they may recognize 9 us for our service to our country. 10 I would stand with pride, but now, as I 11 open my eyes, open my mind, I shamefully admit that 12 I was even there in the first place, contributing to 13 all the abuse. And I see here all the SeaWorld 14 people wearing the blue shirts, you know, those are 15 going to make fine dust rags in the future. 16 (Audience interruption.) 17 MR. LONG: They state educate, inspire and 18 to conserve. You need to implement that into 19 something real. You need to educate yourselves and 20 others about the abuse and imprisonment, open your 21 eyes, see what's actually going on. Yo were given 22 all the facts, all the numbers, all the statistics, 23 you had SeaWorld trainers that quit their jobs 24 because they could not face all of the abuse. They 25 told you exactly what was going on, you just need to</p>

<p style="text-align: right;">Page 234</p> <p>1 accept the facts. Not just shut it out completely.</p> <p>2 CHAIR KINSEY: Thank you.</p> <p>3 MR. LONG: All right.</p> <p>4 CHAIR KINSEY: Thank you for your comments.</p> <p>5 MR. LONG: All right. Please vote no,</p> <p>6 that's all I have to say, vote no.</p> <p>7 (Audience interruption.)</p> <p>8 DR. BOWLES: Chairman and members of the</p> <p>9 committee, thank you very much for the opportunity</p> <p>10 to speak with you. I am Dr. Ann Bowles and I have</p> <p>11 37 years of experience in research, marine biology.</p> <p>12 I lead the bio acoustics program at Hubbs-SeaWorld</p> <p>13 Research Institute, a public charity that has</p> <p>14 celebrated its 50th in 2013. I hold non-salaried</p> <p>15 faculty and researcher positions at the University</p> <p>16 of California San Diego, University of San Diego and</p> <p>17 San Diego State University. I'm here to testify in</p> <p>18 support of the research potential of the Blue World</p> <p>19 project.</p> <p>20 At SeaWorld I have had the opportunity to</p> <p>21 make detailed observations of individual killer</p> <p>22 whales interacting at close range and over long</p> <p>23 periods. And I have made discoveries that could not</p> <p>24 be made in the wild. I also know from participation</p> <p>25 on standards setting and review panels that research</p>	<p style="text-align: right;">Page 236</p> <p>1 is Dr. Sam Dover, I'm a marine mammal veterinarian</p> <p>2 with 27 years experience. I live in Santa Barbara,</p> <p>3 California. And I operate Channel Islands Marine</p> <p>4 and Wildlife Institute. I'm the founder and</p> <p>5 executive director.</p> <p>6 What I have here is I've heard a lot of</p> <p>7 things about what occur in the park. I want to talk</p> <p>8 about some of things SeaWorld does outside the park.</p> <p>9 For example, the wild animal rescue. We've heard</p> <p>10 nothing but support even from the detractors about</p> <p>11 that. And what I'm going to do is give you some</p> <p>12 examples of how I've worked with them and what</p> <p>13 they've done to help us advance the science of</p> <p>14 marine mammal medicine.</p> <p>15 In the last three years alone, three years</p> <p>16 alone we've had at least three humpback whales</p> <p>17 entangled in fishing gear. SeaWorld sends a team,</p> <p>18 plus has a boat, we provide training and we work</p> <p>19 together to go out and identify these entanglements</p> <p>20 and attempt to remove them. This is a very</p> <p>21 dangerous thing, it's not simple, and it takes a lot</p> <p>22 of experience. These people have that experience</p> <p>23 and we're trying to teach others that same level of</p> <p>24 experience.</p> <p>25 Last spring in the Channel Islands Harbor</p>
<p style="text-align: right;">Page 235</p> <p>1 in zoological environments provides essential</p> <p>2 information for management, such as what animals can</p> <p>3 hear and how they react to particular kinds of</p> <p>4 sounds.</p> <p>5 Propagation from the Blue World</p> <p>6 construction activities in the pool will be first be</p> <p>7 a function of distance and second a function of</p> <p>8 barriers to sound propagation.</p> <p>9 Among the sources SeaWorld has consulted is</p> <p>10 my review of the scientific literature on</p> <p>11 construction noise, which includes the potential for</p> <p>12 sound attenuation or lessening associated with</p> <p>13 barriers such as empty pools.</p> <p>14 I have been deeply engaged with animals</p> <p>15 since I was a child. A love fostered by zoos and</p> <p>16 marine parks. And I want young people to have the</p> <p>17 same opportunities I had. The whales at SeaWorld</p> <p>18 are an important resource to help train young people</p> <p>19 to develop the skills needed for careers with</p> <p>20 management agencies, environmental consultancies,</p> <p>21 and universities.</p> <p>22 In summary, for their sake and for that of</p> <p>23 the whales, I urge you to support the project.</p> <p>24 (Audience interruption.)</p> <p>25 DR. DOVER: Thank you, Commission. My name</p>	<p style="text-align: right;">Page 237</p> <p>1 there was a sea lion named Bubba, most of the news</p> <p>2 crews were here for that. Bubba was impaled on a</p> <p>3 homemade harpoon by some clearly deranged</p> <p>4 individual. That animal, unfortunately, died</p> <p>5 because that wound went inside to his abdomen and it</p> <p>6 was unreparable. We spent all day, actually three</p> <p>7 days chasing that animal before we able to</p> <p>8 successful capture him. Unfortunately the treatment</p> <p>9 was too late.</p> <p>10 On May 19th, 2015, there was an oil spill,</p> <p>11 seven miles from my facility in Santa Barbara. We</p> <p>12 are all aware of this oil spill. Every single</p> <p>13 mammal from that spill was transported to SeaWorld</p> <p>14 for treatment and decleaning.</p> <p>15 (Audience interruption.)</p> <p>16 DR. DOVER: Every single one. The last</p> <p>17 three years alone we've been dealing with an unusual</p> <p>18 mortality event. That is an unusual number of sea</p> <p>19 lines dying from unknown causes. Guess what? We've</p> <p>20 learned the causes through the work together that</p> <p>21 we've done. In summary, I support everything that</p> <p>22 SeaWorld is trying to do, I support this project and</p> <p>23 please let us continue to do our work.</p> <p>24 CHAIR KINSEY: Thank you.</p> <p>25 (Audience interruption.)</p>

<p style="text-align: right;">Page 238</p> <p>1 CHAIR KINSEY: As the next speaker is 2 coming up I'm going to involve Tom Otten -- invite 3 Tom Otten, Simone Rindel, Martin Koskoff, Lindsay 4 Raight, and Jonathan Curry. Thank you. 5 MS. KOSOFF: Hi, my name is Jill Kosoff, 6 I'm a wife, mother, Southern California resident and 7 advocate. I suffer from two neurological diseases. 8 I was told that swimming with our having a 9 close encounter with a dolphin or Orca would lend 10 healing properties to me. I went to SeaWorld and 11 watched one of their shows. It was the last show of 12 the night as fireworks started to go off, a young 13 male Orca was chased by a female Orca. He was 14 pinned in the corner repeatedly, the explosions 15 obviously affecting the whales. The show ended. 16 I made my way down to the corner of the 17 tank where he was swimming. The was diving down and 18 them bobbing up at the surface. I looked him right 19 in the eye, I thought in that moment that it was 20 amazing, but ladies and gentlemen, that's just me 21 drinking the SeaWorld Kool-Aid. 22 I'm not in any better condition, and that 23 beautiful Orca is still trapped in SeaWorld's tank. 24 What is SeaWorld gaining? Money. It seems to only 25 be about money. That's what expansion of their</p>	<p style="text-align: right;">Page 240</p> <p>1 deep social bonds. That respect didn't come until 2 years later. 3 That's the main reason that I'm here today, 4 to urge you to vote no on this issue, and I would 5 ask respectfully that you think of yourself as a 6 body when you consider this, you are public servants 7 who are stewards of the California coast and whose 8 job is not to perpetuate a failed business that 9 unfortunately still wields a lot of power in the 10 state. Thank you. 11 CHAIR KINSEY: Thank you. 12 MS. RAIGHT: My name is Lindsay Raight, 13 pretty good job of the pronunciation. Thank you. I 14 drove down all the way from Oakland, California 15 because I feel so strongly about this issue. And 16 today I'd like to share the story of one SeaWorld 17 San Diego prisoner named Orchid. 18 Orchid was born during a Shamu show in 19 front of thousands of tourists in San Diego way back 20 in 1988. Her father died of pneumonia three days 21 after she was born and her mother perished ten 22 months later after severing an artery. Orchid's 23 mother hemorrhaged from her blowhole for 45 24 excruciating minutes and bled to death as Orchid 25 helplessly watched.</p>
<p style="text-align: right;">Page 239</p> <p>1 tanks is all about. I have no doubt that they will 2 breed their Orcas. Then what? They'll want to 3 expand again? I refuse to, and I think my 4 daughter's generation will not accept another Orca 5 in captivity. Please do not give them any more 6 space to bring even more Orcas into this 7 environment. I urge people to see these beautiful 8 creatures in the wild with where their behavior is 9 natural. Orcas don't eat people in the wild, only 10 at SeaWorld. 11 (Audience interruption.) 12 MR. WEISS: I'm a resident of Pasadena. I 13 want to thank all of the brave voices who spoke 14 before me on behalf of the animals and the 15 environment and even the labor movement from Unite 16 Here, who employs hotel workers, who shows the voice 17 of labor, I don't know if they're still here, 18 actually is not unanimous on this issue as some 19 folks may think. 20 When I was a kid my parents brought me to 21 SeaWorld like a lot of American kids. And I was 22 splashed and I laughed at the trainers' corny jokes 23 and I even left with a Shamu doll. What I didn't 24 leave with was a shred of respect for Orcas who are 25 majestic and very, very intelligent creatures with</p>	<p style="text-align: right;">Page 241</p> <p>1 The orphaned Orca then befriended two other 2 young whales, both who also unfortunately died 3 prematurely. One from an ulcerated stomach and the 4 other from twisted intestines. Witnessing her 5 mother's gruesome death and the loss of her two 6 friends left Orchid emotionally scarred. 7 She's been involved in multiple aggressive 8 attacks on trainers, and SeaWorld's own logs show 9 that Orchid becomes anxious during construction, 10 like what we would see if they expanded the tanks. 11 Orchid's actions and behaviors speak 12 volumes. Orcas cannot thrive in tanks, so please do 13 not allow SeaWorld to subject more Orcas to this 14 misery. I've heard other speakers before me singing 15 the praises of some of SeaWorld's other work, but 16 that doesn't excuse the misery that they subjecting 17 other animals to. 18 (Audience interruption.) 19 MS. SHELBY: Good afternoon, thank you for 20 letting me talk to you today. I am an implant, I 21 come from England, but I'm now living in California 22 as a resident, and I just want to say I've learned 23 so much from living here. 24 CHAIR KINSEY: Your name, please. 25 MS. SHELBY: Sorry, Simone Randel Shelby.</p>

<p style="text-align: right;">Page 242</p> <p>1 CHAIR KINSEY: Thank you.</p> <p>2 MS. SHELBY: I am an implant from Carol</p> <p>3 Shelby, one of your icons. And I've learned so much</p> <p>4 from the compassion that the Californians have, I've</p> <p>5 learned that from living here and being lucky to be</p> <p>6 a resident. And thank you for that, I became one.</p> <p>7 So I just want to say, please, again, show</p> <p>8 your compassion again for animals because what I've</p> <p>9 seen so far from living here, it took me seven years</p> <p>10 to get here, but it's just incredible what you show</p> <p>11 for animals compassion, and please let it carry on.</p> <p>12 Thank you.</p> <p>13 CHAIR KINSEY: Thank you. Before the next</p> <p>14 speaker, I'm going to invite Tanya Lamp, Sean Barr,</p> <p>15 Judy Crumpton, Liz Jacoberli and Jim Cunningham.</p> <p>16 MR. OTTEN: Hi, my name is Tom Otten, I'm a</p> <p>17 resident of Oceanside. I'm speaking to you as</p> <p>18 someone who has been a marine mammal keeper, a</p> <p>19 trainer, a curator and a zoo director. I have</p> <p>20 served on the board and as president of the American</p> <p>21 Zoo Association and chair of the Alliance of Marine</p> <p>22 Mammal Parks and Aquariums.</p> <p>23 I am here today to speak to why I believe</p> <p>24 SeaWorld's Blue World project is very important and</p> <p>25 would hope you would support this project as well.</p>	<p style="text-align: right;">Page 244</p> <p>1 SeaWorld. I want to tell you about another marine</p> <p>2 mammal that lives only a few hours south of here,</p> <p>3 it's called a Vaquita porpoise. It's a small</p> <p>4 porpoise who lives in the northern part of the Gulf</p> <p>5 of California. There are 100 individuals remaining</p> <p>6 alive today, five times more people in this room</p> <p>7 than there are Vaquita porpoises left.</p> <p>8 With so low individuals, their extinction</p> <p>9 is very probable. And what we have learned from</p> <p>10 animals in our institutions and at SeaWorld, could</p> <p>11 we save the Vaquita from extinction? The answer is</p> <p>12 yes. The challenge will be will we still be</p> <p>13 debating and having meetings like this.</p> <p>14 Will it be possible that in the future</p> <p>15 killer whales will find themselves in the same</p> <p>16 situation.</p> <p>17 CHAIR KINSEY: Thank you for your comments.</p> <p>18 MR. OTTEN: Thank you.</p> <p>19 CHAIR KINSEY: Thank you.</p> <p>20 MR. KOSOFF: Good afternoon. My name is</p> <p>21 Marty Kosoff and I'm a born and raised Southern</p> <p>22 California native. I've lived here my entire life</p> <p>23 and SeaWorld has always been a part of my life in</p> <p>24 one way or another, as it has for most California</p> <p>25 natives.</p>
<p style="text-align: right;">Page 243</p> <p>1 Education and public awareness may have been a</p> <p>2 primary reason for such a project in the past, but</p> <p>3 in today's world a project such as the Blue World</p> <p>4 project takes on another level of importance. We</p> <p>5 need to be looking to the future and to the</p> <p>6 potential needs for animals living in the wild and</p> <p>7 our ability to support them. And from what we have</p> <p>8 learned from animals at our institution, the sad</p> <p>9 truth is that there's very little wild left that we</p> <p>10 humans have not significantly impacted in one way or</p> <p>11 the other.</p> <p>12 If we haven't outright destroyed an</p> <p>13 environment we have significantly impacted the</p> <p>14 remaining natural resources enough to make it</p> <p>15 difficult for many animals to prosper.</p> <p>16 We are all aware of the human population</p> <p>17 growth projections. With this growth in human</p> <p>18 population, what kind of world environmentally will</p> <p>19 our children, their children and future generations</p> <p>20 inherit from us? And what kind of ocean will the</p> <p>21 whales and dolphins be swimming in? Will they find</p> <p>22 food? Just this year alone, according to NOAA,</p> <p>23 there have been over 3,000 stranded California sea</p> <p>24 lion pups whose mothers could not find enough food.</p> <p>25 Many of these animals and rehabilitated by</p>	<p style="text-align: right;">Page 245</p> <p>1 As an Emmy-nominated Hollywood producer,</p> <p>2 I've seen the ebb and flow of the film industry, and</p> <p>3 how it had to adapt to changing attitudes over the</p> <p>4 decades, and how it has morphed and grown based on</p> <p>5 public opinion, public desire and technological</p> <p>6 changes. And despite all these changes, it has</p> <p>7 thrived.</p> <p>8 My colleagues and I discuss Orcas' plight</p> <p>9 regularly, and after being a part of Hollywood's</p> <p>10 constantly-changing atmosphere, I would hope that</p> <p>11 the California Coastal Commission could see that the</p> <p>12 present business model of keeping highly intelligent</p> <p>13 creatures for profit is an archaic practice and</p> <p>14 there needs to be a paradigm shift for the future</p> <p>15 education of the public and the betterment of the</p> <p>16 cetaceans' lives.</p> <p>17 When my family became aware of the plight</p> <p>18 of Orcas in captivity, we wanted to assist in</p> <p>19 raising awareness, so we created a product called</p> <p>20 the Orca Ball. The Orca Ball is an antenna ball</p> <p>21 with a collapsed dorsal fin designed to start</p> <p>22 conversations and educate people about the direct</p> <p>23 result of keeping these highly intelligent creates</p> <p>24 captive.</p> <p>25 Our product has been very well received and</p>

<p style="text-align: right;">Page 246</p> <p>1 is presently selling around the globe with a 2 percentage of the profits going to two Orca 3 non-profit organizations. After creating the Orca 4 ball we went to SeaWorld to see the Orcas in person. 5 And we were devastated to see their state of being. 6 In between shows they were either floating around 7 motionless or showing stereotypical repetitive 8 behaviors, chewing their tanks or attacking one 9 another.</p> <p>10 In closing we feel the expansion of the 11 Orcas' tanks is not progressive thinking, and it's 12 actually step back towards the betterment of these 13 cetacean creatures and the education of the general 14 public. We vote not on the SeaWorld tank expansion 15 plan. Thank you very much.</p> <p>16 (Audience interruption.)</p> <p>17 CHAIR KINSEY: Thank you.</p> <p>18 MR. BARR: Good afternoon, members of the 19 Commission, my name is Sean Barr, I'm the senior 20 vice president of economic development for the 21 San Diego Regional Economic Development Corporation.</p> <p>22 I want to first thank members of the 23 commission for your careful due diligence of this 24 important project for the San Diego region. 25 SeaWorld represents the heart of San Diego's vibrant</p>	<p style="text-align: right;">Page 248</p> <p>1 thousands of miles every year. As you saw in the 2 movie Blackfish that probably everyone here saw, 3 it's horrible in the 1970's what they did to capture 4 these Orcas and now they are breeding them in 5 captivity, and Tilikum is the number one Orca that 6 they're -- they have been taking the sperm from, who 7 has killed multiple people in captivity. This is 8 not right for Orca to be in captivity, they deserve 9 to be free and wild.</p> <p>10 SeaWorld is making profit off of this. 11 They make money from this. That's why there are so 12 many people from SeaWorld here. The right thing for 13 SeaWorld to do would be to form a rescue and rehab 14 center similar to the California Wildlife Center, 15 who we work with. I'm also in touch with Ric 16 O'Barry who is actually in Taije, Japan right now, 17 and wants to give his love and support for the Orca 18 and dolphins at SeaWorld, and he wants us to vote on 19 Blue World. Please vote no and do the right thing. 20 Make compassion the thing that you vote for. Thank 21 you.</p> <p>22 CHAIR KINSEY: Thank you. And before the 23 next speaker I'd like to invite Jocelyn Heany, Gary 24 Raymond, Tom Hurley, Matt Bruce, Mike Yaekle, and 25 Lindsay Raight -- Lindsay's been here before.</p>
<p style="text-align: right;">Page 247</p> <p>1 tourism economy, employing over 100,000 -- 170,000 2 San Diegans which represents over 11 percent of our 3 total employment base.</p> <p>4 Our mission at the Economic Development 5 Corporation is to maximize the region's economic 6 prosperity and global competitiveness, not only 7 includes a job growth plan or a job growth interest. 8 Over the past year we have partnered with groups and 9 partners such as the Equinox Center and CPI to 10 discuss the dynamic between environmental 11 stewardship and the health and growth of a vibrant 12 economy.</p> <p>13 Because we understand the tie, there is no 14 better engine economically and a better 15 environmental steward than San Diego -- than 16 SeaWorld in the San Diego region, so on behalf of 17 the San Diego Regional Economic Development 18 Corporation, we ask you to vote yes on Blue World. 19 Thank you.</p> <p>20 MS. CLEARY: Hi my name is Katie Cleary, 21 I'm the executive producer of the documentary Give 22 Me Shelter on Netflix. Also the founder of World 23 Animal News and Peace for Animals. I'm here to tell 24 everyone it's not a right thing to have these 25 animals in captivity. They swim hundreds of</p>	<p style="text-align: right;">Page 249</p> <p>1 (Audience interruption.)</p> <p>2 CHAIR KINSEY: Lindsay Karris. Excuse me. 3 Go ahead.</p> <p>4 MS. CABELLI: Good afternoon, Coastal 5 Commission, my name is Liz J. Cabelli, I have grown 6 up in San Diego and I've lived here all of my life, 7 and I did attend SeaWorld as a child, I remember my 8 favorite things was Captain Kid's World, the 9 playground, and I loved going in the Japanese 10 Village. I have no idea if those still exist there 11 anymore. I may be really aging myself. But all I 12 remember is seeing after the Shamu show seeing Shamu 13 in a tiny little tank and wondering how he could 14 turn around. And as a child wondering what was 15 going on and I just knew it wasn't right.</p> <p>16 Well, as I became adult, as a lot of other 17 adults here, and some children here, we've become 18 more aware of the social and emotional aspects of 19 Orcas being kept in captivity. SeaWorld's tank 20 expansion is not the answer and will not benefit the 21 Oregons -- Orcas. Bigger tanks are bigger prisons. 22 Tank expansion is SeaWorld's way of glorifying a 23 false environment for the Orcas. The Orcas will 24 still be in captivity and they're still taken from 25 their normal family groups, even though they're not</p>

<p style="text-align: right;">Page 250</p> <p>1 taken from the wild in captivity they are taken from 2 their normal family groups. They're still forced to 3 perform on demand only to be fed a diet of frozen 4 dead fish.</p> <p>5 Imagine just eating something that was just 6 very foreign to you and -- Orcas are not able to use 7 their echo location. The Orcas deserve better. 8 SeaWorld could be a stepping stone and pioneers for 9 making a more human world for these highly 10 intelligent beings. This money could go towards sea 11 pens for the Orcas and they would have more of a 12 similar environment to their natural habitat and 13 maybe be rehabilitated into the wild. This would 14 allow children and families to learn what the life 15 of an Orca is really about.</p> <p>16 SeaWorld has billions of dollars off these 17 Orcas. Please to not support the tank expansion 18 and --</p> <p>19 CHAIR KINSEY: Thank you.</p> <p>20 MS. CABELLI: -- this archaic practice. 21 Thank you for your time.</p> <p>22 MR. RAYMOND: My name is Gary Raymond, I 23 live in Thousand Oaks, California. The quality of 24 the jailer is irrelevant. These creatures should 25 not be in captivity. North Korea has a policy of</p>	<p style="text-align: right;">Page 252</p> <p>1 This is despite having to be dosed twice daily with 2 Diazepam, otherwise known as Valium to curb his 3 rampant aggression, including trying to mate with a 4 days old calf, as we heard earlier today.</p> <p>5 Even though he is just still in his early 6 teens, Ikaika is suffering from chronic dental 7 problems, including exposed roots which require 8 antibiotics and pain medication. Ikaika was 9 separated from Marineland's female Orca because he 10 was biting her.</p> <p>11 And SeaWorld brought Ikaika to San Diego. 12 Ikaika is a distressed Orca and SeaWorld's head 13 animal trainer, Chuck Thompkins, admitted that 14 Ikaika has a history of aggression.</p> <p>15 Commissioners, the Orcas can never escape 16 their aggressive tank mates. Please do not let 17 SeaWorld house or breed any more angry or depressed 18 Orcas. Thank you.</p> <p>19 CHAIR KINSEY: Thank you. Before the next 20 speaker, I'd like to invite up Vincent Lawler, Lisa 21 Robles, Rachael Owen, Liam Cronin, Isaiah Berry, and 22 Bill Evans.</p> <p>23 MS. HEANEY: Good afternoon, my name is 24 Jocelyn Heaney and I'll keep my comments very brief. 25 I believe that future generations will look at</p>
<p style="text-align: right;">Page 251</p> <p>1 imprisoning the families and children of their 2 prisoners. Orcas are intelligent, feeling 3 creatures. It's really no different. We are their 4 stewards. The SeaWorld training supervisor who came 5 up here and said that she was looking forward to 6 experiencing with her kids the Orcas, I would like 7 to ask how would she feel if her children were taken 8 away from her and imprisoned for the purpose of 9 entertaining the public?</p> <p>10 (Audience interruption.)</p> <p>11 MR. RAYMOND: It's no different. It's a 12 matter of having empathy with all these other 13 creatures that we're blessed to be with. It's 14 empathy instead of greed. So I really do appreciate 15 your stewardship and your responsibility to try and 16 protect and do the right thing, and please vote no. 17 Thank you very much.</p> <p>18 CHAIR KINSEY: Thank you.</p> <p>19 MR. MONTVILLE: Hello. My name is Kenneth 20 Montville, I'm presenting on behalf of Matt Bruce, 21 who cannot be here. I just have a short story about 22 another prisoner at SeaWorld. SeaWorld San Diego 23 prisoner Ikaika. Story is one of pure heartbreak. 24 When he was just four he was shipped from SeaWorld 25 to Canada's Marineland to be used as a breeder.</p>	<p style="text-align: right;">Page 253</p> <p>1 SeaWorld as we now view the barbaric animal 2 spectacles of ancient Rome. Once seen, Blackfish is 3 not soon forgotten, but declining SeaWorld 4 attendance and revenues are not simply the so-called 5 Blackfish effect, but part of a wider awakening to 6 the cruelty of animal slavery in all its forms.</p> <p>7 If they could speak, if they had a choice, 8 would Orcas chose Blue World or their world? Please 9 vote no. Thank you.</p> <p>10 (Audience interruption.)</p> <p>11 MS. OWEN: Hello, my name is Rachael Owen, 12 and I'm from Los Angeles, California. I am just 13 here today to urge you to deny this permit. Orcas 14 deserve better and the people of California also do. 15 And any bigger prison is still a prison. None of us 16 would want to be there and that's something we 17 should consider in making compassionate choices for 18 this area. Thank you very much.</p> <p>19 CHAIR KINSEY: Thank you.</p> <p>20 (Audience interruption.)</p> <p>21 MR. BERRY: Hello, my name is Isaiah Berry 22 and I am in support of the Blue World expansion 23 project. I'm here in support of, of course, 24 SeaWorld, and not people who have sat down on their 25 couch and watched a two-hour documentary, and</p>

<p style="text-align: right;">Page 254</p> <p>1 self-proclaimed themselves as a marine mammal 2 expert.</p> <p>3 So basically I just to say that you guys 4 should take this into consideration, for it is for 5 better welfare and caring of these Orcas in 6 captivity, they're not nameless faceless beasts as 7 Mark A. Simmons once said, and I do believe that you 8 should take this into consideration as far as the 9 future generations, and not deprive them of the 10 ability to got to SeaWorld and to a place where 11 captive Orcas are held to see, you know, viewing 12 panels that are father than our reach, other than 13 having to go out into the wild on a boat that can 14 potentially disturb, harm wild Orcas. So, yeah, 15 please vote on the Blue World project.</p> <p>16 (Audience interruption.)</p> <p>17 CHAIR KINSEY: Thank you.</p> <p>18 MS. ROBLES: Hi. Good afternoon and thank 19 you for the opportunity to speak today. My name is 20 Lisa Robles and I'm here from Oakland, California. 21 But I'm original from San Antonio, Texas, and I was 22 once a season pass holder to the SeaWorld park 23 there, but here I am today opposing the approval of 24 this permit. I share the anti-captivity concerns 25 and sentiments expressed by those who have spoken</p>	<p style="text-align: right;">Page 256</p> <p>1 Sutherland, Jeannette Moreno, and Rory Pollek, and 2 Carrie Capiche. Welcome.</p> <p>3 MR. EVANS: Thank you, Mr. Commissioner. 4 My name is Bill Evans, I'm from San Diego, and I 5 think there's one thing everybody has in common here 6 today, including commissioners, it's a lot of 7 emotion. I have not heard a single speaker here 8 today that was not speaking from their heart, and 9 was truly convinced of their permission. And I'm 10 even sure today, you commissioners are feeling 11 emotional arguments today.</p> <p>12 But there is one group in this room that 13 has really no emotion in this aspect, and I really 14 hope that you will listen to them. And that's 15 Dr. Lester and the coastal staff. Since the 16 beginning of the coastal commission, and Peter 17 Douglas' leadership of that, the staff is really 18 about deliberate fact-based research. They don't 19 plan with the facts. They check them for accuracy. 20 They really don't trust any of the people that are 21 bringing projects to them.</p> <p>22 They verify, they really have no emotions 23 that can pull them one way or another, and they have 24 no agenda. And they only have one job to do, and 25 that is to advise the commissioners as to what they</p>
<p style="text-align: right;">Page 255</p> <p>1 before me, so I'll get right to the Blue World 2 project. Pardon the expression, but you can't 3 polish a turd, and that's what this an attempt at.</p> <p>4 (Audience interruption.)</p> <p>5 MS. ROBLES: Making something appear more 6 appealing to park guests doesn't change the fact 7 that animals ill suited for captivity are still in 8 captivity. What's the point of increasing the tank 9 size if the plan is to add more Orcas anyway? How 10 is that beneficial to the current Orcas if they get 11 more space but more bodies are just going to be 12 added? This is just more manipulation and white 13 washing by SeaWorld. Please do not be fooled. The 14 best interest of the 11 Orcas currently held are not 15 being taken into consideration. This project is 16 only about securing more space for more breeding for 17 more performers for a dying industry.</p> <p>18 The writing is on the wall the future is in 19 seaside sanctuaries. SeaWorld's money for this 20 project would be better spent on investigating those 21 options and constructing retirement facilities for 22 the remaining Orcas who have earned them billions of 23 dollars over the last 50 years. Thank you.</p> <p>24 CHAIR KINSEY: Thank you. I'll also be 25 inviting up Marie Mitchell, Jean Horall, Corrine</p>	<p style="text-align: right;">Page 257</p> <p>1 think is under the law, what is best for the Coastal 2 Act of California.</p> <p>3 Trust them. They have done their homework. 4 They have an unbiased and unemotional view of this, 5 and you should listen to them on this important 6 issue. Thank you.</p> <p>7 CHAIR KINSEY: Thank you.</p> <p>8 MS. CAPICHE: Good afternoon, I'm Carrie 9 Berbeck Capiche, I'm the senior vice president of 10 marketing at the San Diego Tourism Authority. I'm a 11 native San Diegan and a fifth generation 12 Californian.</p> <p>13 Today, though, I'm here representing the 14 one in eight San Diegans who work in our tourism 15 community in San Diego and the over 900 businesses 16 who are part of our organization at the tourism 17 authority. Since opening in 1964, SeaWorld has been 18 a vital part of the global image of California. 19 As a visitor attraction, SeaWorld brings millions of 20 visitors to San Diego every year. In fact, after 21 our beaches, it's the number one most visited 22 attraction for visits and overnight guests to 23 San Diego.</p> <p>24 Visitors report that they are highly 25 satisfied with their trip to San Diego thanks to the</p>

<p style="text-align: right;">Page 258</p> <p>1 quality experience and education offered at 2 attractions like SeaWorld, the San Diego zoo and the 3 Safari Park.</p> <p>4 The SeaWorld Blue World project is the 5 first of its kind research and conservation project. 6 It's commitment to conservation and the environment 7 is at the heart of what makes San Diego a very 8 special and inspiring place. Blue World is fully 9 consistent with all of the requirements of the 10 SeaWorld master plan, which has been approved both 11 at the Coastal Commission and San Diego City 12 Council. We really see this project as what is best 13 for the marine life, the San Diego community, and 14 our tourism economy.</p> <p>15 The tourism industry in San Diego is 16 173,000 employees strong. It's through the tourism 17 economy that we not only provide jobs but also 18 much-needed tax revenues that support a high quality 19 of life for all of our residents.</p> <p>20 So San Diego appreciates your consideration 21 and support for the Blue World project. Thank you 22 so very much.</p> <p>23 MS. POLLEK: Good evening, Commissioners. 24 My name is Rory Pollek, I'm from Carlsbad, 25 California. I have been a 30-year past member.</p>	<p style="text-align: right;">Page 260</p> <p>1 these majestic, brilliant animals that are locked up 2 in San Diego SeaWorld. Imagine what it would be 3 like to be incarcerated for a lifetime for no crimes 4 ever committed. Imagine never being free to live in 5 your own surroundings, to eat when you are actually 6 hungry, and not have to perform for food. Would you 7 dream of days of being free, to live your lives as 8 it was intended, to be free?</p> <p>9 We say that instead of making a newer 10 prison for the Orcas that this money, energy and 11 time be spent on rehabilitation, retirement and the 12 possible release of these Orcas so they can return 13 to the wild, which is where they belong, not in a 14 new sea prison.</p> <p>15 CHAIR KINSEY: Thank you. 16 (Audience interruption.)</p> <p>17 MS. MITCHELL: Hello, Commissioners, my 18 name is Marie Mitchell. I am just a human trying to 19 do my part, trying to do good in life. Don't you 20 feel that you should also do the right thing in 21 life? Please thing about what SeaWorld really wants 22 here. How can we ever consider any of SeaWorld's 23 requests until they stop putting these innocent 24 creatures on display for the public and forcing 25 performances out of them.</p>
<p style="text-align: right;">Page 259</p> <p>1 And -- 2 (Audience interruption.)</p> <p>3 MS. POLLEK: 30 years. And very proud, and 4 proud of all these people behind me that work for 5 SeaWorld, they have nothing but compassion and I 6 learn something new every time I go there.</p> <p>7 On another note, I lived in Seattle for 8 seven years and worked with the southern resident 9 whales, and they have it tough there, and not 10 everyone, a family especially, can afford to take 11 someone to the Puget Sound to do whale watching. 12 And if it wasn't for SeaWorld our children, our 13 children's children, need them, please vote yes for 14 Blue World. Please. Thank you.</p> <p>15 CHAIR KINSEY: Thank you. Please.</p> <p>16 MS. HORALL: Hi, I'm Jean Horall, and I'm 17 going to turn my time over to my friend Ellen 18 Erickson.</p> <p>19 MS. ERICKSON: Good day, Commissioners. My 20 name is Ellen Erickson, and I am a profound, 21 extreme, fringe radical activist from San Diego. 22 (Audience interruption.)</p> <p>23 MS. ERICKSON: Today we come before you to 24 urge you -- no, to beg you to make the right 25 decision for the Orcas and not allow a new tank for</p>	<p style="text-align: right;">Page 261</p> <p>1 We cannot consider their wants. We know 2 where their intentions lie. Profit. If you 3 purchase tickets on line there's actually a deal 4 where one adult day pass is only \$69. I looked it 5 up. It's always a big fight against large 6 corporations who yield significant funds and want 7 more. I know that they have a strong hand here 8 today as well, but together with other compassionate 9 intellectuals here, we aren't going to let them 10 bully, we're going to speak up for the innocent 11 creatures. Please remember why SeaWorld exists, it 12 is not for the Orcas.</p> <p>13 You know, I went to SeaWorld as a small 14 child but I didn't know. My parents didn't know 15 back then. We cannot claim ignorance any longer, 16 people are waking up. People are learning the truth 17 about how Orcas come to be at SeaWorld, their mental 18 state, their intelligence in life as they suffer in 19 captivity there. Please keep in mind that the 20 Coastal Act and the Coastal Management Plan require 21 a protection of coastal and marine resources, 22 including these Orcas we are speaking of here today.</p> <p>23 We have a chance to be an outstanding 24 example to the rest of the nation and the entire 25 world. We need to ban the breeding of Orcas in</p>

<p style="text-align: right;">Page 262</p> <p>1 captivity and top Orcas from being captured from the 2 ocean.</p> <p>3 The whole ocean in general suffers enough, 4 and that could be an entire other meeting. We need 5 to phase out SeaWorld and the suffering that is 6 created. And I feel so sorry for the Orcas already 7 in SeaWorld's dirty hands. Perhaps we can also work 8 on improving those lives.</p> <p>9 You know, we can give SeaWorld a chance to 10 save face, you know, and the only way to do that is 11 if SeaWorld was to only be a rescue and rehab 12 endeavor.</p> <p>13 Commission, I plead that you please 14 continue your tradition of showing concern for the 15 treatment and conservation of marine mammals. 16 Please uphold the foundation you started on, let's 17 do the right things, let's be good people. Thank 18 you.</p> <p>19 CHAIR KINSEY: Thank you. Before the next 20 speaker I'd like to invite Karen Hoffberg, Michael 21 Reppe, Robby Stewart, Tanya Nicosell, Andrea 22 Addelman -- Adelman, and that will be enough for 23 now. Thank you.</p> <p>24 MS. SUTHERLAND: Good afternoon, my 25 friends, nice to meet you all. My name is Corrine</p>	<p style="text-align: right;">Page 264</p> <p>1 the structure, and let the whales, they can just 2 swim under that and maybe save on some 3 (unintelligible) or something like that, and be a 4 little bit more natural protection for them since 5 they don't have the darker water, then they could 6 have those shading stations maybe as part of the 7 structure, and that might help out a little bit.</p> <p>8 I am for it, I'm a marginal for, I've heard 9 a lot of good arguments here, very interesting. But 10 just some arguments I don't agree with, PETA, and I 11 would just like to see and here more coming from 12 SeaWorld regarding this construction, but I'm going 13 to vote marginally for. Thank you.</p> <p>14 MR. REPPE: All right. Hello, my name is 15 Michael Reppe, I'm from Mill Valley, and you've 16 heard a little bit about Corky. I want to add some 17 more story of Corky. You recently heard from 18 another speaker how her seven babies died in 19 captivity, none lived more than two months. Also I 20 want to tell you what happened to Corky at SeaWorld. 21 It's an example of deadly aggression that would 22 never happen in the wild. And the way it happened 23 was there was another female Orca named Kandu, and 24 Kandu rammed Corky. Kandu broke her jaw, was 25 spewing blood all over, you saw a picture, you may</p>
<p style="text-align: right;">Page 263</p> <p>1 Sutherland and I'm a 30-year volunteer, 30 years of 2 counting gray whales off of our coast here. Now, I 3 do want to -- I'm worried that the person who talked 4 about Corky being pregnant, except for, I'm not sure 5 about the last one, but all the others were actually 6 at Marineland, they weren't at SeaWorld, so that had 7 nothing to do with SeaWorld at that time.</p> <p>8 One thing I am quite interested in this 9 making bigger tanks for SeaWorld, there's one thing 10 that bothers me about their web page is they talk 11 about Orcas playing, which they don't, okay, I've 12 been watching them for 30 years. The cows, I'm 13 sorry, the calves and the juveniles do, but you're 14 only a juvenile for so many years. As adults they 15 don't play, they're social. So this thing about the 16 fast water that they have I believe is actually 17 wasted money, and I'd like to see them that out.</p> <p>18 And one thing I think that the Orcas could 19 use is some shade, because we have changed climate 20 in California, it's a lot hotter and lot sunnier, 21 and that San Diego has no mercy when it beats down 22 on you. And so to save you from a sunburn and the 23 black oxide that they put on the skin, which is so 24 artificial, they could jut build like shading 25 stations, maybe, strewn through the tank as part of</p>	<p style="text-align: right;">Page 265</p> <p>1 have seen that picture of her, it was up on the 2 screen.</p> <p>3 She bled out and died in front of an 4 audience at SeaWorld.</p> <p>5 Now, this type of aggression would never 6 happen in the wild. And I want you to know that a 7 larger tank would not be the answer. It would not 8 stop this type of unnatural aggression that happens 9 because of the stress of captivity. So I'm urging 10 you to take that very, very seriously a larger tank 11 is not the answer. It's the retirement, and 12 particularly of Corky, to her family. She comes 13 from the northern residence of British Columbia, she 14 has her family pod to return home to. There is a 15 great plan for a seaside sanctuary in a netted-off 16 bay called Freshwater Bay. And I urge you to 17 consider that especially for Corky and all the 18 others.</p> <p>19 But Corky is from a wild capture, has a 20 family to go home to. So please, please consider 21 that when you make your decision, and I'd urge you 22 no on this proposal. Thank you.</p> <p>23 (Audience interruption.)</p> <p>24 MS. STEINHOWE: Hello, Commission. My name 25 is Ronnie Steinow from Encinitas. And I'm giving my</p>

<p style="text-align: right;">Page 266</p> <p>1 minutes to Pam Slater Price.</p> <p>2 MS. PRICE: Good afternoon, Pam Slater</p> <p>3 Price, county supervisor to San Diego for 20 years,</p> <p>4 from 1992 until 2012. I've heard a number of things</p> <p>5 today that seem to be new information to the Coastal</p> <p>6 Staff as well as to the Coastal Commission.</p> <p>7 First of all, that there are numerous</p> <p>8 outstanding violations which should be remediated</p> <p>9 prior to any new permits, and these appear to have</p> <p>10 been ongoing for ten years.</p> <p>11 Seismic conditions that have not been</p> <p>12 evaluated, and that was shown on a map. By the way,</p> <p>13 the location of SeaWorld is -- is an area where</p> <p>14 seismic conditions are of great concern. The closed</p> <p>15 landfill and toxic materials must be considered</p> <p>16 because there is already documentation that those</p> <p>17 have been problematic and have caused at least one</p> <p>18 human death.</p> <p>19 Global warming will lead and is leading</p> <p>20 right now to rising sea levels, and this area is at</p> <p>21 ground zero for global warming and rising sea</p> <p>22 levels. Also, fireworks are being set off every</p> <p>23 night at SeaWorld and these animals are very</p> <p>24 sensitive to sound, and so therefore that is another</p> <p>25 thing that should be considered. Education has been</p>	<p style="text-align: right;">Page 268</p> <p>1 Pelacio. Thank you. Welcome. Please.</p> <p>2 MS. STEWART: Hi. Thanks for having me</p> <p>3 here. My name is Robbie Stewart, I come from</p> <p>4 San Diego, I work at the lovely Bahia Resort Hotel.</p> <p>5 And normally you would say, well, she's probably an</p> <p>6 executive assistant to the general manager, and you</p> <p>7 would be right, but my real title is Harbor Seal</p> <p>8 Mom. I don't know how many of you have heard of the</p> <p>9 Bahia or been to the Bahia, but we are a licensed</p> <p>10 rehab facility for seals sanctioned by the U.S.</p> <p>11 Government. And we currently two blind harbor</p> <p>12 seals, Gracie, who's 11, and Billy, who's just one</p> <p>13 year old.</p> <p>14 And we were lucky enough to get Gracie from</p> <p>15 SeaWorld when she was seven months old. She was</p> <p>16 born here in the cover, in La Jolla Cove, and has</p> <p>17 cataracts and is not able to be released. Billy</p> <p>18 also is blind, we don't know at this point why, but</p> <p>19 neither of them are deemed releasable. So we were</p> <p>20 lucky enough to get them, but we don't know a lot</p> <p>21 about sea lions, these are harbor seals, we've</p> <p>22 learned kind of as we go. And we would be nothing</p> <p>23 today with our seals if it weren't for the wonderful</p> <p>24 care that we get from SeaWorld.</p> <p>25 If we have an issue within 30 minutes of</p>
<p style="text-align: right;">Page 267</p> <p>1 mentioned for SeaWorld. What kind of education are</p> <p>2 you giving? Is it that it's okay to imprison</p> <p>3 animals for human entertain and profit? I don't</p> <p>4 think that's very good education.</p> <p>5 Social media has awakened the public to</p> <p>6 these abuses and cruelty to innocent animals by</p> <p>7 corporations for profit. They object and they</p> <p>8 choose not to attend SeaWorld.</p> <p>9 Your vote will reveal your character. If</p> <p>10 you vote against this project, you are showing that</p> <p>11 you are ethical and show compassion. If, however,</p> <p>12 you choose to support the project you will reveal</p> <p>13 that you put money and power above ethics and</p> <p>14 (unintelligible) behavior.</p> <p>15 If you choose not to act responsibly, this</p> <p>16 is not over. We will not give up and we will</p> <p>17 continue to educate the public about SeaWorld's</p> <p>18 continuing abuses and will continue until such time</p> <p>19 as SeaWorld if it really wants to rehabilitate, it</p> <p>20 doesn't need Orcas on staff to rehabilitate. Thank</p> <p>21 you.</p> <p>22 (Audience interruption.)</p> <p>23 CHAIR KINSEY: Please, as you approach, I'm</p> <p>24 going to also invite up Debby Luke, Brenda Cabrillo,</p> <p>25 Rose Park, Joanne Karth, Kelsey Ebberly and Janell</p>	<p style="text-align: right;">Page 269</p> <p>1 calling, they are here, coming over to help us with</p> <p>2 our seals. And we have John Riley to thank for</p> <p>3 that, and the fabulous Keith Yip, who is curator of</p> <p>4 mammals at SeaWorld. And their fabulous veterinary</p> <p>5 staff, their techs, everybody, we couldn't do it</p> <p>6 without them.</p> <p>7 So don't say and don't listen to that they</p> <p>8 don't care. Because they do care. And thank you</p> <p>9 for listening to me. I would vote yes on Blue</p> <p>10 World. Thank you so much. Come to the Bahia and</p> <p>11 meet Gracie and Billy.</p> <p>12 CHAIR KINSEY: Thank you.</p> <p>13 MR. RAMO: Hey, how you guys doing? My</p> <p>14 name is Matt Ramo. And I'm from Los Angeles,</p> <p>15 California. I'm here to ask you guys a question.</p> <p>16 What are we doing? Right? What is this about?</p> <p>17 It's simple. Okay. What it's about is very simple,</p> <p>18 it's about money, it's about profits. It's about</p> <p>19 jobs.</p> <p>20 If someone told you you were going to be</p> <p>21 locked in a closet and that the solution would be a</p> <p>22 larger closet, what would you say? It's still a</p> <p>23 closet and you're still locked in it. You're</p> <p>24 trapped. The solution is to let these Orcas live</p> <p>25 the way we live. Free. That's what we fight for,</p>

<p style="text-align: right;">Page 270</p> <p>1 that's what we've always fought for, that's what the 2 country is about, is freedom. Why can't we grant 3 that to them?</p> <p>4 To the construction workers, I've heard 5 your arguments. And I say there will be other 6 buildings to build, you will still make money. To 7 the researchers, there is no reason you cannot 8 continue to learn and educate yourselves in a 9 rehabilitating center for Orcas, for sea lions, and 10 to the employees of SeaWorld, I do not want you to 11 lose your jobs. I do not want SeaWorld to -- to not 12 exist. Instead, I want to see SeaWorld convert 13 itself from a prison into a rehab center.</p> <p>14 That would be something I would support. 15 And I strongly urge you to vote no. Thank you.</p> <p>16 CHAIR KINSEY: Thank you. 17 (Audience interruption.)</p> <p>18 CHAIR KINSEY: Before the next speaker, I 19 just want to announce that we've been going at this 20 most of this day, there still remain, you know, 21 dozens and dozens of speaker cards, many of them are 22 you -- who have not spoken yet are associating with 23 organizations that had the opportunity for an 24 organized presentation. So I'm going to announce 25 that at 6:00 p.m., I've been going through these</p>	<p style="text-align: right;">Page 272</p> <p>1 not the ocean, it's not Blue World, it's Prison 2 World. Let's call it what it is. And expanding a 3 prison is still a prison. What have we learned in 4 the 50 years that the researches at SeaWorld won't 5 share with anybody? We've learned in 50 years that 6 the Orcas belong in the wild.</p> <p>7 (Audience interruption.)</p> <p>8 CHAIR KINSEY: Thank you. So I'm going to 9 invite up Vince Mudd, Bill Evans -- I think Bill had 10 actually spoken, Michelle Feinberg, Don Kent, Ellen 11 Erickson, Johnny Simpson. Please.</p> <p>12 A VOICE: Ellen already spoke.</p> <p>13 CHAIR KINSEY: Ellen spoke. Thanks for the 14 help. Please come forward, let's just keep it 15 going, we want to get as many of the speakers in as 16 we could. And welcome.</p> <p>17 MR. KENT: Thank you, Mr. Chairman and 18 Commissioners, my name is Don Kent and I have the 19 honor of serving as the president of the 20 Hubbs-SeaWorld Research Institute, which for more 21 than 50 years has helped resolve problems arising 22 from the interaction between human and animal 23 populations and the habitats they share around the 24 world. I grew up in San Diego and as a grade 25 schooler was a frequent visitor to the Scripps</p>
<p style="text-align: right;">Page 271</p> <p>1 cards in the order in which they were submitted. We 2 will end the public comment at 6:00 p.m., and we 3 will bring it back to the Applicant for their final 4 comments, our Staff, and then our Commission. Thank 5 you.</p> <p>6 Please, go ahead.</p> <p>7 MS. CALVIA: Good early evening, my name is 8 Brenda Calvia, I'm a citizen in Huntington Beach, 9 California. I live three blocks from the coast. 10 The ocean is my life. I love the ocean. Along with 11 the ocean I also love freedom. I love freedom of 12 going to the ocean and being able to see pods of 13 porpoises at 6:00 o'clock in the morning swimming 14 freely, playing in the ocean.</p> <p>15 The Coastal Commission's job is to assure 16 that the citizens of California have a clean 17 environment and to safeguard and assure that we have 18 a clean -- clean coast.</p> <p>19 I grew up in Southern California, and in 20 all of my years, we never even dreamed of going to 21 Prison World.</p> <p>22 (Audience interruption.)</p> <p>23 MS. CALVIA: Not once second did my parents 24 ever even suggest let's go to Prison World because 25 that's exactly what it is. It's not the sea, it's</p>	<p style="text-align: right;">Page 273</p> <p>1 aquarium, San Diego zoo and SeaWorld, but it wasn't 2 until I became a graduate student in 1977 and 3 started working at the institute's marine laboratory 4 that I realized that I realized the value of 5 zoological connections to conservation research.</p> <p>6 When the founders of SeaWorld chartered our 7 institute, it was with the intent that a public 8 trust non-profit be dedicated to advancing our 9 understanding of marine animals toward their 10 conservation in the wild.</p> <p>11 The Blue World project is simply SeaWorld's 12 latest manifestation of that vision and one that 13 will create a whole new capabilities in behavioral, 14 physiological, reproductive and animal health 15 research that will advance our ability to act as 16 wise stewards of the marine environment.</p> <p>17 Much of the research conducted by my 18 institute colleagues is not possible outside the 19 zoological setting. Behavioral observations in the 20 wild, remote sensing devices and other instruments 21 cannot replace the access to marine species curated 22 in a zoological park. Research with animals at 23 SeaWorld including killer whales has been and is 24 still being used to help develop, refine, calibrate 25 and ground truth new techniques and instruments used</p>

<p style="text-align: right;">Page 274</p> <p>1 to study wild populations.</p> <p>2 In addition to providing an irreplaceable</p> <p>3 resource for research, the students mentored by</p> <p>4 scientists at our institute are applying the</p> <p>5 knowledge they gained in their careers as cetacean</p> <p>6 biologists at NOAA laboratories and as university</p> <p>7 scientists and lecturers, environmental consultants</p> <p>8 and veterinarians. Access to SeaWorld's thriving</p> <p>9 zoological population of animals allows us to</p> <p>10 address complex conservation challenges facing the</p> <p>11 world's oceans, and I endorse the Commission's</p> <p>12 adoption of the staff recommendations regarding the</p> <p>13 Blue World project.</p> <p>14 Thank you for affording me this opportunity</p> <p>15 to comment.</p> <p>16 CHAIR KINSEY: Thank you.</p> <p>17 MR. SIMPSON: Good afternoon,</p> <p>18 Commissioners, my name is Johnny Simpson and I'm the</p> <p>19 business manager of IBEW local 569, representing</p> <p>20 over 3100 electricians and their families in</p> <p>21 San Diego and Imperial Counties.</p> <p>22 The IBEW also provides training and career</p> <p>23 opportunities for community members. We have</p> <p>24 invested resources into the community to ensure</p> <p>25 construction projects, create safe quality</p>	<p style="text-align: right;">Page 276</p> <p>1 Emily Rohr, Kimberly Johnson, Deidre Arro, Nina</p> <p>2 Cohn, Lisa Lizeer, and Lester Smiley. Any of those</p> <p>3 who are present please come forward and the first</p> <p>4 person can come straight to the mic. Thank you.</p> <p>5 MS. HOLMBERG: Hi. My name is Marta</p> <p>6 Holmberg, and I am a resident of Los Angeles. I</p> <p>7 almost didn't come up to speak right now because I</p> <p>8 feel like pretty much everything has been said. And</p> <p>9 to be honest, I'm pretty tired and drained from</p> <p>10 being in this room all day. But then I remembered</p> <p>11 that I get to go home tonight to my family and</p> <p>12 that's something that Orcas at SeaWorld don't get to</p> <p>13 do, ever. So on behalf of them and everybody who</p> <p>14 couldn't be here at this meeting tonight, please</p> <p>15 vote no on SeaWorld's Blue World project. Thank</p> <p>16 you.</p> <p>17 (Audience interruption.)</p> <p>18 MS. ROHR: Good evening, Commissioners. My</p> <p>19 name is Emily Rohr, I live in Los Angeles. To be</p> <p>20 respectful of your time, I'll keep this brief. I</p> <p>21 just wanted to urge you all to please vote no on</p> <p>22 this and make the compassionate choice. Thank you.</p> <p>23 (Audience interruption.)</p> <p>24 CHAIR KINSEY: Thank you. I'm going to</p> <p>25 also invite up Jamie Werten, David Seaberger,</p>
<p style="text-align: right;">Page 275</p> <p>1 workplaces for our members. We also have great</p> <p>2 wages and benefits. Today I speak in support of one</p> <p>3 of these projects, Blue World.</p> <p>4 I've heard Ms. Rose and several other</p> <p>5 speakers today talk about it's a waste of money and</p> <p>6 resources. My members and their families would beg</p> <p>7 to differ. This project will create hundreds of</p> <p>8 good-paying construction jobs for local residents.</p> <p>9 (Audience interruption.)</p> <p>10 MR. SIMPSON: Jobs that provide family</p> <p>11 health care and retirement benefits. Jobs that help</p> <p>12 grow and strengthen the surrounding communities by</p> <p>13 investing in a local work force. SeaWorld is</p> <p>14 putting a hundred million dollars on the table for</p> <p>15 this construction project. This project will create</p> <p>16 half a million man hours for construction workers.</p> <p>17 The wages -- I'm sorry -- for local construction</p> <p>18 works, and the whales will get a larger state of the</p> <p>19 art habitat.</p> <p>20 It seems like a win for everyone. Local</p> <p>21 families and -- local construction workers and their</p> <p>22 families, and more importantly the whales get a</p> <p>23 larger environment to swim around in.</p> <p>24 I urge your support. Thank you.</p> <p>25 CHAIR KINSEY: Thank you. Marta Holmberg,</p>	<p style="text-align: right;">Page 277</p> <p>1 Brendon DeSmitt, Britney Pierce and Coffee Boyle.</p> <p>2 Thank you.</p> <p>3 MS. JOHNSON: Hi. I'm Kim Johnson, I'm a</p> <p>4 California resident, and I just wanted to say I'm</p> <p>5 fascinated by Orcas, I love them. I used to visit</p> <p>6 aquariums like SeaWorld all the time because I love</p> <p>7 marine animals especially. And I really wanted to</p> <p>8 see them up close. I'm sure all the SeaWorld</p> <p>9 employees that were here today also are also</p> <p>10 fascinated and love Orcas as well, that's probably</p> <p>11 why they applied for the job to be around them every</p> <p>12 day, so I think that's something almost everyone</p> <p>13 here can agree on that we all, you know, love</p> <p>14 animals, we love these Orcas, but what I've learned</p> <p>15 in recent years is that our desire to see the Orcas</p> <p>16 up close and our curiosity of them is actually</p> <p>17 hurting them.</p> <p>18 SeaWorld can build a sea sanctuary for a</p> <p>19 fraction of the cost it would take to complete this</p> <p>20 project, and I think if SeaWorld truly cares about</p> <p>21 animals, they would invest in a sea pen instead of</p> <p>22 this project. And I'm just asking everyone to look</p> <p>23 outside of our own desire to be close to the animals</p> <p>24 and our curiosity of them and to actually do what's</p> <p>25 really best for the Orcas instead of what's doing</p>

<p style="text-align: right;">Page 278</p> <p>1 best for ourselves and our desire to be around them 2 and to fulfill our own curiosity.</p> <p>3 So I'm just asking you to do the right 4 thing and the Orca tanks are selfish of us and 5 wrong, and please vote no. Thank you.</p> <p>6 (Audience interruption.)</p> <p>7 CHAIR KINSEY: Any of the other speakers, 8 please, you've been called.</p> <p>9 MR. DESMITT: My name is Brendon DeSmitt, 10 I'm actually currently in Tucson, Arizona, but I 11 grew up here in Southern California, used to sit on 12 a surfboard out in Huntington Beach and enjoy the 13 environment, never once did it occur to me while I 14 was out there that I might prefer to see the 15 beautiful wildlife in a contained environment rather 16 than somewhere where we were sharing the freedom of 17 the ocean together.</p> <p>18 I returned to Southern California where I 19 grew up, today, after an eight-hour drive from 20 Tucson just to make an impassioned plea to you folks 21 as somebody who loves this state where I grew up, 22 who remembers this state as progressive and is often 23 a beacon to the rest of the country and in fact the 24 rest of the world. Legislation and ideology that is 25 far and away, you know, before others make those</p>	<p style="text-align: right;">Page 280</p> <p>1 for them. Whether the depth is 35 feet or 50, any 2 take is too small and it's quite simply animal 3 cruelty.</p> <p>4 It would be a travesty to allow more 5 suffering to occur which would be the direct result 6 of a new breeding tank. Please deny this permit. 7 Thank you.</p> <p>8 CHAIR KINSEY: Thank you. Margaret 9 Kirkpatrick, Patty Jackson, Kath Rogers, Susan 10 Kirkpatrick, Eva Beroa, Matt Bruce, Luis Rodriguez, 11 Laney Stacks.</p> <p>12 MS. JACKSON: Hi.</p> <p>13 CHAIR KINSEY: Hi. Your name?</p> <p>14 MS. JACKSON: Hello. My name is Patty 15 Jackson. I took the day off work today to speak up 16 for the animals. I'm not paid by anyone. Just a 17 concerned citizen. First of all I would like to 18 quite Martin Luther King. There is nothing more 19 dangerous than sincere ignorance and conscientious 20 stupidity.</p> <p>21 I urge everyone here to watch two powerful 22 documentaries. The Cove and Blackfish. This is the 23 21st century. Why are we still enslaving animals? 24 We must strive for a world that is compassionate 25 towards the animals. Why isn't SeaWorld building</p>
<p style="text-align: right;">Page 279</p> <p>1 decisions. This is a -- a, you know, a reverse kind 2 of approach that we're taking here, thinking about 3 giving SeaWorld an opportunity to build a bigger 4 pen. And it's a financial disaster just waiting to 5 happen.</p> <p>6 We're talking about jobs, I hear a lot of 7 that, I got to say I really feel for the workers and 8 the unions that are representing them in that sense, 9 but construction jobs are temporary, folks, those 10 are jobs that are going to go away as soon as this 11 is built, the workers are going to be at risk of 12 losing their jobs as public opinion continues to 13 swell in disfavor towards this kind of operation. 14 And when that disappears, the public is going to be 15 left holding the bag.</p> <p>16 In summation, I just want to say that right 17 now the tide of public is rising and it's rising in 18 favor of compassion, not captivity. Please vote no.</p> <p>19 (Audience interruption.)</p> <p>20 MS. PIERCE: Hello, my name is Britney 21 Pierce, and I have traveled here today from Tucson, 22 Airzona. I urge the Commission to deny SeaWorld's 23 permit. I'm here in support of Direct Action 24 Everywhere, Dr. Visser, PETA and Sea Shepherd, not 25 matter how big the tank looks to us, it is a kennel</p>	<p style="text-align: right;">Page 281</p> <p>1 seaside sanctuaries? Please say no to the Orcas 2 tanks. It's time to end the enslavement of these 3 beautiful creatures that belong to the world. They 4 are not SeaWorld's slaves. Orcas belong in the 5 ocean, not in tanks. 14 countries have already 6 banned the captive display of Orcas and dolphins in 7 marine parks. It's time for the United States to 8 practice what we preach. Liberty and justice for 9 all.</p> <p>10 Animals have no voice in government. They 11 need our voice. Please say no the new Orca tanks. 12 Thank you.</p> <p>13 CHAIR KINSEY: Thank you.</p> <p>14 MS. ROGERS: Hello, Commission. Thank you 15 for your time today. My name is Kath Rogers, I'm a 16 resident of San Diego, and I'm the vice chair of the 17 Hillcrest Town Council, which is my neighborhood in 18 San Diego, and I'm also the co-founder of the Animal 19 Protection Rescue League, which is a local 20 non-profit organization in San Diego and we have 21 about 10,000 people on our mailing list. And on 22 behalf of them and on behalf of my friends and 23 family who couldn't be here today and make the drive 24 up and take off work, I urge you to vote no on this 25 project.</p>

<p style="text-align: right;">Page 282</p> <p>1 And I have personally called SeaWorld on a 2 few occasions where there have been orphaned sea 3 lion or seal pups or an injured sea lion, and that's 4 undisputedly the part of their operation that we can 5 all get behind. That's the future of what SeaWorld 6 represents, and a project that involves expanding 7 the Orca tanks, keeping these animals in small tanks 8 where they perform tricks for us. That's outdated, 9 that's part of the past, and this is part of your 10 vote today is seeing the future of our coastline, 11 seeing what we want to expand and what we want to 12 see in that area and -- and this is not it. 13 So I urge you to vote no. I also urge you 14 to take a look at some of the new information that 15 you've seen here today with regard to the pollution 16 and the toxic waste under the site and adjacent to 17 the site that has been brought to your attention 18 today. And please take that into consideration in 19 your vote as well. Please vote no. Thank you. 20 (Audience interruption.) 21 CHAIR KINSEY: Thank you. Speak. 22 I'm going to also invite up Bryan Pease, 23 Anthony Johnston, Cassandra Larson, Linda McKee, 24 Kenneth Montville, Casey Kern, Dean Fonsois. 25 Please.</p>	<p style="text-align: right;">Page 284</p> <p>1 (Audience interruption.) 2 MS. STACKS: -- tank the size of a -- a 3 pool in a backyard home. And it -- it all just -- 4 this picture just disturbed me. And then even the C 5 Part Marketplace Restaurant building, there's even 6 more space devoted to that. Now, we're here talking 7 about building another tank and with the plans it 8 shows that it's not going to be any better because 9 it's not going to be any -- it's -- it's just going 10 to be just a little larger and that is it. 11 CHAIR KINSEY: Thank you, Loni. 12 MS. STACKS: No, no, no. 13 CHAIR KINSEY: Thank you. 14 (Audience interruption.) 15 MR. PEASE: Good afternoon, Commissioners. 16 My name is Bryan Pease, I'm an environmental 17 attorney in San Diego and co-founder of the Animal 18 Protection and Rescue League with about 10,000 19 members. Back in 2009 I obtained a federal, Ninth 20 Circuit emergency motion granting the right of 21 San Diego to place a guideline rope at the 22 children's pool in La Jolla to protect the seals, 23 which is an issue that the Coastal Commission is 24 familiar with because they recently approved that 25 project.</p>
<p style="text-align: right;">Page 283</p> <p>1 MS. STACKS: Okay. First of all, my name 2 is Loni. 3 CHAIR KINSEY: I'll take it. I mean, I 4 apologize. 5 MS. STACKS: It was -- it was pronounced 6 "Laney," it's "Loni." 7 CHAIR KINSEY: Okay. Loni. I mean -- 8 MS. STACKS: You're get -- you're getting a 9 good education in a lot of things here tonight. 10 CHAIR KINSEY: Correct. 11 MS. STACKS: Yeah. In 2009 I was up above 12 San Diego with a friend that's a private pilot, and 13 took my camera. And as we flew around, I took 14 pictures of Coronado, North Island, downtown, the 15 airport, the zoo, and then I took a picture of -- we 16 were above SeaWorld. Nothing occurred to me, I 17 thought, oh, it's just another picture with the rest 18 of them. When I got home and I uploaded this onto 19 my computer, and I -- and I clicked to have the full 20 view, and something disturbing stood out to me. 21 The amount of space that is reserved for 22 parking at I believe \$15 a car is much, much, much 23 greater than that little tank when they're not 24 performing where they're swimming around in circles 25 in a --</p>	<p style="text-align: right;">Page 285</p> <p>1 But my point is that I had a little bit of 2 experience that was based on federal preemption, I 3 have a little bit of experience with the Marine 4 Mammal Protection Act and federal preemption. I 5 fully concur with the Animal Legal Defense Fund's 6 analysis that there is no federal preempting here. 7 The Coastal Commission clearly has the right to 8 regulate this project, and this is a doubling down 9 of the bad part of what SeaWorld represents having 10 these Orcas in captivity. It's expanding it without 11 stopping the captive breeding. 12 You're actually creating more and allowing 13 more of what the tide of public opinion is turning 14 against, and also you've heard from some -- you've 15 heard from people that are going to profit from the 16 project, but you've not heard from labor 17 organizations representing people who work at 18 SeaWorld. That's because they don't have any. They 19 don't have unions. SeaWorld doesn't allow it. 20 And there are politicians who are strongly 21 allied with labor, for instance, Lorena Gonzalez who 22 opposes this project unless it were to stop the 23 breeding. 24 I would like to cede the rest of my time to 25 Meredith McCracken.</p>

<p style="text-align: right;">Page 286</p> <p>1 MS. MCCracken: Thank you, Bryan. My name 2 is Meredith McCracken, I currently live in 3 San Diego, I moved there 14 years ago. Prior to 4 that I lived in Los Angeles, and where I volunteered 5 at Marine Mammal Care Center for one year. We 6 rescue, rehabilitate and release seals, sea lions 7 and elephant seals, and it is up, over in Point 8 Fermin, and they also have an educational facility 9 where they bus in children from L.A. Unified and I 10 just want to say that denying this project to 11 SeaWorld is not going to shut down the 12 rehabilitation project, I don't believe. Thank you. 13 CHAIR KINSEY: Thank you. 14 (Audience interruption.) 15 MS. MYRICK: My name is Kathy Myrick. I 16 live in San Diego, and I just wanted to let 17 everybody know that right now there's a pod of 18 dolphins in Taiji that's being herded toward the 19 killing cove, and I think what SeaWorld does to talk 20 about having animals in captivity and having it be 21 okay, it just -- it fuels the things that go on to 22 capture the dolphins in this case, bring them in and 23 kill them in and put them into the captive industry, 24 so I just hope that you vote no on this. 25 (Audience interruption.)</p>	<p style="text-align: right;">Page 288</p> <p>1 choice. Thank you. 2 (Audience interruption.) 3 CHAIR KINSEY: Thank you. I'm going to 4 invite up Inger Eplin, Cynthia Mendez, Lisa Carlin, 5 Ronnie Steinow, Alicia Wompner, and Stephanie 6 Terronez. Welcome. 7 MS. KIRN: Hi, Commissioners. Thank you so 8 much for having us all here tonight. My name is 9 Casey Kirn and I live in California and I'm a 10 California voter, and I just want to urge you all to 11 deny SeaWorld's permit because it's bad for Orcas 12 and it's also bad for California. Thank you very 13 much for your time. 14 (Audience interruption.) 15 CHAIR KINSEY: Thank you. 16 MS. TERRONEZ: Hi, my name is Stephanie 17 Terronez, and I am from Lakewood, California here. 18 Commissioners, thank you so much for your time and 19 your patience here this evening. I am originally 20 from Fresno, and so it was a big deal when I was 21 younger to take a trip down to go to SeaWorld, and I 22 loved animals, loved marine wildlife, and so I was 23 awed by the whales and what I came away having 24 learned was that they can do neat tricks and you can 25 ride them when you get older.</p>
<p style="text-align: right;">Page 287</p> <p>1 MS. LARSON: I'm Cassandra Larson. I'm 2 from Salt Lake City, Utah. I traveled here not to 3 support SeaWorld. Many people I do talk to back in 4 Utah do not travel to California to go to SeaWorld. 5 It has probably been several years since I've 6 actually somebody who says they will go to 7 California for SeaWorld. I do volunteer with rescue 8 organizations for animals in Utah, obviously it's 9 not sea life. 10 So I -- but I do recognize the efforts that 11 SeaWorld does for that, and I applaud for the rescue 12 and rehabilitation efforts, but they do not need 13 captive Orcas jumping through hoops and doing shows 14 to make money to continue that rehabilitation 15 program continuing. So vote no. 16 (Audience interruption.) 17 MR. JOHNSTON: Hi, I'm Anthony Johnston 18 with Direct Action Everywhere Salt Lake City. I 19 speak with many of our, hundreds of members there 20 and I'm sure many of our thousands of members 21 internationally. When I say that we do not support 22 SeaWorld or this movement, I would just like to 23 remind all that animals are not resources, nor are 24 they toys for our entertainment, and I'd like for 25 everybody to keep that in mind while they make a</p>	<p style="text-align: right;">Page 289</p> <p>1 So that's what I thought I wanted to do for 2 a while was I want to be a trainer. But being from 3 Fresno and not being able to get out often to see 4 SeaWorld and get my education there, I started 5 researching more on my own. And the more I learned 6 about the natural state of whales and Orcas the more 7 I realized how wrong that was to keep them in these 8 small -- these small, tiny pools. 9 And I was extremely saddened and guilty 10 about having gone to enjoy that. So I think really 11 SeaWorld does do some amazing work when it comes to 12 rehabilitation, there's no reason that they can't 13 continue to do that, and these suggestions about 14 converting and evolving into a greater role in terms 15 of rehabilitation and a sea pen are exciting. I 16 think it's incredibly exciting, and I hope the 17 Commission will consider that as a future endeavor 18 for SeaWorld, because then, you know, I'd be happy 19 to come back, but until then I'm not going, and 20 nobody else in my family is, and neither are my 21 friends. Thank you. 22 MS. MCMACKEN: Hi. Alicia Wompner had to 23 leave to pick up her children, and she volunteered 24 her time to me. 25 CHAIR KINSEY: And your name?</p>

<p style="text-align: right;">Page 290</p> <p>1 MS. MCMAKEN: My name is Hilary Kristen 2 McMaken, I was born and raised in San Diego and I 3 live in Temecula. 4 I'm not here to push you one way or 5 another, except the way that your heart feels, and I 6 would just like to say that today isn't about money 7 or greed or jobs for humans or anything else. It's 8 just about the whales. And so please, before you 9 vote, just take a moment and think like a whale. 10 Think what you would want if you were an Orca. 11 Would you want to hear loud sounds above 12 your head, would you want to be forced to do tricks, 13 would you want -- would you want to live in the free 14 wild where you're free to do what you want. And 15 that's all I ask of you. Thank you. 16 CHAIR KINSEY: Thank you. 17 (Audience interruption.) 18 MS. EPLIN: Hi. I'm Inger Eplin, I'm 19 giving my time to Jonathan Klein, but please vote 20 no. Do the right thing. 21 RABBI KLEIN: Rabbi Jonathan Klein, Faith 22 Action for Animals and Clergy and Laity for Economic 23 Justice. I'm not a scientist, a lawyer, nor an 24 actor, but I am an rabbi and a ethicist working with 25 rabbis, priests, ministers and imams daily</p>	<p style="text-align: right;">Page 292</p> <p>1 imagine Gladiator World, Incorporated comes to you, 2 the Forum Commission, to educate, inspire and 3 conserve with a new arena, Gladiator World, yes. 4 (Audience interruption.) 5 RABBI KLEIN: You know that their goal is 6 to get out of public scrutiny. You know Gladiator 7 World, Incorporated has lied about -- I thought I 8 would get the other person's minutes as well. 9 CHAIR KINSEY: Nice try. No. 10 (Audience interruption.) 11 CHAIR KINSEY: But thank you for your 12 comments. You could wrap it up. 13 RABBI KLEIN: All right. Bottom line is, 14 please, you know, be the change that you want to see 15 in the world, to quote Gandhi. 16 (Audience interruption.) 17 CHAIR KINSEY: Okay. Thank you. So with 18 that I want to thank all of the members of the 19 public who have participated today, wide range of 20 opinions but very respectful for the most part, and 21 we really appreciate that. Going to invite 22 Mr. Riley back up to have his 15 minutes of 23 completion, then we'll take on our staff response 24 and then Commissioners. Thank you. 25 MR. RILEY: Chairman Kinsey and members of</p>
<p style="text-align: right;">Page 291</p> <p>1 throughout Southern California on economic justice 2 issues. 3 As a kid, I loved SeaWorld, great show, 4 majestic splash zone, intoxicating, I was wowed by 5 their Blue World that they created, gorgeous tanks. 6 Ultimately I broke my addiction, though. I didn't 7 now better, but you do. Your job is not to bail out 8 a dying company, it is to protect our vital coastal 9 resources. Good people working for SeaWorld came 10 here today with fear and trepidation for their 11 futures, just as others feared the end of slavery. 12 It isn't their fault, but sadly the jig is up. Time 13 to end business models that are built upon animal 14 cruelty. 15 Imagine a time when gladiator fights began 16 to be questioned. A public outcry arises against a 17 highly profitable institution, for decades on moral 18 grounds, Gladiator World kills, they argue. Despite 19 declining attendance, Gladiator World, Inc., 20 counters opposition. Gladiator fights are just, 21 educational, they lower crime, set an example for 22 sinners, researchers will help gladiators in the 23 wild. 24 (Audience interruption.) 25 RABBI KLEIN: Let's breed 'em, too. Now</p>	<p style="text-align: right;">Page 293</p> <p>1 the Commission, thank you again for the time to 2 speak today and for the opportunity for rebuttal 3 here. I began the day telling you that you would 4 hear a lot of rhetoric and misleading information. 5 You've heard a lot of false allegations about poor 6 management and mistreatment of killer whales at 7 SeaWorld. 8 The truth is each and every time PETA has 9 filed a complaint with the USDA, that federal agency 10 has come out and inspected us. Not once have those 11 complaints resulted in a finding of a violation of 12 the Animal Welfare Act. Not once. Including the 13 most recent claims by PETA's own employee. 14 Now, we could go through all the 15 misinformation that you heard today, one by one. 16 They were packaged into a film with a clear anti-zoo 17 and anti-aquarium agenda. You can read the facts 18 here in this binder. You received a copy of that 19 binder yesterday, the same information is available 20 on line. 21 But whether or not you agree with zoos and 22 aquariums isn't the issue before you commission 23 today. This is a vote about land use. This project 24 is clearly within the guidelines of the SeaWorld 25 master plan. There are no coastal act issues. I</p>

<p style="text-align: right;">Page 294</p> <p>1 can't think of a better way to use this land, in 2 fact, than with a new habitat that can benefit the 3 whales that live at SeaWorld, benefit research to 4 protect endangered killer whales in the wild, and 5 educate and inspire future generations of 6 conservationists, biologists, veterinarians, and 7 animal care experts.</p> <p>8 I'd like to make five clarifying points 9 about some of the information you heard today. 10 First, public sentiment is with zoos and aquariums. 11 In a recent study by the American Zoological 12 Association, 80 percent of respondents said they had 13 a favorable opinion of aquariums.</p> <p>14 More than three quarters say they were 15 likely or somewhat likely to visit a zoo or an 16 aquarium in the next 12 months.</p> <p>17 Number two, SeaWorld is highly regulated by 18 the United States government. We are regularly 19 inspected by federal veterinarians and other 20 officials. We pass strict federal licensing 21 requirements every year. And as I said earlier, we 22 have never once been found in violation of the 23 Animal Welfare Act for our care of Orcas.</p> <p>24 Number three, to further clarify a 25 statement from an opponent today regarding a comment</p>	<p style="text-align: right;">Page 296</p> <p>1 This is where our commitment lies, this is 2 what SeaWorld is all about. I'm proud of the nearly 3 300 fans, supporters, past members and our 4 passionate employees who attended today to support 5 this project. This has been a long day, and I 6 really do appreciate the Coastal Commission's time 7 and attention to these issues.</p> <p>8 And I also want to very thank your Staff 9 for their efforts over the course of this project, 10 and their recommendation to approve this project. 11 We hope that you'll vote in support. Thank you.</p> <p>12 CHAIR KINSEY: Thank you. So bring it 13 back, then to our staff for any comments that you 14 might have or additional information.</p> <p>15 DEPUTY DIRECTOR SARB: Thank you, Chair 16 Kinsey. I'd like to first address some specific 17 comments related to the Staff report and the permit 18 and then turn it over to Dr. Lester for his 19 comments. Also Dr. Dixon, our staff ecologist, and 20 Dr. Johnson, our staff geologist are here and 21 available for questions.</p> <p>22 Regarding Special Condition Number One, 23 this is meant to address the potential impacts 24 associated with the proposed development on the 25 species in the marine environment and the potential</p>
<p style="text-align: right;">Page 295</p> <p>1 made by SeaWorld in response to the 1994 amendments 2 to the Marine Mammal Protection Act, our point was 3 simply this. ^ NMPS does not have jurisdiction 4 over the display of killer whales. Another federal 5 agency does. APHIS. Regardless, the federal 6 preemption provision remains in effect.</p> <p>7 Number four. We follow strict alliance 8 guidelines for propagation, and you heard those 9 guidelines today, and our current population of 10 killer whales is growing slowly at a rate of about 11 three percent a year across all the parks.</p> <p>12 And number five, we will not and do not 13 collect whales from the wild. We recommitted that 14 through the Virgin Pledge and our project 15 description. We further confirmed that commitment 16 today when we announced that we will not take the 17 reported Russian whales, their offspring, their 18 descendents or their genetic material.</p> <p>19 With that said, I'd like to end as I began. 20 This project is built for the benefit of our whales. 21 These new habitats will benefit all of us, marine 22 experts and visitors alike. With a deeper 23 appreciation and understanding of these magnificent 24 animals. It all comes down to inspiration, 25 education and understanding.</p>	<p style="text-align: right;">Page 297</p> <p>1 or the proposed expansion to create an incentive for 2 SeaWorld to capture Orcas from the wild and populate 3 the proposed tank.</p> <p>4 Such capture would be an adverse impact to 5 the marine resource and the specie's special 6 biological significance associated with this tank 7 expansion and inconsistent with Section 30230.</p> <p>8 The concern is addressed in the revised 9 project description submitted by the Applicant and 10 incorporated into this condition of approval, which 11 commits that no killer whales captured from the wild 12 after February 14th, 2014 will occupy the expanded 13 facility. And that date is consistent with when the 14 Virgin Pledge was signed.</p> <p>15 I'd like to add a clarification and change 16 to Special Condition Number One to address some of 17 the stated concerns here today, and this is 18 acceptable to the Applicant. And that would be to 19 change the date to February, 2012, to January, 2012, 20 to avoid the possible occupancy by Russian whales 21 captured since that time. And also to clarify the 22 intent was to include any descendents from any 23 killer whales taken from the wild after that date of 24 January of 2012.</p> <p>25 I'd also like to address the concerns</p>

<p style="text-align: right;">Page 298</p> <p>1 regarding water quality, dewatering, landfill and 2 the seismic risk. There is a need -- the need for 3 the monitoring and treatment of the ground water 4 pumped out of the excavation site has been 5 incorporated into the project. They've done a 6 specific study for the excavation site which has 7 been reviewed by our technical staff and found that 8 no special handling of the soils is required due to 9 the lack of any chemical constituents of concern. 10 There is also a permit required from the -- from the 11 regional board for dewatering of the excavation area 12 consistent with the MPDS permit. 13 Regarding the landfill, there are wells in 14 place for ongoing monitoring for potential gases, 15 and this is also regulated by the regional board, 16 and the limits of the landfill are 1700 feet away 17 from the proposed facility. 18 Regarding the potential risk of seismic 19 danger from liquefaction in the event of a major 20 earthquake due to the presence of the known faults 21 in the area, this was addressed in a submitted 22 geotechnical report which also has been reviewed by 23 our Staff geologist and the condition requires 24 conformance with its recommendations and the design 25 and the construction plans.</p>	<p style="text-align: right;">Page 300</p> <p>1 acting under our authority. 2 It's also true that the Coastal Act is a 3 strong and a broad law, and in our view a living 4 law, and over your 40-year history, you have always 5 been at the forefront of progressive environmental 6 management and regulation. We have adapted and 7 responded to new knowledge and conditions and public 8 access concerns and extended the protections of the 9 Coastal Act to all kinds of emerging issues and 10 environmental problems. 11 And as you've heard from at least one of 12 the public comments today, the Coastal Act itself 13 tell us to construe its provisions liberally to 14 accomplish its objectives. 15 So in our view we are fortunate to have a 16 very strong law in our state, including a broad 17 policy to protect our marine resources. So in our 18 Staff recommendation, as you've heard, in addition 19 to looking at the range of land use questions that 20 we would typically analyze, we do apply Section 21 30230 to this project. 22 Let me touch on that again just briefly 23 since it was brought up by a number of speakers. In 24 our review we were very concerned with the potential 25 impacts of this proposal on California's wild killer</p>
<p style="text-align: right;">Page 299</p> <p>1 That concludes my comments, and I'll turn 2 it over to Dr. Lester. 3 DR. LESTER: Thank you, Sherilyn. I'll 4 just be brief here. Let me first thank everyone who 5 came here today and participated, on behalf of 6 Staff. Public participation is a really important 7 part of our law and our mandate, and so having 8 hearings like this is I think a really valuable and 9 important opportunity for us collectively to 10 consider questions about our environment, how we 11 relate to it, including how we relate to and 12 interact with other living beings on the planet. 13 Somebody referred to us as not having 14 emotion, but I can tell you there's a lot of emotion 15 in play when we're considering our recommendations, 16 and every day it does seem that these dialogues that 17 we have in our hearings are increasingly important 18 and urgent as we continue to change the planet in 19 dramatic ways, including our -- dramatic and 20 troubling ways, including our client upon which all 21 life including killer whales depends. 22 As you know, we do take our Coastal Act 23 obligations very seriously, and we seek to 24 rigorously apply the law to the protection of 25 California's coastal resources whenever we are</p>	<p style="text-align: right;">Page 301</p> <p>1 whales, which is our mandate. And so we worked to 2 make sure that the project would not directly affect 3 our marine resources which is now reflected in the 4 proposed Condition One that has just been adjusted 5 that prohibits any wild killer whales taken from the 6 environment from being housed in this new facility 7 at all, so the prohibition on genetic material being 8 used in this project. 9 And this recommendation is based on an 10 application of Section 30230 to the project, so the 11 section of the act does apply. That said we didn't 12 feel that we could extend the protections of 30230 13 to the question of captive breeding, or the 14 conditions of killer whale captivity. 15 Within the meaning of that provision, and 16 in the context of the review of this facility 17 expansion. This is an interpretive question about 18 how one reads Section 30230 and the meaning of its 19 terms. It's also a very narrow conclusion in our 20 recommendation. It should not be interpreted or 21 construed in any way as an endorsement of captive 22 breeding or as a statement that such captive 23 breeding is consistent with the Coastal Act. 24 Rather we are simply saying that in our 25 interpretation, Section 30230 wasn't intended to</p>

<p style="text-align: right;">Page 302</p> <p>1 apply to the welfare conditions of whales in 2 captivity as opposed to the marine environment, or 3 to the captive breeding programs of SeaWorld. 4 But there are other interpretations. 5 Killer whale are surely marine mammals and there's 6 no doubt that the project is in California's coastal 7 zone. So we've made our recommendation and at this 8 point we leave to you now as the decision makers to 9 consider the appropriate interpretation and 10 application of the Coastal Act to the project that's 11 in front of you. And that concludes Staff comments. 12 CHAIR KINSEY: Thank you, Dr. Lester. 13 Bring it back to the Commission now and I'm going 14 to -- I keep track of those who are wishing to 15 speak. We're going to begin with Commissioner Cox, 16 and then I also have Commissioner Bochco. 17 Commissioner Cox. 18 COMMISSIONER COX: Thank you, Mr. Chairman. 19 Let me start off by again reiterating the fact that 20 I think all of us on the Commission appreciate the 21 people that showed up here today to express their 22 opinions on whatever side of this issue you wanted 23 to express your opinion on, and I think there's, you 24 know, the one thing that I think hopefully everybody 25 in this room would agree to is the fact that the</p>	<p style="text-align: right;">Page 304</p> <p>1 And I know that a lot of people have taken 2 exception to SeaWorld, have maligned them as an 3 organization, and I think, you know, one of the 4 things that I was focusing on by one of the speakers 5 from PETA is that SeaWorld is a business, and that 6 is absolutely the truth. They are a business. 7 They're in the entertainment business, they're in 8 the education business, the conservation, research, 9 you know, a lot of different adjectives that have 10 been thrown out here today. 11 But the bottom line is they are a business. 12 And it's not this Commission's role to either have 13 them succeed or have them fail, it's too responsibly 14 implement the California Coastal Act, and our role 15 in all of this is in regards to the development 16 proposal. 17 For those that would seek a change to 18 preclude the holding of Orcas, you know, I 19 appreciate that. But we're not the role for that, 20 or we don't have the ability to make decisions in 21 that. That issue should be taken up with the 22 federal government, the United States Congress by 23 amending the Marine Mammal Protection Act. Our role 24 and our only role today I think is in regards to 25 whether this development proposal meets the</p>
<p style="text-align: right;">Page 303</p> <p>1 Orcas are beautiful mammals that deserve to be 2 protected, they deserve care, and we -- we want to 3 see them continue to flourish and survive wherever 4 they may be. 5 Having said that, and on the Staff's 6 presentation this morning, the thing that struck me 7 first off was the, the different roles that are 8 played by different agencies of government, both at 9 the state level and the federal level. 10 And the -- the chart that they had, and I 11 think clearly delineated that for the California 12 Coastal Commission which all 12 of these 13 Commissioners are -- are appointed to uphold really 14 regulates the development in the California coastal 15 zone. 16 And as much as there may be a desire to 17 regulate the -- the taking of Orcas, that is 18 something that is controlled by the -- another level 19 of government, the federal government under the 20 Marine Mammal Protection Act. 21 And what is before us today is a 22 development proposal that has been submitted by 23 SeaWorld, obviously it's generated a lot of input, 24 it's I think historic in regards to the amount of 25 input that we received from the public.</p>	<p style="text-align: right;">Page 305</p> <p>1 requirements of the California Coastal Act. 2 I want to give a lot of credit to staff 3 because they're received a lot of input. I'm sure 4 it was not an easy decision to wade through 150,000 5 plus communications that we had and all the other 6 information that came in, but did -- they did wade 7 through it, and I think they came forward 8 responsible recommendation, and that is to approve 9 the project with conditions. 10 Now, obviously I'm sure we'll have some 11 discussion in regards to what those conditions are, 12 but the bottom line is if this Commission took 13 action today to deny this project, nothing will 14 change in regards to the operation at SeaWorld as it 15 exists right now. They will continue to have whale 16 shows, they will continue to invite the public in, 17 and the public may or may not choose to come in and 18 patronize SeaWorld. That's -- that's their 19 business, that's their problem, it's not our 20 problem. 21 But I -- I've got to believe that most 22 people would agree that at least trying to increase 23 the size of the habitat that they have to live in is 24 better than what is there right now. And I think 25 when we make decisions as a Commission, I always try</p>

<p style="text-align: right;">Page 306</p> <p>1 to -- to consider, you know, what is the 2 alternative. If we don't approve of this today, 3 what's going to change? 4 Well, nothing is going to change, unless 5 you who would like to see Orcas set free, unless you 6 go back to the federal government and get some 7 modification to the Marine Mammal Protection Act. 8 That is the controlling document, the regulation 9 that will decide whether Orcas are ever going to be 10 returned to either a containment facility or be set 11 free. 12 So I think the bottom line that I'm looking 13 at is that the, you know, SeaWorld again has been 14 maligned a lot, but it's the business end of what 15 they do that has allowed them to do some -- I think 16 some really remarkable things that I don't they have 17 necessarily gotten full -- full credit for. 18 The -- the irony of it is just last year 19 SeaWorld celebrated their -- their 50th anniversary, 20 the year before, the Hubbs, which is now the Hubbs 21 research institute celebrated their 50th anniversary 22 in 2013, and it was Carl Hubbs and his wife who in 23 the '50s and early '60s had the foresight, they were 24 some of the most, I think, acknowledged 25 conservationists and did some of the earliest</p>	<p style="text-align: right;">Page 308</p> <p>1 represented by one of the speakers. 2 So I -- I realize this won't be a popular 3 decision with everybody, and I do have a question I 4 want to ask if there's a second to this motion, but 5 I don't believe that SeaWorld if this is approve is 6 going to -- even though the tanks could hold up to 7 94 whales, I don't think that's their intent, and I 8 would like to make get them on record in regards to 9 what that right number is. 10 (Audience interruption.) 11 COMMISSIONER COX: But I think that the 12 best action that we can take today is to move 13 forward with this project, and again I realize there 14 may be some modifications in some of the special 15 conditions, but I would move that the Commission 16 approve Coastal Development Permit No. 6-15-0424 17 pursuant to the Staff recommendations, and I would 18 ask for a yes vote. 19 VICE CHAIR BOCHCO: Second for purposes of 20 discussion. 21 CHAIR KINSEY: Thank you. Do you have any 22 other comments at this time, Commissioner? If not, 23 we'll go to the second. 24 COMMISSIONER COX: Maybe just one question 25 for maybe John Riley, if he would come back up.</p>
<p style="text-align: right;">Page 307</p> <p>1 research on marine mammals that started the research 2 institute, which led to the creation of SeaWorld. 3 They have done remarkable things in 4 research, and they still are, particularly with 5 Orcas, but a number of other mammals. They 6 certainly have done a lot in regards to rescuing 7 animals and mammals that have been impacted by oil 8 spills, by disease, I mean, every year there's 9 several hundred sea lions that are probably either 10 under nourished or have some sort of a condition or 11 have been attacked that are picked up by SeaWorld 12 and nursed back to health. We've heard testimony 13 today in regards to the more recent oil spill up in 14 the Santa Barbara area. 15 They do a lot of things to help preserve 16 and protect marine life and mammals. And how do 17 they do that? Well, okay, you know, they do have a 18 business. And that business is what allows them to 19 do that sort of activity, and thank goodness they 20 do, because there's a lot of organizations that are 21 out there that are well meaning and are doing great 22 things, but they don't have the resources to do the 23 types of things that SeaWorld has been voluntarily 24 doing for the last almost 50 years, 26,000 animals 25 and mammals that would have been rescued was</p>	<p style="text-align: right;">Page 309</p> <p>1 A number of people have made reference to 2 the fact that this is going to be a -- basically an 3 opportunity to breed additional Orcas. And I have 4 heard and seen representations that you're willing 5 to impose a cap, and I would like to ask you if you 6 would be willing to set, and there was a range, I 7 think, would you be willing to adopt a specific 8 number in regards to the Orcas that would be allowed 9 to be contained in this facility? 10 MR. RILEY: Yes, we would if I can make a 11 qualifying statement to that, Commissioner. The -- 12 as with any project, the project is itself 13 inherently self-limiting. And at SeaWorld we have 14 life support systems and water quality systems that 15 maintain the water for the health of the animals, 16 the clarity of the water so that we can see the 17 animals, and we've asked our engineers the way the 18 project was designed what the animal capacity, what 19 their best engineering estimate would be of the 20 animal capacity for the entire facility. 21 And it's well below the numbers that are 22 calculated in the Staff report based on federal 23 guidelines. And their estimate was range of 15 to 24 20 whales at the upper limit. 25 (Audience interruption.)</p>

<p style="text-align: right;">Page 310</p> <p>1 COMMISSIONER COX: Would you --</p> <p>2 CHAIR KINSEY: Please.</p> <p>3 COMMISSIONER COX: -- be willing to agree</p> <p>4 to a cap of 15?</p> <p>5 MR. RILEY: Yes, we would. And we have --</p> <p>6 we would like to propose a language for that if that</p> <p>7 is possible. I'd like to, if it's okay, I'd like to</p> <p>8 ask our attorney, David Watson, to step up.</p> <p>9 MR. WATSON: Mr. Chairman and Commissioner</p> <p>10 Cox, based on the engineer's estimate of a low of 15</p> <p>11 and a high of 20, and your request for -- that we go</p> <p>12 for the low number, I would like to read the</p> <p>13 following revised project description into the</p> <p>14 record for your consideration.</p> <p>15 "The project includes filtration</p> <p>16 and water treatment infrastructure</p> <p>17 components needed to ensure a healthy,</p> <p>18 clear marine water environment. The</p> <p>19 project infrastructure components would</p> <p>20 establish and upper population limit of</p> <p>21 15 killer whales. No expansion to the</p> <p>22 approved water treatment support</p> <p>23 infrastructure to increase animal</p> <p>24 capacity above 15 shall occur without a</p> <p>25 Coastal Commission-approved amendment to</p>	<p style="text-align: right;">Page 312</p> <p>1 description of the infrastructure, so what our</p> <p>2 engineers have prepared is sufficient documentation</p> <p>3 to describe the infrastructure, and I'm happy to</p> <p>4 hand that to staff and put it in the record so that</p> <p>5 not only would you have this proposed language of a</p> <p>6 maximum 15, you would have infrastructure design in</p> <p>7 the record to support the language that we are</p> <p>8 proposing.</p> <p>9 Does that help you, Dr. Lester?</p> <p>10 DR. LESTER: As I -- as I heard the</p> <p>11 description, it sounds like the intent is to cap the</p> <p>12 number of killer whales at 15 --</p> <p>13 (Audience interruption.)</p> <p>14 DR. LESTER: -- and so I think the most</p> <p>15 straightforward way to do that would be to accept</p> <p>16 that cap as part of their changed project</p> <p>17 description, and then incorporate that into</p> <p>18 Condition One as part of -- which is also</p> <p>19 acknowledging their other commitments in the project</p> <p>20 description.</p> <p>21 COMMISSIONER COX: And I -- and I'm hearing</p> <p>22 that the Applicant is amenable to that.</p> <p>23 MR. WATSON: Correct.</p> <p>24 DR. LESTER: I -- I hear that it's related</p> <p>25 to the infrastructure but I think the most</p>
<p style="text-align: right;">Page 311</p> <p>1 the coastal development permit or a new</p> <p>2 coastal development permit unless the</p> <p>3 executive director determines that no</p> <p>4 amendment is legally required or unless</p> <p>5 a temporary infrastructure modification</p> <p>6 is required for, one, emergency animal</p> <p>7 needs; or two, rehabilitating rescued</p> <p>8 whales at the request of one or more</p> <p>9 governmental agencies."</p> <p>10 That language is based on language in other</p> <p>11 special condition permits and we're happy to tinker</p> <p>12 with it, but I sort of lifted it directly from the</p> <p>13 staff report related to other conditions.</p> <p>14 But basically what this does is say that</p> <p>15 based on the project designed engineering</p> <p>16 infrastructure for life support, the maximum</p> <p>17 population would be 15 killer whales. That's the</p> <p>18 intent of this proposed condition.</p> <p>19 COMMISSIONER COX: Let me ask Staff if</p> <p>20 that's something that can be incorporated into the</p> <p>21 permit. Since they voluntarily offered to do that.</p> <p>22 MR. WATSON: If I could offer something</p> <p>23 that might help Staff. We discussed this with Staff</p> <p>24 last week. They felt that right now the record does</p> <p>25 not contain enough documentation to support the</p>	<p style="text-align: right;">Page 313</p> <p>1 straightforward interpretation is that it's 15,</p> <p>2 and in order to change that you would need an</p> <p>3 amendment or --</p> <p>4 MR. WATSON: Right.</p> <p>5 DR. LESTER: -- a determination that</p> <p>6 there's no amendment needed.</p> <p>7 MR. WATSON: We wanted to tie it to</p> <p>8 something physical so that it would require a new</p> <p>9 coastal development permit. So our intent was to</p> <p>10 make sure there's no doubt whatsoever that the 15</p> <p>11 killer whale limit is based on the capacity of the</p> <p>12 project, and if capacity is ever going to increase,</p> <p>13 we would have to come back to the Commission to</p> <p>14 change the project.</p> <p>15 CHAIR KINSEY: Thank you. I think that</p> <p>16 we -- we want to keep this to a Commission</p> <p>17 discussion. You've made it clear, your thoughts,</p> <p>18 Commission Cox, you are satisfied that what your</p> <p>19 intention is is to limit the total number to 15, and</p> <p>20 that any change that would seek to go above 15 would</p> <p>21 require an amendment to the permit.</p> <p>22 COMMISSIONER COX: That's my intent and I</p> <p>23 believe that's what the Applicant has agreed to.</p> <p>24 CHAIR KINSEY: Thank you. Okay.</p> <p>25 Commissioner Bochco, to your second?</p>

<p style="text-align: right;">Page 314</p> <p>1 VICE CHAIR BOCHCO: Yes, thank you. Well, 2 that's an interesting wrinkle. I do not hear them 3 say what Charles said, or Dr. Lester said, although 4 I think you're trying to wrap it around a 5 jurisdictional issue, where it sounds like to me 6 saying something about the filtration system was in 7 our purview where you think the whales are not, and 8 I just want to have a brief discussion with our 9 attorney, Mr. Pederson, about this.</p> <p>10 I spent most of my time, which was quite a 11 bit of time on this project looking at these 12 jurisdictional issues, and I came down on a 13 different side of it than you did. Not in your 14 initial hierarchy of the law. I think it is 15 absolutely plain that the Marine Mammal Protection 16 Act is not in effect here, it has been accepted in 17 the case of captivity, they have stated it 18 themselves, they have delegated to first NMFS and 19 then NMFS delegated it to APHIS, and that's the 20 Animal Welfare Act, which has specifically granted 21 to the states the ability to regulate animals in 22 captivity.</p> <p>23 I mean, it's just that simple. There is 24 laws in other states, South Carolina being one, 25 where the federal government said you can have the</p>	<p style="text-align: right;">Page 316</p> <p>1 is saying, there is no agency out there governing or 2 regulating the Applicant. And that doesn't make any 3 sense to me. I mean, that is an area of such great 4 importance, marine mammals in captivity, it's of 5 interest as a public resource, as well as a marine 6 resource.</p> <p>7 So I believe that the 30230, right, 30230, 8 allows us to take jurisdiction in this case over 9 these marine mammals. And so that being said, I 10 feel that we do have jurisdiction to both cap the 11 animals or in some cases or in this case, talk about 12 the breeding of the animals, which leads me to the 13 scientific evidence.</p> <p>14 I mean, we've spent hours here today, all 15 of us, and all in good faith, I don't think anybody 16 here really wants to malign SeaWorld. I think 17 SeaWorld has a lot of wonderful people, I think they 18 have a lot of wonderful goals, and I do believe that 19 the interest of the mammal, the marine mammals is of 20 utmost important to you.</p> <p>21 But I also have to agree with the 22 scientists, which, you know, does include Jane 23 Goodall and Naomi Rose and some people of incredible 24 credentials and decades of experience, that these 25 mammals are suffering in captivity, not suffering</p>
<p style="text-align: right;">Page 315</p> <p>1 state law that does not allow for animals in 2 captivity, marine mammals in captivity. It is not 3 governed by the MMPA. It is the law.</p> <p>4 So I don't understand why SeaWorld, the 5 Applicant, is clinging so tightly to this 6 misinterpretation of the law, and I -- I just -- I'm 7 just not going to buy it. That said -- 8 (Audience interruption.)</p> <p>9 CHAIR KINSEY: No, no, no.</p> <p>10 VICE CHAIR BOCHCO: Stop, please, please, 11 please, please.</p> <p>12 CHAIR KINSEY: Please.</p> <p>13 VICE CHAIR BOCHCO: That said, Mr. Pederson 14 and I also disagree when we get down to the further 15 analysis of state law, the state law, which is -- is 16 granted to us if we chose to take it, from the 17 Animal Welfare Act or APHIS, whatever one you want 18 to say, allows for regulations of mammals in 19 captivity, marine mammals in captivity. We, as an 20 agency, must look to see if any other agency has 21 preempted that promise. No one has. The California 22 Fish and Wildlife have not taken jurisdiction here, 23 they have told us that they don't feel that that is 24 their role.</p> <p>25 So if I was to believe what the Applicant</p>	<p style="text-align: right;">Page 317</p> <p>1 because you want -- 2 (Audience interruption.)</p> <p>3 VICE CHAIR BOCHCO: -- them to or because 4 you're really treating them badly, they're suffering 5 because they don't belong in captivity. So I 6 personally can -- I can go along with this project, 7 I can approve this project, I can vote for this 8 project, but only if we condition it further and 9 that condition would be an expansion of Condition 10 One, and for me, and I can't speak for any other 11 commissioner but myself, I would like to see that 12 condition amended, and in that way do I need to make 13 an amending motion?</p> <p>14 CHAIR KINSEY: Yes, you do.</p> <p>15 VICE CHAIR BOCHCO: So I would like to make 16 amending motion if it's the proper time to do so, so 17 that Condition One would go further and would say, I 18 wrote it down so I wouldn't mess -- mess it up, and 19 now of course I can't find it. Where did I put it? 20 I have so many papers. Oh, here we go.</p> <p>21 So I would like to expand Condition One to 22 say that it would further prohibit captive breeding, 23 artificial insemination -- 24 (Audience interruption.)</p> <p>25 VICE CHAIR BOCHCO: -- the sale -- please,</p>

<p style="text-align: right;">Page 318</p> <p>1 please, please.</p> <p>2 The sale, trade or transfer of any Orca in</p> <p>3 captivity. And I think we could agree to some</p> <p>4 exceptions for maybe the health of the animal or</p> <p>5 certainly the rescue animals. I would like to see</p> <p>6 something in the condition about the rescue animals</p> <p>7 so that they're only held as long as necessary for</p> <p>8 their health. I don't understand why they would</p> <p>9 have to stay just because at one time they were ill.</p> <p>10 And under those circumstances, I could</p> <p>11 happily approve this project, because I do believe</p> <p>12 that the whales that you have in captivity right now</p> <p>13 will benefit from this, and that's a terrific thing</p> <p>14 to do, and I also think that -- that the public</p> <p>15 would enjoy it more to see them in this environment,</p> <p>16 so --</p> <p>17 CHAIR KINSEY: Thank you.</p> <p>18 VICE CHAIR BOCHCO: Do I need a second?</p> <p>19 A VOICE: Second.</p> <p>20 CHAIR KINSEY: Would you like to speak to</p> <p>21 your second?</p> <p>22 COMMISSIONER SHALLENBERGER: I would, thank</p> <p>23 you. I actually think that Commissioner Cox's</p> <p>24 amendment, the maximum of 15 in combination with the</p> <p>25 amendment that Commissioner Bochco has just made is</p>	<p style="text-align: right;">Page 320</p> <p>1 Commissioner Bochco has outlined it, there would be</p> <p>2 a limitation in the number of animals, and the</p> <p>3 increased size would actually be for the benefit of</p> <p>4 these animals.</p> <p>5 So I would urge my fellow commissioners to</p> <p>6 vote yes on the amending motion.</p> <p>7 CHAIR KINSEY: Any commissioners wishing to</p> <p>8 speak at this time? If not, we would take up the</p> <p>9 amending motion as the first item, and I will be</p> <p>10 asking for a roll call vote, please.</p> <p>11 COMMISSIONER COX: Mr. Chairman, before</p> <p>12 we --</p> <p>13 CHAIR KINSEY: Commissioner Cox?</p> <p>14 COMMISSIONER COX: Yeah, before we get to</p> <p>15 the roll call vote, I would be interested to afford</p> <p>16 the opportunity to Mr. Riley or representatives of</p> <p>17 SeaWorld if they wanted to address that condition.</p> <p>18 MR. RILEY: Commissioner Cox, as we stated</p> <p>19 before, we would support the condition that you</p> <p>20 suggested about the cap to 15 animals in the</p> <p>21 facility. As to a ban or limitation on breeding, we</p> <p>22 would not be -- the population in this facility we</p> <p>23 have -- we have affirmed our approach to collection,</p> <p>24 and that we wouldn't accept any animal collected</p> <p>25 after January 1st, 2012, to exclude the Russian</p>
<p style="text-align: right;">Page 319</p> <p>1 completely consistent. Given that, I would like,</p> <p>2 SeaWorld has done a fabulous job on rescues. And I</p> <p>3 certainly wouldn't want to do anything which would</p> <p>4 limit their ability to -- to help and heal and house</p> <p>5 as long as they needed housing.</p> <p>6 On the other hand, I completely concur with</p> <p>7 Commissioner Bochco's analysis of the importance of</p> <p>8 no more breeding in captivity. These are marine</p> <p>9 mammals, they're a marine mammal no matter where</p> <p>10 they live. And desert animals are desert animals</p> <p>11 whether they're taken out of the desert or not. So</p> <p>12 I think that my, I prefer this, I'd like us to go</p> <p>13 this route, and the reason is the option for me</p> <p>14 would be denial.</p> <p>15 And the problem with denial is that it</p> <p>16 leaves, there's -- even though these new tanks are</p> <p>17 not much improvement for the 11 mammals that are</p> <p>18 there, it's just to be better than where they are</p> <p>19 now.</p> <p>20 So with that, I think it's a -- I think</p> <p>21 it's a -- not what some -- a lot of people have</p> <p>22 asked for, as for a straight denial, but a straight</p> <p>23 denial does leave the 11 animals still in the</p> <p>24 conditions they're in without the benefits of the</p> <p>25 much bigger tank. But under this amendment as</p>	<p style="text-align: right;">Page 321</p> <p>1 whales and any whales collected after that, we've</p> <p>2 included the genetic material of -- of those animals</p> <p>3 in that as well, but a ban on breeding would</p> <p>4 sentence these animals to -- to a slow extinction in</p> <p>5 our care, and a slow death, and we would not support</p> <p>6 that condition.</p> <p>7 CHAIR KINSEY: Thank you.</p> <p>8 COMMISSIONER COX: Mr. Chairman -- well,</p> <p>9 we'll take the roll call. I am going to oppose this</p> <p>10 amendment, obviously I'll support the main motion</p> <p>11 when it comes up.</p> <p>12 CHAIR KINSEY: Thank you. Vanessa, you</p> <p>13 want to -- excuse me. Commissioner McClure.</p> <p>14 COMMISSIONER MCCLURE: Yeah, I had a</p> <p>15 question in relationship to the amendment in</p> <p>16 relationship to the no breeding clause. Is that the</p> <p>17 11 that we -- that are at SeaWorld or is that 24</p> <p>18 that are under the care of SeaWorld? I --</p> <p>19 CHAIR KINSEY: Well, let's get</p> <p>20 clarification from the maker of the motion.</p> <p>21 VICE CHAIR BOCHCO: Where are these 20 -- I</p> <p>22 know they have 11 here.</p> <p>23 COMMISSIONER MCCLURE: It's my</p> <p>24 understanding, and I could ask SeaWorld to clarify</p> <p>25 it, but it's my understanding that they have 24 --</p>

<p style="text-align: right;">Page 322</p> <p>1 VICE CHAIR BOCHCO: Oh, in separate parks. 2 COMMISSIONER MCCLURE: In separate parks. 3 VICE CHAIR BOCHCO: Well, my intention was 4 the 11 that they have now. In San Diego. Because 5 we're giving a permit to San Diego, so that was what 6 I was including that -- 7 COMMISSIONER MCCLURE: Okay. So my 8 question is if a whale passed, could they bring a 9 whale in from one of their other parks, a 10 replacement whale? So I'm just kind of -- 11 VICE CHAIR BOCHCO: No. 12 COMMISSIONER MCCLURE: Okay. 13 VICE CHAIR BOCHCO: No, because the 14 transportation would also be -- 15 COMMISSIONER MCCLURE: Oh, okay. 16 CHAIR KINSEY: Thank you. Vanessa? 17 A VOICE: Excuse me. 18 THE CLERK: Commissioner Bochco? 19 A VOICE: Excuse me, just -- 20 CHAIR KINSEY: We are voting on the 21 amending motion at this point. 22 MR. PEDERSON: Chair Kinsey, could I 23 request one clarification regarding the motion. 24 So is the intent to also limit the transfer 25 of Orcas away from the facility? Okay. So I do</p>	<p style="text-align: right;">Page 324</p> <p>1 VICE CHAIR BOCHCO: Does somebody know? 2 DR. LESTER: I think the question would 3 rather be Chris is wanting to know from SeaWorld 4 whether any of the animals have a specific take 5 permit or whether the maker of the motion would 6 exclude any such animal from the transfer 7 prohibition. 8 CHAIR KINSEY: My -- my suggestion would be 9 rather than to involve the Applicant, would be to 10 get a clarification from the maker of the motion 11 that they would -- that they would -- it would be 12 consistent with federal law regarding take. 13 VICE CHAIR BOCHCO: Yes, of course. 14 CHAIR KINSEY: And I second her; is that 15 fine? 16 VICE CHAIR BOCHCO: Then we don't need an 17 answer. 18 CHAIR KINSEY: Thank you. 19 VICE CHAIR BOCHCO: It's consistent with 20 federal law regarding take. 21 CHAIR KINSEY: Vanessa? Oop. Commissioner 22 Vargas. 23 COMMISSIONER VARGAS: I'm just asking for a 24 little clarity in terms of what we're voting on, if 25 somebody would --</p>
<p style="text-align: right;">Page 323</p> <p>1 have one informational question about whether any 2 Orcas that are currently at the facility are the -- 3 I have an informational question about whether any 4 Orcas that are currently at the facility are 5 governed by a take permit. 6 And -- and the -- the reason for that 7 question is there is a provision of the MMPA that 8 provides that an animal that is subject to a take 9 permit, that take permit includes the right to 10 transfer the animal, so that -- that is one specific 11 limitation that I just want to be sure isn't at 12 issue. 13 VICE CHAIR BOCHCO: So you're saying that, 14 is this the permit that NMFS gives for the take? 15 MR. PEDERSON: Yes. So, and this would be 16 an animal specific permit, so I'm just asking if -- 17 VICE CHAIR BOCHCO: So if they have that 18 permit -- 19 MR. PEDERSON: -- there are any -- 20 VICE CHAIR BOCHCO: -- it still can be 21 transported even after captivity? 22 MR. PEDERSON: With respect to that 23 specific animal, yes. 24 VICE CHAIR BOCHCO: Yeah. 25 CHAIR KINSEY: So --</p>	<p style="text-align: right;">Page 325</p> <p>1 CHAIR KINSEY: Okay. So what we're voting 2 on right now is an amendment to main motion that 3 would prohibit the transfer or the breeding of the 4 Orcas that are in the California facility, excepting 5 those that are here under federal take provisions. 6 Does that -- is that satisfactory, 7 Commissioner? Okay. Once again, Vanessa. Let's 8 start at the top. 9 THE CLERK: Commissioner Bochco? 10 VICE CHAIR BOCHCO: Yes. 11 THE CLERK: Bocho, yes. Commissioner Cox? 12 COMMISSIONER COX: No. 13 THE CLERK: Cox, no. Commissioner Groom? 14 COMMISSIONER GROOM: Yes. 15 THE CLERK: Groom, yes. Commissioner 16 Howell? 17 COMMISSIONER HOWELL: Aye. 18 THE CLERK: Howell, yes. Commissioner 19 Luévano? 20 COMMISSIONER LUVÉANO: Yes. 21 THE CLERK: Luévano, yes. Commissioner 22 McClure? 23 COMMISSIONER MCCLURE: Yes. 24 THE CLERK: McClure, yes. Commissioner 25 Mitchell?</p>

<p style="text-align: right;">Page 326</p> <p>1 COMMISSIONER MITCHELL: Yes.</p> <p>2 THE CLERK: Mitchell, yes. Commissioner</p> <p>3 Shallenberger?</p> <p>4 COMMISSIONER SHALLENBERGER: Yes.</p> <p>5 THE CLERK: Shallenberger, yes.</p> <p>6 Commissioner Turnbull-Sanders?</p> <p>7 COMMISSIONER TURNBULL-SANDERS: Yes.</p> <p>8 THE CLERK: Turnbull-Sanders --</p> <p>9 COMMISSIONER TURNBULL-SANDERS: Yes.</p> <p>10 THE CLERK: Commissioner Uranga?</p> <p>11 COMMISSIONER URANGA: Aye.</p> <p>12 THE CLERK: Uranga yes. Commissioner</p> <p>13 Vargas?</p> <p>14 COMMISSIONER VARGAS: Yes.</p> <p>15 THE CLERK: Vargas, yes. Chair Kinsey?</p> <p>16 CHAIR KINSEY: Yes.</p> <p>17 THE CLERK: Chair Kinsey, yes. The vote is</p> <p>18 11 - 1.</p> <p>19 CHAIR KINSEY: Thank you. And so now we</p> <p>20 take up the main motion. The main motion which</p> <p>21 would approve the expansion of the facility.</p> <p>22 Vanessa, would you do a roll call vote on this as</p> <p>23 well.</p> <p>24 A VOICE: This is as amended?</p> <p>25 THE CLERK: Commission Cox?</p>	<p style="text-align: right;">Page 328</p> <p>1 Commissioner Uranga?</p> <p>2 COMMISSIONER URANGA: Aye.</p> <p>3 THE CLERK: Uranga, yes. Commissioner</p> <p>4 Vargas?</p> <p>5 COMMISSIONER VARGAS: Yes.</p> <p>6 THE CLERK: Vargas, yes. Commission</p> <p>7 Bochco?</p> <p>8 VICE CHAIR BOCHCO: Yes.</p> <p>9 THE CLERK: Bochco, yes. Chair Kinsey.</p> <p>10 CHAIR KINSEY: Yes.</p> <p>11 THE CLERK: Kinsey, yes. The vote is</p> <p>12 unanimous.</p> <p>13 (Audience interruption.)</p> <p>14 CHAIR KINSEY: Thank you. So that, we do</p> <p>15 approve the project, consistent with the amendments</p> <p>16 as noted, and that completes this item. I want to</p> <p>17 thank the public for your participation by the</p> <p>18 Applicant, and this also --</p> <p>19 (Audience interruption.)</p> <p>20 CHAIR KINSEY: This also completes the</p> <p>21 California Coastal Commission meeting for today.</p> <p>22 Thank you. We are adjourned.</p> <p>23 (End of file.)</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 327</p> <p>1 CHAIR KINSEY: Yes.</p> <p>2 COMMISSIONER COX: Yes.</p> <p>3 CHAIR KINSEY: As amended, yes.</p> <p>4 COMMISSIONER COX: Aye.</p> <p>5 THE CLERK: Cox, yes. Commissioner Groom.</p> <p>6 COMMISSIONER GROOM: Yes.</p> <p>7 THE CLERK: Groom, yes. Commissioner</p> <p>8 Howell?</p> <p>9 COMMISSIONER HOWELL: Aye.</p> <p>10 THE CLERK: Howell, yes. Commissioner</p> <p>11 Luévano?</p> <p>12 COMMISSIONER LUVÉANO: Yes.</p> <p>13 THE CLERK: Luévano, yes. Commissioner</p> <p>14 McClure?</p> <p>15 COMMISSIONER MCCLURE: Yes.</p> <p>16 THE CLERK: McClure, yes. Commissioner</p> <p>17 Mitchell?</p> <p>18 COMMISSIONER MITCHELL: Yes.</p> <p>19 THE CLERK: Mitchell, yes. Commissioner</p> <p>20 Shallenberger?</p> <p>21 COMMISSIONER SHALLENBERGER: Yes.</p> <p>22 THE CLERK: Shallenberger, yes.</p> <p>23 Commissioner Turnbull-Sanders?</p> <p>24 COMMISSIONER TURNBULL-SANDERS: Yes.</p> <p>25 THE CLERK: Turnbull-Sanders, yes.</p>	<p style="text-align: right;">Page 329</p> <p>1 STATE OF CALIFORNIA)</p> <p>2) ss.</p> <p>3 COUNTY OF FRESNO)</p> <p>4</p> <p>5 I, SHELLEY LAW, Transcriber, hereby</p> <p>6 certify:</p> <p>7 That said transcript was prepared by me</p> <p>8 using audio and video files downloaded as directed</p> <p>9 from the California Coastal Commission website, and</p> <p>10 thereafter reduced to computerized transcription. I</p> <p>11 did not attend the hearing.</p> <p>12 I further certify that I am not</p> <p>13 interested in the event of the action.</p> <p>14</p> <p>15 WITNESS this day of ,</p> <p>16 2015.</p> <p>17</p> <p>18</p> <p>19 SHELLEY LAW</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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