

PUBLIC MEETING

QUESTION AND ANSWER SESSION

ORIGINAL

SATURDAY, APRIL 23, 2005

CABRILLO MARINE AQUARIUM

SAN PEDRO, CALIFORNIA

Reported By:

Teri E. Lingenfelter

CSR No. 5369

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Public meeting, question and answer session,
conducted by Montrose Settlements Restoration
Program at Cabrillo Marine Aquarium, 3720 Stephen
White Drive, San Pedro, California beginning at
1:15 p.m. and ending at 2:40 p.m. on Saturday,
April 23, 2005 before TERI E. LINGENFELTER,
Certified Shorthand Reporter No. 5369.

1 APPEARANCES:

2

3 For Montrose Settlements Restoration Program:

4

5 Greg Baker

6 Dave Witting

7 Annie Little

8 345 Middlefield Road

9 Menlo Park, California 94025

10 Telephone (650) 329-5048

11 Fax (650) 329-5190

12 - AND -

13 501 West Ocean Boulevard

14 Suite 4470

15 Long Beach, California 90802

16 Telephone (562) 980-3236

17 Fax (562) 980-4065

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1 Long Beach, California, Saturday, April 23, 2005

2 1:15 p.m. - 2:45 p.m.

3 ****

4 MR. BAKER: When we take comments on this
5 proposed restoration plan we're not limited to the set of
6 alternatives that are presented in the plan. In other
7 words, you don't just have to say "I vote for this
8 alternative or that alternative." We're open to comments
9 about the alternatives themselves as they're presented,
10 but also comments on the individual projects or basically
11 anything that's fair game in the plan.

12 So that basically is the end of our presentation.
13 What we'd like to do now is go from us talking to you to
14 the point in this meeting where we can take your questions
15 and comments.

16 As I said at the beginning what we'd like to do
17 is to handle this in a somewhat organized fashion where I
18 have a set of cards and then I can just go ahead and call
19 off your name. We do have a microphone that we can
20 circulate around.

21 If the question is specific to birds or to fish
22 I'll probably end up turning the answer to that question
23 over to Dave or Annie.

24 What I would appreciate in the interest of
25 keeping it from getting too lengthy is if you have a

1 comment or a question that we try and limit it to say five
2 minutes or so. Depending on how many comments and
3 questions we get that may not turn out to be necessary.

4 I want to make sure though that everyone that has
5 a question or a comment gets a chance to say something.

6 So far I have two cards, and the first one is
7 Dr. Ann Muscat from the Catalina Island Conservancy.

8 I also have a card from Rachel Gutierrez.

9 I'll ask Ann to go first.

10 DR. MUSCAT: Thank you very much. I have
11 comments that will take about the amount of time you
12 allotted.

13 Committee members, members of the concerned
14 public, I'm Ann Muscat, president and chief executive
15 officer of the Catalina Island Conservancy. We're the
16 conservation organization that is charged with
17 restoring and protecting in perpetuity Catalina's
18 wildlands which represent about 88 percent of the island
19 or 32,000 acres.

20 It's our understanding that the overall goals of
21 the Montrose Settlements Restoration Program as stated in
22 their documents are to restore, replace, rehabilitate or
23 acquire the equivalent of the injured natural resource and
24 the services that those resources provide and to
25 compensate for the interim loss of services while those

1 resources are recovering.

2 I'm here because the Scientists Board of the
3 Benefactors of the Catalina Island Conservancy believe
4 that those goals will be accomplished only through the
5 adoption of the Montrose Settlements' Alternative No. 3
6 that we are interpreting will continue funding through
7 the rigorous restoration efforts on Catalina Island as I
8 will now explain.

9 I'll go through this part rather quickly.

10 We heard in the presentation that we have
11 recovered bald eagles on Catalina Island. There are
12 approximately 20 animals there now -- five nesting
13 pairs -- and that minor miracle is thanks to the rigorous
14 restoration efforts by the Institute for Wildlife Studies
15 which in partnership with the Conservancy has for several
16 decades worked on restoring bald eagles to the island.
17 We have participated in that both financially and through
18 our efforts to protect the bald eagle habitat.

19 In 1980 when the Institute for Wildlife Studies
20 began a rigorous effort to restore bald eagles to Catalina
21 Island we really began to understand that their
22 disappearance was due to the dumping by Montrose Chemical
23 Company and others of the DDT.

24 This has been reflected in the Tier 2 evaluation
25 plan by Montrose Settlements Trustees in their

1 recommendations.

2 Although the Conservancy agrees with this
3 assessment that human intervention is necessary to insure
4 the survival of the eagle chicks being conceived on the
5 island we respectfully disagree with the committee's
6 conclusion that funding for restoration of eagles should
7 be reallocated to other efforts, and we have several
8 reasons why we disagree.

9 First of all it is simply too early to abandon
10 bald eagle restoration efforts on Catalina Island.

11 Of the five breeding pairs of eagles on the
12 island data from IWS indicates that in some eggs
13 contaminant levels have reduced substantially. In fact
14 the data indicate that one pair of Catalina eagles are
15 producing eggs that are close to being able to be hatched
16 on their own without human intervention.

17 This could be possible within just a few years.

18 Hundreds of thousands of dollars have been spent
19 on the effort on Catalina. Reallocating funding that
20 would threaten what's already been accomplished would
21 amount to a waste of those monies.

22 The committee has suggested refocusing on the
23 Northern Channel Islands and on an island in Mexico which
24 I'll address later.

25 The oldest birds on the Northern Channel Islands

1 are only three years old. They will not start the
2 breeding process until they are five or six. If the
3 Catalina effort is abandoned this means that no new
4 eaglets will be fledged at least until then.

5 Since we are not sure of DDT levels in and around
6 the islands in the north we don't really know if the
7 Northern Island bald eagles will fare any better in the
8 years to come.

9 So this brings me to the second reason that we
10 must respectfully disagree with the committee's
11 Alternative No. 2, and that's that ceasing efforts on
12 Catalina could mean the disappearance altogether of eagles
13 from Catalina and perhaps even from the Channel Islands.

14 Catalina is the only place in the Channel Islands
15 currently that we can guarantee reproduction.

16 Additionally if restoration efforts end on
17 Catalina we cannot guarantee that the 20 eagles currently
18 on the island will stay paired or will even stay on the
19 island.

20 We don't have conclusive data about what the
21 birds might do if their reproductive efforts are
22 unsuccessful, but we believe it is likely they would break
23 pair bonds and seek other mates or leave the island
24 altogether.

25 Between the inconclusive data regarding DDT

1 levels on the Northern Channel Islands and what we don't
2 know about the nesting pairs on Catalina and what they
3 might do in the face of failed reproduction reallocating
4 funding from Catalina -- the only proven venue for
5 reproduction -- poses great risks to the continued
6 presence of eagles on Catalina and in the other
7 Channel Islands.

8 This brings me to the third point which is about
9 public access to these magnificent birds.

10 Catalina is home to about 3500 full time
11 residents and in addition welcomes more than a million in
12 hikers, bikers, campers, boaters and other visitors to the
13 island each year. It is the only Channel Island -- in
14 fact the only venue in Southern California -- where
15 significant numbers of people may come and enjoy bald
16 eagles in such a magnificent natural setting.

17 Catalina's Bald eagles are also being enjoyed in
18 the highly populated areas of Newport Beach and Huntington
19 Beach, and it is my understanding that this is exactly the
20 outcome that the Montrose Settlement monies were intended
21 for.

22 Removing cats and rats from the Channel Islands
23 and even from an island in Mexico that is an important
24 haven for seabirds are worthy undertakings. However,
25 these seabird populations have for the most part recovered

1 from the impacts of DDT and PCBs and are now suffering the
2 impacts of introduced species. A different problem than
3 the one the Montrose Settlement dollars were supposed to
4 address.

5 While I understand that the notion of
6 compensatory restoration within CERCLA regulations allows
7 for such considerations I would argue that doing these
8 efforts in lieu of continuing to fund the successful eagle
9 recovery program on Catalina that arguably was hardest hit
10 by the damage would be an inappropriate tradeoff both
11 scientifically speaking and philosophically in terms of
12 what the Montrose Settlement monies were intended for.

13 My fourth point and perhaps the most critical of
14 my comments is that Catalina is home for the Catalina
15 Island fox, a federally listed endangered species which is
16 found nowhere else.

17 Our fox population is still in recovery after an
18 outbreak of canine distemper virus in 1999. This required
19 a comprehensive and very expensive recovery program that
20 included research, vaccinations, captive breeding and now
21 monitoring.

22 As you know island fox populations have been
23 decimated on other Channel Islands where golden eagles are
24 present. We do know that golden eagles and bald eagles
25 do not tend to share territories, and that in fact bald

1 eagles on Catalina have been observed chasing golden
2 eagles away.

3 At this time with the presence of bald eagles on
4 Catalina there are no golden eagles nesting on the island.

5 Now we cannot prove that there is not a
6 relationship between the survival of Catalina's bald
7 eagles and the survival of our endangered island fox. We
8 don't have enough information to rule out that the loss of
9 bald eagles on the island could threaten our fox
10 population which is just beginning to recover.

11 And as a last point Catalina's bald eagles are an
12 important source population. More than 90 chicks have
13 been successfully released on Catalina. Birds produced on
14 Catalina are known residents on Northern Channel Islands.
15 Successful breeding on Catalina does not just serve the
16 island or other Channel Islands but has also resulted in
17 dozens of bald eagles traveling to the mainland and they
18 have been sighted as far north as Canada.

19 The Conservancy has spent millions of dollars
20 to restore habitats for protecting species such as bald
21 eagles. The investment on Catalina is not only an
22 investment in a single restoration effort focused on
23 fostering chicks into nests but is an investment in a
24 comprehensive effort that protects and restores critical
25 habitats.

1 Additionally the effort on Catalina includes a
2 program of public outreach and education that is central
3 to the Conservancy's mission.

4 So in conclusion we must respectfully disagree
5 with the trustee's preferred Alternative No. 2 and we
6 would ask that you consider Alternative No. 3 as we feel
7 it's the only alternative that meets the goals of the
8 settlement and provides firsthand experience and enjoyment
9 of these magnificent birds.

10 For less than \$200,000 a year -- a very small
11 fraction of the 63.9 million that has been allocated to
12 the natural resources trustees -- we can continue this
13 work on Catalina, and we would respectfully request that
14 you reconsider your decision because we think
15 Alternative 3 would in fact be the very best use of the
16 Montrose Settlement dollars.

17 Thank you.

18 MR. BAKER: Thanks a lot, Ann. Appreciate it.

19 Rachel Gutierrez. A question or a comment.

20 She seems to have left.

21 Let me read it. "I go to Abalone Cove a lot.
22 One of the shellfish contaminated sites as well. What is
23 the effect on people who eat the shellfish or fish and did
24 not know of the DDT ahead of time?"

25 Okay. I guess Rachel had a question about DDT

1 contamination in fish and shellfish.

2 There are no advisories for shellfish based on
3 levels of DDTs or PCBs in this region. I guess it would
4 depend on which fish are caught in Abalone Cove.

5 Knowing where it is located and knowing that it
6 has been the subject of past sampling efforts -- at least
7 in the immediate area -- the answer goes back to what Dave
8 was saying in his presentation which is that there are
9 lots of gaps in the information we have right now about
10 where and which species of fish are contaminated.

11 The trustee's council is working on filling in a
12 lot of that contamination data. A lot of the gaps in the
13 data for fish contamination.

14 I have another card from Jess Morton.

15 MR. MORTON: I have a couple questions. Also
16 I would say that Abalone Cove would be a very interesting
17 place to see some additional data with respect to the DDT
18 and how it's circulating in that area. That would be
19 coming in just a little west of that point on the slide.

20 One question is what determines the split between
21 fish and bird mitigation monies which seems to be 12 and
22 13 and the 6 in the alternative, and the other comment has
23 to do with bald eagles, but if you want to answer that one
24 first.

25 MR. BAKER: Yes. So the question has to do with

1 how the trustee council arrived at the split of 12
2 million, 13 million out of the total of 25 for fish and
3 birds.

4 The settlement itself -- the consent decree --
5 provides for the trustees to utilize the settlement funds
6 for the restoration of fishing and fish habitats, bald
7 eagles, peregrine falcons and seabirds.

8 That legal document does not provide an
9 allocation. It doesn't say "so much for each of these
10 resources." It leaves it to the trustee council to do
11 that.

12 So through this public process one of the things
13 we're seeking comment on is the division of the funding.

14 I can tell you that there's not a hard and fast
15 calculation for the split between monies.

16 What we looked at were the major projects that
17 were submitted for the different kinds of resources. Our
18 thought process was how much it would take to do those
19 projects, and that's kind of what we ended up with.

20 It's at best an estimate, and I can't really
21 point to any one particular piece of information other
22 than it seems like an equitable distribution of the
23 funding between the different resources.

24 MR. MORTON: I was simply wondering about why if
25 there was additional money in Alternative 3 for the bald

1 eagles why it was all taken from the amount allocated to
2 other seabird restoration.

3 As to the bald eagles I was curious about the
4 relationship between the expected bald eagle recovery
5 and the effects of capping of the DDT offshore and whether
6 that would be expected to be a very long-term process and
7 how that might fit into making estimates of what it would
8 cost to do the bald eagle restoration.

9 MR. BAKER: I didn't really take much time to
10 talk about what EPA is doing, but often that's a question
11 that arises whenever we have a meeting.

12 What this diagram here is showing is more current
13 information about contamination levels. Most of the data
14 that went into making up this image here comes from the
15 1990's.

16 This is an illustration of contamination in the
17 sediment. The redder the color the more contaminated.
18 The higher the levels of DDTs in the sediment.

19 The bluer the color that's where the levels are
20 lower. This is not in the water. This is in the
21 sediment.

22 So what they're proposing or at least what
23 they're investigating right now is the feasibility of
24 placing clean sand over the most highly contaminated
25 portion of this figure, and I'm going to estimate and if

1 the EPA were here they could probably be a little bit more
2 precise about it -- we're talking about the cap -- that's
3 what the term is for placing clean sediment -- would
4 really focus on this portion here.

5 You'll remember that one animated slide showing
6 the contamination. This line here doesn't represent an
7 end to the contamination. It represents where the shelf
8 drops off and becomes very deep.

9 Just because this is white over here doesn't mean
10 that it's clean. It just means that it's deeper than the
11 sand.

12 So in any event the EPA if they were to pursue
13 this cleanup option of dumping barges of clean sand over
14 that sediment the likelihood that that will have a
15 significant impact on contamination levels in organisms
16 as far removed as the bald eagles on the Channel Islands
17 is not very likely.

18 We have discussed this with the EPA and with
19 others. The L.A. County Sanitation District is involved
20 in their investigations.

21 The EPA is not scheduled to make a determination
22 or propose their decision until 2006 because they're still
23 in the process of investigating a pilot study that they
24 did.

25 In 2000 they went ahead and tried dumping barges

1 of sand in certain small portions of this area and since
2 then they have been monitoring it to see what has happened
3 since then.

4 So one of the reasons why our plan isn't a final
5 plan but it's basically looking at an interim period of
6 five years is because of the uncertainty about what's
7 going to happen with the bald eagles in the Northern
8 Channel Islands, and the uncertainty as far as what's
9 going to happen with EPA's plans to clean up the site
10 leaves enough uncertainty that what we want to do is move
11 forward with certain projects and then revisit the plan at
12 a point when we've got a final decision from EPA.

13 So I don't know if that was a long-winded answer
14 to what you were asking about, but for the purposes of
15 assuming we really can't anticipate that the EPA readily
16 is going to have a measurable impact on higher organisms
17 farther away, and the time frame over which this could
18 occur also would be substantial because once you cover the
19 sediments it's going to take many years for the
20 contamination to cycle out.

21 MR. MORTON: Maybe I should follow that up with
22 a question on the timing of this settlement agreement and
23 whether it can be a phased project where you determine a
24 certain amount of funding is going to be available at
25 period X and you decide that you're not going to

1 completely allocate the funds but set them aside depending
2 on the outcome of things like the capping. That would
3 certainly seem to be relevant if you're applying
4 allocation of funds.

5 MR. BAKER: This plan addresses or proposes
6 projects that amount to a budget of about 25 million
7 dollars. I said at the outset that the current balance
8 in the settlement account is about 38 million dollars, and
9 then there's one other factor that I didn't mention which
10 is that the settlement includes a 10 million dollar
11 account that either goes to the EPA or to the trustees
12 depending on the outcome of the EPA's study.

13 So in addition to awaiting the outcome of their
14 decision on whether they can cap or do some sort of
15 cleanup off the sediments themselves once the EPA makes
16 that determination we'll also know whether or not the
17 trustee council has additional funds -- 10 million
18 dollars -- to spend on additional restoration.

19 So far we anticipate that these projects in this
20 draft plan will take us out several years, and then there
21 will be additional funds available at that time to
22 allocate toward other projects or to look back on how
23 things have been going with the projects we have been
24 doing and make further decisions.

25 Does anyone else have any questions or comments?

1 It can be just a clarifying question. It doesn't
2 have to be a comment.

3 MR. MORTON: In terms of the question whether
4 the Catalina Conservancy will work in continuation of the
5 eagle project on Catalina Island which does seem to have
6 very definite benefits for the bald eagle, and it seems
7 like at a relatively low cost, the difference in your
8 funding is a number of millions of dollars where this
9 sounded like it was costing a couple hundred thousand
10 dollars a year.

11 I'm not sure if I see what's missing there, but
12 what happens if part of the determination is to continue
13 the Catalina project at least until the information is in
14 on the northern bald eagle?

15 MR. BAKER: In the process of looking at all of
16 the various options available the trustee council gave
17 consideration to the thought that we could continue
18 Catalina for a few more years and see what's happening
19 over on the Channel Islands, but what you come to realize
20 is that if in fact ultimately you're looking for a
21 self-sustained solution to the problem that continuing
22 Catalina for a few years doesn't really get you toward
23 that objective.

24 On the Northern Channel Islands when those bald
25 eagles reach an age of maturity where they're able to try

1 to reproduce we're going to find out what happens there,
2 and hopefully they'll be able to reproduce on their own.

3 If they weren't able to reproduce on their own
4 and if you chose to then continue maintaining a number of
5 pairs of bald eagles somewhere in the Channel Islands you
6 could go with an option like Catalina.

7 In that event you would want to continue the
8 Catalina program I think through to that period of time.

9 What the trustee council proposed as a preferred
10 option is finding a solution that in fact results in a
11 naturally breeding population of bald eagles.

12 And given that objective continuing the Catalina
13 program given the fact that the data are not indicating
14 a trend toward them being able to have bald eagles on
15 their own in the foreseeable future just didn't make
16 sense.

17 As far as the funding goes it is a little bit
18 confusing because it depends on what you're talking about.
19 Ann mentioned the total of 63 or 64 million dollars. The
20 total settlement. A lot of that money went toward paying
21 for the studies and the investigations and the litigation
22 that it took to get the final settlement, and that's how we
23 ended up down to 30 million.

24 At the time the final settlement actually
25 occurred there was 30 million dollars available for doing

1 the work which has grown to 38 million now.

2 And at the end the budget for Catalina -- once
3 again it sort of depends on what all you add in to that --
4 if it's just the cost of the Institute for Wildlife
5 Studies or if it includes the cost of monitoring,
6 oversight and staff involvement in that -- but the reason
7 why Alternative 3 shows a much more significant percentage
8 of money for bald eagles is because there's an assumption
9 that it would go on for several years.

10 I have a question from Heather Nelson.

11 Did you want to speak or do you want me to just
12 read it?

13 MS. NELSON: You can go ahead and read it.

14 MR. BAKER: Alternative 2 states that 6.2 million
15 is allowed for bald eagle restoration and it states that
16 they will be restored to the Northern Channel Islands only
17 if the study comes to the conclusion that they can
18 reproduce on their own.

19 What happens to the rest of the 6.2 million if
20 they're not able to reproduce or will it all go to the
21 study?

22 The assumption is that the 6.2 million dollars
23 is what's necessary to pay for the ongoing effort right
24 now. It also includes incremental funding to pay for
25 additional hacking or placement of additional birds out

1 there.

2 So if we find at the end of the study that their
3 exposure to contamination is low enough that they're able
4 to reproduce on their own there's additional funds to do
5 additional bald eagle hacking onto the Northern Channel
6 Islands to try and grow the number of birds back up to
7 their historic levels.

8 And the next question is how many species of
9 shorebirds will be restored in Alternative 2?

10 Annie, I don't know if you want to talk about
11 shorebirds versus seabirds.

12 MS. LITTLE: The shorebirds weren't included as a
13 target input for restoration in the plan.

14 Just to follow up a little bit on the question
15 with the feasibility study we budgeted or estimated about
16 3.3 million for the feasibility study over the span of
17 five to seven years.

18 So you would have a balance after that time of,
19 you know, two-plus-million for additional restoration
20 activities on the Northern Channel Islands or that money
21 could be allocated to another resource.

22 MR. BAKER: Are there any additional questions or
23 comments?

24 MS. SHARP: My question is between Alternative 2
25 and Alternative 3 how is the fishing changed?

1 MR. BAKER: If you could introduce yourself.

2 MS. SHARP: I'm sorry. My name is Donna Sharp.

3 MR. BAKER: Donna. All right.

4 The difference between Alternative 2 and
5 Alternative 3 when it comes to the fish side is
6 Alternative 2 proposes four different kinds of projects
7 for fish and fish habitat restoration.

8 Artificial reefs and fishing access improvements
9 is one. Public information on fish contamination is the
10 second one. There's a third one which is augmenting funds
11 for the marine protected areas in the Channel Islands, and
12 then there's a fourth one which is contributing toward
13 wetland restoration in Southern California.

14 In Alternative 3 what we would do is take the
15 same amount of funds but focus them on just those first
16 two which are the reef and fishing access improvements and
17 public information on fishing.

18 So what you would have is more funds available
19 for doing reef creation and fishing access improvements.

20 The rationale behind that is that there's an
21 ongoing injury with fishing. That even today if you go
22 out and catch fish depending what species and which
23 location you're still catching contaminated fish.

24 So under Alternative 3 there would be more focus
25 or emphasis on what we call primary restoration which is

1 getting at the ongoing problem.

2 Alternative 2 tries to balance that with some
3 what we call compensatory restoration. You know, doing
4 fish habitat restoration is a good thing because the fish
5 habitat has been injured in the past and has broad
6 advantages.

7 So that's basically the difference. The amount
8 of funding doesn't change, but Alternative 3 emphasizes
9 more heavily the fishing side of things.

10 Like I said we're happy to just stick around and
11 talk to people one-on-one if you want to discuss things.

12 The comment period runs through May 23rd, and
13 comments will be accepted in any form you want to send
14 them to us. E-mail address, hard copy. Whatever.

15 What we hope to do is to take all those comments
16 around the end of May, synthesize them all, take them back
17 to the trustee council in June and put out a final plan
18 sometime later in the summer.

19 Thanks again. I really appreciate everyone
20 coming.

21 *****

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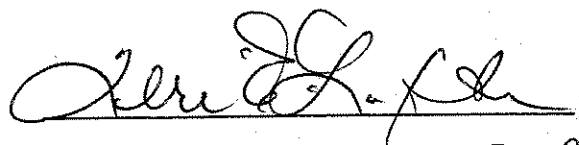
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4/23 Cabrillo

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AFFILIATION

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Susana Montijo
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Peter Sharp
Donna Sharpe
ANN MUSCAT
ging Graves
Jack Baldelt
Lisa Honey

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MSRP PUBLIC MEETING COMMENT/QUESTION CARD

Name:

Lisa Honey

Affiliation:

Los Angeles County Sanitation

Address:

4033 Buckwheat Ave

City:

Long Beach

State CA

zip 90808

Email:

Mailing list

This is a:

Formal Comment

Question

I would like to see this issue addressed in the MSRP Final Restoration Plan/EIS/EIR.

PLEASE PROVIDE COMMENTS / QUESTIONS ON THE BACK OF THIS FORM.



MSRP PUBLIC MEETING COMMENT/QUESTION CARD

Name:

Cathy Beauregard

Affiliation:

Pat Community Advisory Committee

Address:

673 W 205th St #3

City:

San Pedro

State CA

zip 90731

Email:

kasdan2@com.net

This is a:

Formal Comment

Question

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MSRP PUBLIC MEETING COMMENT/QUESTION CARD

Name: Rochel Gutierrez

Affiliation: LBCC

Address: 3 Clovetree Place

City: RPV State: CA Zip: 90075

Email: pl.sure.bmat@yahoo.com

This is a:

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Question

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MSRP PUBLIC MEETING COMMENT/QUESTION CARD

Name: Donna Sharpe

Affiliation: private citizen

Address: PO Box 6723

City: Avalon State: CA Zip: 90704

Email:

This is a:

Formal Comment

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Question

Question

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I go to Avalone cove alot, are the shellfish contaminated as well or is it mainly fish? And what is the effects on people who eat the shellfish or fish and did not know of the DDT ahead of time?

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What is (and why) the difference to fish/fishing restoration between alt. 2 and alt. 3? Why is their a reduction in scope if the dollar amount remains the same?

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MSRP PUBLIC MEETING COMMENT/QUESTION CARD

Name: Jess MONTAR

Affiliation: AUSAUSA

Address: _____

City: _____ State: _____ Zip: _____

Email: _____

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MSRP PUBLIC MEETING COMMENT/QUESTION CARD

Name: Heather Nelson

Affiliation: Private Citizen

Address: _____

City: _____ State: _____ Zip: _____

Email: desertblue99@hotmail.com

This is a: Formal Comment Question

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Comment / Question:

Empty box for handwritten comment or question.

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Comment / Question:

Alternative 2 states that #G.2 mil. is allotted to Bald Eagle restoration. It also states that they will be restored to the Northern Channel Islands only if the study comes to the conclusion that they can reproduce on their own. What happens to the rest of the #G.2 million if they're not able to reproduce, or will it all go to the study?
How many species of shorebirds will be restored?
"in Alternative 2"

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