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TRANSCRIPTION OF RECORDED INTERVIEW

OF

Phil Jenkins

September 26, 2012
Sacramento, California

Investigation of Department of Parks
and Recreation - Financial Irregularities

Interviewed by: Thomas M. Patton
Deputy Attorney General
Office of the Attorney General
State of California

Transcribed by: Janice D. Badeau
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1 MR. PATTON: Okay, we're on the
2 record at 3:31. It's Wednesday, September
3 26th, 2012. I'm Thomas M. Patton, Deputy
4 Attorney General. This is Michael Matson
5 (ph.). He's an investigator for the
6 Department of Justice.

7 And with us, if you would introduce
8 yourself and spell your last name.

9 MR. JENKINS: I'm Phil Jenkins, last
10 name J-E-N-K-I-N-S. I'm the acting Deputy
11 Director for the Off-Highway Vehicle Division
12 of California State Parks.

13 MR. PATTON: And you've been in that
14 position --

15 MR. JENKINS: I've been acting since
16 January.

17 MR. PATTON: Okay.

18 MR. JENKINS: Previous to that, I've
19 been the chief of the division for about seven
20 years working with Daphne Green.

21 MR. PATTON: So you -- Daphne was
22 the deputy director and you were the next
23 position below her?

24 MR. JENKINS: Yes. So Daphne was
25 the governor-appointed position.

1 MR. PATTON: Oh, okay.

2 MR. JENKINS: And then I was the
3 highest level civil servant as the chief.

4 MR. PATTON: Okay. Very good. And
5 how long were you the chief under Daphne?

6 MR. JENKINS: I started as the chief
7 in June of 2005, so seven years, roughly.

8 MR. PATTON: Okay. And before that?

9 MR. JENKINS: Before that, I was in
10 Monterey District as a district
11 superintendent.

12 MR. PATTON: Okay.

13 MR. JENKINS: And I came up through
14 the ranks as a ranger/supervisor
15 ranger/superintendent, that series. Worked as
16 a maintenance chief for a while. Worked in
17 interpretation. So I've kind of done a lot of
18 different jobs in the department, but
19 primarily law enforcement
20 ranger/superintendent.

21 MR. PATTON: Okay, great. You've
22 undoubtedly seen the news articles talking
23 about a disparity in reports to the finance
24 department and comptroller's office?

25 MR. JENKINS: Yes.

1 MR. PATTON: Regarding both the SPRF
2 and the OHV. Let's start with had you ever
3 heard of any disparity regarding the SPRF?

4 MR. JENKINS: I never heard of a
5 disparity, per se.

6 MR. PATTON: Ah-huh?

7 MR. JENKINS: Over the years working
8 with, you know, like when I was out in the
9 districts, you know, budgets are always very
10 fascinating to the district folks because we
11 see our little piece of the budget and we're
12 always like, "Where's the rest of the money?"
13 and, "Have you given us all that we really
14 deserve?" That's always the approach from the
15 field. And so, you know, they've always
16 discussed in the past that they would hold
17 some back every year. So we've always been
18 aware that there's an emergency kind of fund,
19 but not in the way that this is being
20 described in the news lately. In other words,
21 with state parks, since so much of our budget
22 is dependent on revenue generation, this is
23 primarily in the operations side. On the OHV
24 side, it's a little bit different.

25 MR. PATTON: Right.

1 MR. JENKINS: Not as much dependence
2 on revenues as it is on the operations side.
3 But on the operations side, our
4 budget -- our department budget is very
5 dependent on those revenues from visitation,
6 camping, and concession fees. And so it's a
7 very volatile budget, in other words. If you
8 have a year where you have bad weather on the
9 4th of July, or, you know, Memorial Day, you
10 get bad weather on those major holidays, or on
11 years when those holidays don't fall on a
12 weekend, it can dramatically bounce our budget
13 around. And then, if things happen, like if
14 you have a bad winter and you get mud slides
15 out on Big Sur and fires and -- there's a lot
16 of things that can really take our budget and
17 send us sideways. In other words, you can
18 either have much lower income than is
19 projected at the beginning of the year, or you
20 can have much higher expenses due to various
21 natural disasters that occur. And so there's
22 always been kind of this awareness that the
23 senior managers in Sacramento keep a pot
24 aside. But it was the pot that then, at the
25 end of the year, if you hadn't had the major

1 disasters, they would distribute. So that's
2 why I say we've always been aware of like some
3 holdback money.

4 MR. PATTON: Yes.

5 MR. JENKINS: But not holdback money
6 that was invisible, that nobody was aware of.

7 MR. PATTON: Okay.

8 MR. JENKINS: And the way I've read
9 in the paper, at least, that this money
10 existed, wouldn't have affected that anyway,
11 because since it's not -- since nobody ever
12 admitted it existed, apparently, I mean, I'm
13 just reading the papers like everybody else at
14 this point, there's no way you could have
15 allocated it because you had no spending
16 authority for it. What I'm talking about is
17 money that we had spending authority for year-
18 by-year, they would hold back until mid-year
19 or so, you know, get through those kind of --
20 get an idea of, if you're going to make it to
21 the end of the year, and then they'd give out
22 the rest of the money.

23 MR. PATTON: Okay, now, that's a
24 very good description. It's consistent with
25 what we've been hearing from a number of

1 sources; that there was some amount held in
2 reserve of monies that were appropriated or
3 approved for expenditure.

4 MR. JENKINS: Right.

5 MR. PATTON: In order to guard
6 against a bad-year revenue -- revenues falling
7 below projections so that the department
8 didn't end up spending money it didn't have.

9 MR. JENKINS: Right.

10 MR. PATTON: So we've heard that.
11 This, we are particularly looking at, indeed,
12 what the finance department now is very
13 convinced, there's no doubt that there was
14 twenty million or more undisclosed, and just
15 as you described; therefore, having not been
16 disclosed to finance and gone through the
17 appropriation process, there was no spending
18 authority for it. So it really was an
19 undisclosed amount. You've never heard of
20 that type of an undisclosed fund?

21 MR. JENKINS: I have never heard of
22 that type of fund for either of the accounts.

23 MR. PATTON: Okay.

24 MR. JENKINS: When we start going
25 into the OHV fund, there are things that have

1 raised my curiosity at times.

2 MR. PATTON: Okay.

3 MR. JENKINS: But I've never really
4 been exposed to the SPRF account as a
5 headquarters person as much. Because I've
6 been working -- since I left the field and
7 came to headquarters, I've been working
8 exclusively with OHV trust fund.

9 MR. PATTON: Okay.

10 MR. JENKINS: So a lot of the really
11 detailed machinations of how they do SPRF is
12 just not in my -- I'm not in those
13 conversations.

14 MR. PATTON: Okay. So what we
15 did -- we realized that what you might be most
16 knowledgeable about would be funding issues
17 from year-to-year in OHV, since you've spent a
18 lot of time there. So this is the spreadsheet
19 from the finance department. And going back
20 as far as 1993, the top section is reports
21 regarding SPRF, and just because I'm sure
22 you're probably interested to see, this is
23 what the news reports are based on regarding
24 the undisclosed amount in SPRF. And this is
25 the twenty million dollars here for the last

1 fiscal year ending June 30, 2011. And what
2 this chart shows is the adjusted amount as
3 reported to the comptroller and the amount
4 reported in the fund condition statement to
5 finance for budget purposes.

6 MR. JENKINS: Right.

7 MR. PATTON: And this is the twenty-
8 million-dollar disparity.

9 MR. JENKINS: Right. And I mean, I
10 just do have to say, it doesn't surprise me
11 that, if there was this disparity, that it was
12 never really -- the tone of discussions that I
13 have been involved in --

14 MR. PATTON: Um-hum?

15 MR. JENKINS: -- over in the
16 department over the years relating to SPRF and
17 general fund has been that -- not in direct
18 relation to this, but it kind of fits a
19 pattern, if you know what I mean.

20 MR. PATTON: Yes.

21 MR. JENKINS: That the department --
22 the old department leadership -- they're all
23 gone now at this point -- was always very
24 hesitant to admit we had money, enough to do
25 almost anything, because always the fear that,

1 if we say that, "Oh, we came up with extra
2 money here," then they would take money off of
3 the general fund allotment first for that
4 year. And so, for instance, we would have,
5 you know, a few times, if Daphne were gone on
6 vacation or whatever, I would sit in on exec
7 staff meetings.

8 MR. PATTON: Um-hum.

9 MR. JENKINS: And there would be --
10 and I can't give you like a specific date and
11 time and whatnot, but there would be
12 discussions about, you know, we're supposed to
13 try to find some more savings in our
14 recycling, or, you know, various places where
15 we're supposed to find savings. And kind of
16 the banter, the discussion, the dialogue that
17 would go on would be that, yeah, well, I heard
18 about, you know, this other agency in state
19 government that they said, "Yeah, we can find
20 those savings," and, "Look, we have this other
21 efficiency measure we want to do that will
22 allow us to spend money to make up for it."
23 And then the Department of Finance would say,
24 "Thanks. We'll take the original savings and
25 the additional money you found and you don't

1 get to keep any of it." So there's always
2 been kind of a real wariness, if you will,
3 from the senior management to show that you
4 can create -- you know, "Oh, I've got some
5 money here that I can use to solve a problem,"
6 because there was always the fear that that
7 would hurt you.

8 MR. PATTON: So you --

9 MR. JENKINS: So when I saw this, I
10 was like -- I was disappointed because it's
11 just really discouraging that, you know, here
12 we were asking everybody for money and it
13 turns out there was some in the back. So it
14 was disappointing. It was really surprising,
15 on the one hand; but on the other hand, it was
16 like I could kind of see how the mindset that
17 existed in the past might have gotten people
18 there.

19 MR. PATTON: So you indicated in you
20 said the old leadership, and then in executive
21 committee meetings that you would end up
22 attending, you're talking about the Ruth
23 Coleman, Michael Harris executive committee?

24 MR. JENKINS: Yes. Ruth, Michael,
25 Bill Herms, all of those kind of executive-

1 level folks.

2 MR. PATTON: Okay. And so you've
3 heard sort of the sentiment of the more
4 revenue we generate, the more we're at risk of
5 general fund cuts.

6 MR. JENKINS: Not so much the more
7 revenue, because they were trying to -- we as
8 a department, and I participated in these
9 discussions with them, so I don't want to make
10 it look like I was just an observer. Because
11 when I was in exec staff, I was --

12 MR. PATTON: Yup.

13 MR. JENKINS: -- participating in
14 making the decisions, so I'm not trying to
15 avoid any responsibility here.

16 MR. PATTON: Yeah.

17 MR. JENKINS: So we were really
18 trying to solve as much as we could with
19 revenue. That was like -- that was like one
20 angle of the game that we were trying to do.
21 You know, that's just a recognition that we
22 need to lean more on revenues. The issue was
23 more these other side programs. If you find
24 some really creative way to save some money,
25 the fear that that would just generate a loss

1 of general fund.

2 MR. PATTON: Okay.

3 MR. JENKINS: So -- because it
4 seemed like all of our discussions with the
5 Department of Finance and various levels was,
6 you know, our two primary sources of income
7 were general fund and revenue. So we are
8 always, you know, trying to maximize revenue,
9 but not to the point that you keep people out
10 of the park. You don't want to turn parks
11 into parks for the rich.

12 MR. PATTON: Yes.

13 MR. JENKINS: So there's always that
14 balance you've got to have. You know, if you
15 charge too much, then, you know, your kind of
16 lower income or lower-middle income can't
17 afford to go to the parks, and that's not
18 really the spirit of the parks. So it's like
19 how much can you charge to really be able to
20 run parks adequate, but not price people out
21 of the market.

22 MR. PATTON: Yes.

23 MR. JENKINS: As opposed to being
24 really creative with these, you know, kind of
25 imaginative ways to save funds, knowing that,

1 if you do that, it's probably going to be a
2 wash for you. So you'll put in a whole lot of
3 effort. It might actually cost you a little
4 money to create this new effort, and you may
5 lose any benefit you would have gotten from
6 doing that effort.

7 MR. PATTON: Um-hum.

8 MR. JENKINS: And so that's what I'm
9 getting at.

10 MR. PATTON: Yup.

11 MR. JENKINS: Not that there was
12 any --

13 MR. PATTON: Yeah.

14 MR. JENKINS: I'm not saying it's --

15 MR. PATTON: I hear you.

16 MR. JENKINS: -- such a -- I'm not
17 saying they were dishonest or that -- none of
18 that. It's just that you can kind of see that
19 mindset of --

20 MR. PATTON: Yup. Yup.

21 MR. JENKINS: -- scary to show that
22 you've got extra money somewhere. I could
23 kind of understand that concept.

24 MR. PATTON: Yes. Yes. No, you've
25 been clear.

1 MR. JENKINS: All right.

2 MR. PATTON: You've been clear in
3 describing that. Nobody ever told you, "And
4 we also have a secret pot of money."

5 MR. JENKINS: Right.

6 MR. PATTON: Yup. Got it. All
7 right. So what I want to focus our attention
8 on are, in the OHV, it's the same breakdown
9 and this figure of 33,492,000 for fiscal year
10 ending June 30, 2011. That's the difference
11 between what this chart says is the adjusted
12 balance, year-end balance as reported to the
13 comptroller and the fund statement -- fund-
14 balance statement -- and the balance as
15 reflected in the fund-condition statement for
16 OHV and that there's a thirty-three and a
17 half, approximately, million-dollar disparity.

18 MR. JENKINS: Right.

19 MR. PATTON: Now, you're already
20 glancing back, and we'll go back to the
21 beginning of, as I understand it, this is when
22 numbers were first starting to be input into
23 CalSTRS so that there is an electronic record.
24 Back in '93, anything that's a positive below
25 this line represents an under-report in the

1 fund condition statement to finance. In other
2 words, more dollars were reported in the
3 comptroller's report than in the finance
4 documents. And under report, you know, three
5 million -- a little under three million in
6 '94, and we see numbers that, basically, kind
7 of jump in a lot of directions; in the mid-
8 90s, twelve, twenty million, sixteen, twenty-
9 four, twenty-two, twenty-six, eleven. And
10 then all of a sudden in '02 we've got a
11 negative here. We actually see more dollars
12 reported in the budget documents than to the
13 comptroller and we have what appears to be a
14 thirty-four million-dollar -- thirty-four and
15 a half million-dollar over-report to finance.
16 We're almost on the money in '03; almost on
17 the money in '04 and 5. We have another over-
18 report for two years of thirty-five and
19 thirty-one million in '06 and 7. We're back
20 to very close to even in '08; five million
21 discrepancy in '09. An over-report of twenty
22 million in '10 and now the claimed under-
23 report in '11. I will tell you --

24 MR. JENKINS: That just defies all
25 logic.

1 MR. PATTON: -- they're all over --
2 they're all over the map, right?

3 MR. JENKINS: There's nothing like
4 not being able to see a pattern.

5 MR. PATTON: Yeah. So let me tell
6 you what we -- what we think we understand so
7 far.

8 First of all, the reports that
9 there's fifty-four million in undisclosed
10 funds are based on taking the twenty
11 million -- 20.3 million in SPRF under-
12 reported, and this thirty-three and a half in
13 OHV and combining them to get to basically
14 fifty-four million.

15 MR. JENKINS: Okay.

16 MR. PATTON: And the statement was
17 that -- and it's still kind of out there that,
18 for years, the department has been hiding as
19 much as fifty-four million. We don't believe
20 that's true. We know that the twenty
21 million -- this is a pretty valid number.

22 MR. JENKINS: Right.

23 MR. PATTON: Has consistently been
24 not disclosed with regard to SPRF.

25 MR. JENKINS: Since way back --

1 yeah.

2 MR. PATTON: Well, it got -- yeah.

3 And --

4 MR. JENKINS: That's odd.

5 MR. PATTON: Don't try to help me
6 understand this because it predates --

7 MR. JENKINS: No, I'm just --

8 MR. PATTON: -- you.

9 MR. JENKINS: Yeah.

10 MR. PATTON: And we're going to let
11 the -- we're going to let the auditors really
12 get to the bottom of all that. And we've got
13 some information about --

14 MR. JENKINS: Yeah.

15 MR. PATTON: -- what was going on.
16 But I'm interested in talking with you at this
17 point about OHV. Because these numbers are
18 all over the map. We don't think, based on
19 what we're seeing here, that there's any
20 validity to the notion that thirty-four
21 million has been consistently undisclosed in
22 OHV. In fact, the numbers are showing swings
23 in both directions, because just the year
24 before there's, apparently, a twenty million
25 dollar discrepancy over-reporting to finance.

1 MR. JENKINS: Right.

2 MR. PATTON: What we're interested
3 in knowing is that we've heard little tidbits
4 about, oh, a loan was made of monies from the
5 legislature, you know, gave itself a loan of
6 OHV funds in some year, or a gas tax credit
7 was given to the accident one year.

8 MR. JENKINS: There's a couple of
9 things going on there.

10 MR. PATTON: Yeah. So tell me what
11 you know about any of these years and things
12 that might have gone on.

13 MR. JENKINS: The most recent one
14 was the gas tax swap issue. So --

15 MR. PATTON: When was that? Do you
16 know what year that was going on?

17 MR. JENKINS: I was just trying --
18 it was like -- it got corrected in this
19 legislative cycle. It was created in the
20 previous legislative cycle, as I understand
21 it.

22 MR. PATTON: Okay.

23 MR. JENKINS: My admin assistant --
24 not -- my admin chief who kind of tracks our
25 budgets at the division, started coming to me

1 last year and saying, "We're getting way too
2 much money from the motor vehicle fuel
3 accounts every month."

4 MR. PATTON: Who is your admin
5 chief?

6 MR. JENKINS: Maria Mallory.

7 MR. PATTON: Okay.

8 MR. JENKINS: So she started coming
9 to me. Actually, she started coming to Daphne
10 before Daphne left in January.

11 MR. PATTON: Um-hum.

12 MR. JENKINS: So she came to
13 Daphne and me together and said, "Look,
14 something's," -- well, first she came in and
15 it was kind of -- she came in and she said,
16 "Hey, we're going to be doing really well this
17 year because we've got much higher revenues in
18 the gas taxes than we were expecting. And
19 then, you know, the next month she came in and
20 it's like, "No, it's way too much. There's
21 something wrong here." And so we started
22 trying to figure out what was going on. We
23 contacted Caltrans and started trying to dig
24 into what's going on. And it turned out that,
25 when they took and swapped sales tax and

1 excise tax, so on -- when you buy a gallon of
2 gasoline, you get sales tax. I mean, you pay
3 sales tax and you pay excise tax. Our
4 transfers from the motor vehicle fuel account
5 are a percentage of the excise tax. So the
6 gas tax swap legislation, which I'm not
7 completely clear on, but it -- at the end of
8 the day, the net effect that affected us was
9 previously you paid eighteen cents of excise
10 tax on a gallon of gas. With the gas tax
11 swap, the sales tax went down and the excise
12 tax went up by seventeen-point-something, just
13 short of eighteen cents; almost doubled the
14 excise taxes.

15 Our transfers per the public
16 resources code, are a percentage of the gas
17 taxes that are paid. And so where we used to
18 have, it's a, you know, very small. It's like
19 some fraction of a percent.

20 MR. PATTON: Um-hum.

21 MR. JENKINS: Where that used to be
22 multiplied by eighteen cents per gallon times
23 the total gallons sold, last year, because of
24 the tax change, and adding excise taxes, it
25 was multiplied by eighteen cents and the

1 seventeen-point -- whatever it was -- almost
2 eighteen cents; so it practically doubled.
3 That was a mistake. That was never intended
4 to happen. And so we were watching our
5 balance just shoot through the roof with all
6 these incomes.

7 MR. PATTON: Um-hum.

8 MR. JENKINS: And then they
9 corrected that. There's legislation that
10 said, all right, that extra excise tax was not
11 meant to be part of this whole formula,
12 because it wasn't just us, it was Boating and
13 Waterways. Also, there was a -- some sort of
14 a highway account and an airport tax. These
15 various like eight, roughly, entities that get
16 money out of these excise tax percentage
17 transfers.

18 So this legislation fixed that.
19 They said in the legislation that any money
20 that had been transferred needed to be given
21 back to the motor vehicle fuel account and be
22 distributed the way it was intended when they
23 did the gas tax swap bill. And in the future,
24 we would only be going back to our original
25 what we were supposed to do, which was the

1 percentage of eighteen cents per gallon.

2 MR. PATTON: Okay.

3 MR. JENKINS: So that solved that.
4 So that -- but it caused this bump --

5 MR. PATTON: Yeah.

6 MR. JENKINS: -- for a while. So
7 it's like when do you look -- you know, when
8 do you sample the river? It's a different
9 river every time.

10 MR. PATTON: Yes.

11 MR. JENKINS: Now, is it while that
12 money is midstream? When it's capped out?
13 When it's taken away? You never know. That
14 was the most recent one.

15 MR. PATTON: Do you happen to know
16 if, as a result of this erroneous double,
17 essentially, of that tax amount that's coming
18 to OHV --

19 MR. JENKINS: Ah-huh?

20 MR. PATTON: -- do you happen to
21 know if that would cause a change in the
22 report to -- I'm trying to figure out if we
23 could attribute an over or a dramatic under-
24 report to that bump in tax activity?

25 MR. JENKINS: Yeah, because we would

1 have shown -- in not knowing how those reports
2 go, so I don't know who is looking at what,
3 but our actual balance in the account --

4 MR. PATTON: Would go --

5 MR. JENKINS: -- last year would
6 have been --

7 MR. PATTON: Would go up.

8 MR. JENKINS: -- far higher than
9 predicted in the Governor's budget.

10 MR. PATTON: Now last year would be
11 the year ending June 30, '11.

12 MR. JENKINS: Yes.

13 MR. PATTON: And, you know, that's
14 kind of what I see here, because I see a
15 balance -- year-end balance for June 30, '10,
16 to the comptroller, and these, I presume, are
17 pretty accurate balance statements of monies
18 in the bank. This is what the account is
19 holding: 119,873,000 as of the end of FY 10.
20 And then, you know, forty-five million more
21 the following year; 165,043 for FY 11.

22 MR. JENKINS: Yeah. And when you
23 make the split, was the -- because we fairly
24 consistently got sixty-five million per year
25 in gas taxes.

1 MR. PATTON: Yeah.

2 MR. JENKINS: Up until two years ago
3 when they took ten million away.

4 MR. PATTON: Okay.

5 MR. JENKINS: They diverted ten
6 million, so fifty-five million.

7 MR. PATTON: Ah-huh?

8 MR. JENKINS: So when we doubled it,
9 for -- if it -- you know, if you were to
10 double it for an entire year, you would expect
11 about another fifty-five to sixty million
12 dollars.

13 MR. PATTON: Yeah. And I see a
14 forty-five million dollars up here.

15 MR. JENKINS: So if you divide it
16 between two years -- yeah. So if it started
17 midyear or not quite at the beginning of the
18 year --

19 MR. PATTON: Yeah.

20 MR. JENKINS: -- that could account
21 for that kind of --

22 MR. PATTON: That's interesting.
23 And then it almost kind of helps me understand
24 why maybe we see a forty-five million dollar
25 jump between these two years in the

1 comptroller balance at year end, and we don't
2 see a dramatic difference in the balance
3 reported to finance. We see 140 -- 140
4 million versus 131 and a half.

5 MR. JENKINS: Yeah, because the
6 department is always working off of what we --
7 well, I don't know what they do at
8 headquarters. What I do at the division is,
9 you know, we look at what we were allocated
10 and then we look at what we spent. And then,
11 you know, at the end, a little bit of money
12 reverse, and we try to use that money, you
13 know, as appropriately as possible. So we're
14 always working off the Governor's budget
15 number.

16 MR. PATTON: Yeah.

17 MR. JENKINS: Which I think is
18 related to this bottom number that you're
19 talking about there.

20 MR. PATTON: Yup. Yup.

21 MR. JENKINS: So even though we're
22 watching deposits into the account --

23 MR. PATTON: Sure.

24 MR. JENKINS: -- and recognizing the
25 deposits are doubled --

1 MR. PATTON: Um-hum.

2 MR. JENKINS: -- we never at any
3 point in time see like that working balance
4 that is the result of all those deposits.

5 MR. PATTON: Right.

6 MR. JENKINS: We just know the
7 income stream looked to fat for a while.

8 MR. PATTON: Yeah.

9 MR. JENKINS: But that wasn't
10 predicted in the Governor's budget. It
11 wasn't, you know, budgeted that we would get
12 that money because nobody ever expected to get
13 that money.

14 MR. PATTON: See, that's exactly
15 kind of what I think I'm suspecting I'm
16 seeing, is I'm seeing an infusion in FY 2010-
17 11 of an additional almost fifty million
18 dollars.

19 MR. JENKINS: See, that wouldn't
20 make sense.

21 MR. PATTON: But I don't see that
22 infusion reflected in the finance balance.
23 And because of that infusion and the growth in
24 the balance that the recorders reflecting of
25 forty-five million dollar increase, but not a

1 commensurate increase here, in fact, a
2 decrease of eight and a half million, we end
3 up -- we end up with an over-report to
4 comptroller of thirty-three and a half.

5 MR. JENKINS: Right.

6 MR. PATTON: And it almost sounds to
7 me like there's forty-five or fifty million
8 dollars that have got credited that then later
9 got corrected. And that credit never made its
10 way into the budget.

11 MR. JENKINS: Right.

12 MR. PATTON: That's sort of what I
13 hear you saying, is that we're watching the
14 budget.

15 MR. JENKINS: And an example -- I
16 was trying to explain this to some of my staff
17 before all this investigation started.

18 MR. PATTON: Yeah.

19 MR. JENKINS: And I said, you know,
20 with a trust fund, it's almost like two people
21 having checking accounts that you share the
22 accounts. And one person records religiously
23 every time you write a check or make a
24 deposit; another one waits until the end of
25 the month and gets the bank statement. At any

1 point in time, their balances won't be the
2 same.

3 MR. PATTON: Right.

4 MR. JENKINS: But it's the same
5 account and eventually it will all be the
6 same.

7 MR. PATTON: Right.

8 MR. JENKINS: Which almost is what
9 looks like here where it balances around, but
10 it always comes back into alignment. Because
11 some of these other things --

12 MR. PATTON: Have the people at
13 finance been over to spend time with Maria
14 Mallory?

15 MR. JENKINS: No.

16 MR. PATTON: She sounds like a
17 person who's keeping the closest eye on these
18 ledgers.

19 MR. JENKINS: She -- yes. We watch
20 every year. We see what we're predicted to
21 receive in motor vehicle fuel transfers.

22 MR. PATTON: Um-hum.

23 MR. JENKINS: That's our biggest
24 single source of income. So as a result, we
25 just watch those very closely. So we go on-

1 line and watch for the transfers and try to
2 watch what's going on. Because, for instance,
3 the -- a few years ago when the price of gas
4 went really high --

5 MR. PATTON: Um-hum?

6 MR. JENKINS: -- then our transfers
7 dropped dramatically for motor vehicle fuel
8 account transfers.

9 MR. PATTON: Because gas used to
10 drop, too.

11 MR. JENKINS: Yeah, because we're
12 not -- we're not getting a piece of the cost
13 of a gallon.

14 MR. PATTON: Right.

15 MR. JENKINS: We're just getting the
16 piece of a gallon. It's eighteen cents per
17 gallon whether it costs --

18 MR. PATTON: Yeah, right.

19 MR. JENKINS: -- five dollars a
20 gallon or two dollars a gallon.

21 MR. PATTON: Gotcha.

22 MR. JENKINS: So when the price of
23 gas goes up, our income stream pinches down
24 and then we have to react accordingly and
25 start being a little more cautious with our

1 spending. So she watches that very closely.

2 So we know kind of month-to-month,
3 we see these trends, but we never see, really,
4 the numbers that go back and forth between
5 either the comptroller or the department. I
6 mean, that's all kind of over in the -- we're
7 in a building on 24th Street. So we're not
8 even in the same building as headquarters at
9 this point.

10 MR. PATTON: Yeah. Yeah. Yeah.

11 MR. JENKINS: When they set up the
12 OHV program years ago, the whole concept of
13 having the division the way it's set up was
14 that they wanted to separate the funding
15 streams more cleanly. Back up until '82, the
16 OHV money ran through the regular department
17 channels. So if you were at Oceano Dunes, for
18 instance, one of our biggest districts, it was
19 just part of a bigger district that included
20 Morrow Bay and Hearst Castle. And so OHV
21 money would go to that district, and then it
22 was up to the district to insure that the OHV
23 money was spent at Oceano Dunes.

24 And there were instances where the
25 money -- lots of instances -- it was not just

1 a trend, it was the norm, that if you had an
2 OHV district back in those days -- and I say
3 this because my dad was a state park ranger.
4 He was the first deputy director of OHV that
5 was assigned to kind of create the division
6 that pulled the apart. So I've seen the
7 history all the way through. Is all this OHV
8 money would go to a district, they would buy
9 vehicles, they wouldn't put them on the beach,
10 because why put a new vehicle on the beach?
11 They'd send it up to Morrow Bay or Hearst
12 Castle, and then all the old beat-up vehicles
13 would go out to the beach. And so the OHV
14 community and the environmental community, as
15 well, who wanted to see the money used for the
16 preservation of, you know, the resource and
17 the provision of the recreation, said we need
18 a separate division. We need to put a
19 firewall between our money and their money so
20 that we know where all of our money goes. And
21 so we try to account for as much of it as we
22 can at the division, but we've never really
23 been able to get into what happens to the
24 money at headquarters, which has always been a
25 curiosity to us, by the way. Because we'll

1 get -- we'll get an allocation from the
2 Governor's budget, or from the final enacted
3 budget, I should say, and we'll -- so you can
4 read the budget, you can see that we're
5 getting, whatever it is, in any given year --
6 fifty-five million dollars for operations, for
7 instance. Then the department has that money
8 and they pull money out for various things,
9 you know, legitimate things like pro rata gets
10 pulled out and some admin overhead gets pulled
11 out. And so there's things that get pulled
12 out. And then eventually we get our
13 allocation at the division. And we use that
14 allocation at the division to run the grants
15 program in the districts and our statewide law
16 enforcement operation and the snow park
17 program -- all the things -- there's a whole
18 lot of things that we do. But we never really
19 know for certain what -- where the drop comes
20 from. When the money comes into the
21 department, and then when it finally drops
22 into our accounts -- not into our account, but
23 when they delegate this money down to us.

24 MR. PATTON: Yes. Yup.

25 MR. JENKINS: There's a big chunk

1 there that we never quite can track.

2 The other thing that we can't track
3 that could lead to some of these things over
4 the past is when we give out grants, for
5 instance, we give out -- right now it's only
6 ten million this year. Last year it was
7 twenty-one; the year before it was 27.1
8 million dollars a year in grants. And so if
9 you give out a grant, let's say you give out a
10 900,000 dollar grant to do a big restoration
11 project, and they have trouble getting their
12 environmental documentation, sometimes the
13 whole project just won't ever go and you get
14 all the money back. Or they'll do it and
15 you'll spend all of it but 250,000 and then
16 that comes back. Whatever -- you get the bits
17 and pieces at the end of grants that come back
18 and that can add up to quite a lot in any
19 given year. And it comes back into our
20 account.

21 So when we're looking at the
22 published budgets every year, let's start with
23 the, you know, the Jan. 10 budget, they may
24 revise and then enact it, we're basing it off
25 of those numbers and the fund condition

1 statements. That's what we're working with at
2 the division level.

3 We're always curious about where
4 does that stray money go. Our assumption, the
5 way the system should work, is it comes in as
6 prior year adjustments. So that if you've got
7 money that was out there for an acquisition
8 and it all didn't get used or some of it got
9 used, but sometimes none of it got used, then
10 that would come back as a prior year
11 adjustment and put your balance back up again.

12 That's the part of the process,
13 that's the part of the cycle of where our
14 money goes that we're not exposed to. We
15 can't see what's going on over there with
16 those reversions.

17 The reason that's important is, over
18 these years that we're looking at, there have
19 been a number of large acquisitions that were
20 proposed for the program that never occurred.
21 So since I've benefit here since 2005, we
22 had -- when I got here, there was money in the
23 account to buy some land down by Bakersfield.
24 I think that was around twenty -- twenty-plus
25 million dollars. And there was another pot of

1 money for some land at Riverside, and that
2 was, I think, twenty or thirty million
3 dollars.

4 MR. PATTON: Back in 2005?

5 MR. JENKINS: Those -- 2005-6-7 is
6 when those projects were coming to an end.
7 The Bakersfield project turned out to be not a
8 viable project because we didn't have water
9 access and there was valley fever spores on
10 the property.

11 MR. PATTON: Um-hum.

12 MR. JENKINS: So we had to close
13 that project down and all that money reverted.

14 MR. PATTON: Um-hum.

15 MR. JENKINS: And so then you expect
16 to see that, you know, pumped back into our
17 balance.

18 MR. PATTON: Um-hum.

19 MR. JENKINS: And that can cause a
20 big jump; twenty some-odd million dollars.

21 MR. PATTON: See, it's very
22 interesting, because '06 and 7 here show
23 thirty-five and thirty-one million,
24 respectively, more reflected in the budget
25 documents than the comptroller's actual

1 balance shows. And I'm suspicious, then, if
2 it was treated those -- if it was treated as
3 an expenditure, money went out, but it -- but
4 then there's a reversion. And I'm wondering
5 if a credit for reversion might hit budget
6 documents sooner than the actual money comes
7 back into the system.

8 MR. JENKINS: Right. Because my
9 understanding of the system is that, yeah,
10 once we've encumbered that money, it
11 essentially disappears of the fund condition
12 statement because --

13 MR. PATTON: The finance or budget
14 documents, you're going to show it --

15 MR. JENKINS: But the -- but the
16 cash is sitting somewhere.

17 MR. PATTON: Right. Right.

18 MR. JENKINS: It's not been
19 expended.

20 MR. PATTON: Right. Right.

21 MR. JENKINS: So --

22 MR. PATTON: So that -- so in that
23 state, where you've already marked it as a
24 debit in your fund condition statement for
25 budgeting purposes, but it -- but the check

1 hasn't cleared the bank because it hasn't
2 actually been spent yet --

3 MR. JENKINS: Right.

4 MR. PATTON: -- then you're going to
5 have more money reflected in the comptroller's
6 balance than in the finance. Here we have the
7 opposite where I'm wondering if, after --
8 well, of course, in those cases where there's
9 a reversion, then it was never actually spent.
10 It never would have left the comptroller
11 balance.

12 MR. JENKINS: Right. It was flagged
13 as this money is being committed.

14 MR. PATTON: Yes. Yes.

15 MR. JENKINS: But it never --

16 MR. PATTON: Yeah.

17 MR. JENKINS: It never actually went
18 anywhere.

19 MR. PATTON: Yeah.

20 MR. JENKINS: We never encumbered --

21 MR. PATTON: Okay.

22 MR. JENKINS: We never wrote a
23 contract against it.

24 MR. PATTON: Okay.

25 MR. JENKINS: Because there's a

1 project out right now -- we have a project
2 for -- we call it the Onyx Ranch acquisitions,
3 some property out in Eastern Kern County
4 that's a thirty-two-million dollar project.

5 MR. PATTON: Um-hum?

6 MR. JENKINS: So the first time I
7 heard that this number was thirty-three
8 million plus, I thought, well, that's very
9 close to our Onyx Ranch acquisition money, so
10 they must have just made a mistake with the
11 Onyx Ranch acquisition money. So I went and I
12 told them, I said, "You know, we've got a
13 thirty-two million-dollar pot for this Onyx
14 Ranch." And they've said, "No, we've
15 accounted for that and this is outside of that
16 encumbrance."

17 MR. PATTON: Okay.

18 MR. JENKINS: So, I don't know.
19 Like I say, that's over on the other side
20 where the folks that are much better at
21 budgeting than I --

22 MR. PATTON: Well, and that's --
23 we're going to let them do that, too.

24 MR. JENKINS: Yeah.

25 MR. PATTON: For our purposes, I

1 think it's enough that we're aware that there
2 are issues that have gone on, such as budgeted
3 expenditures for land acquisition that
4 ultimately didn't go through.

5 MR. JENKINS: Right.

6 MR. PATTON: The gas tax increase in
7 revenue, which was for this year-ending 2011
8 would have affected this. I mean, I actually
9 think our theory may be -- that you help me
10 come up with here -- may be correct. That
11 there may be -- that may help explain this
12 thirty-three and a half million for FY 2011.

13 MR. JENKINS: Right.

14 MR. PATTON: But at the --

15 MR. JENKINS: And then there's the
16 loans, too. Don't forget the loans.

17 MR. PATTON: And the loans.

18 MR. JENKINS: So there's several big
19 loans out there.

20 MR. PATTON: And do you know what
21 year those loans were?

22 MR. JENKINS: I was trying to look
23 that up just before I walked over here,
24 because there were three, there was ninety
25 million, twenty-two --

1 MR. PATTON: Twenty-two.

2 MR. JENKINS: -- and I think there
3 was then another twenty-one million.

4 MR. PATTON: Okay.

5 MR. JENKINS: So there were three
6 loans. And then -- then after that, they
7 switched to the ten million dollar taking, so
8 it's not considered a loan anymore. So, yeah,
9 just in those last three years, there's -- and
10 we could go on-line. I should have just
11 brought the 2011 report. The commission wrote
12 a report to the legislature, the 2011
13 report -- it's posted on our Web site
14 on-line -- the documents, the ninety million
15 and the twenty-two million. I think the
16 twenty-one million happened -- might be in
17 there. So it shows all those loans and what
18 year they were loaned out. It's the history
19 of loans.

20 MR. PATTON: Okay.

21 MR. JENKINS: To the general fund
22 and when they're paid back. Never paid back.

23 MR. PATTON: I'll tell you what,
24 you've got my card. Just have someone send me
25 an e-mail just telling me what years --

1 MR. JENKINS: Okay. I'll give you a
2 little history of the loans.

3 MR. PATTON: Yeah. I don't need a
4 big -- I -- my eyes will get glazed over if I
5 started to try to understand the --

6 MR. JENKINS: No problem.

7 MR. PATTON: -- big breakdown.

8 MR. JENKINS: So I can send that to
9 you as soon as I get back to the office.

10 MR. PATTON: And I'm confident that
11 between the comptroller's office and the
12 finance department, they're doing an in-depth
13 study of that. Well, that's very helpful.

14 You said something, I just have to
15 ask, a ten-million-dollar taking, you called
16 it?

17 MR. JENKINS: The -- I probably
18 shouldn't call it taking. The politically
19 correct term is diversion.

20 MR. PATTON: Okay.

21 MR. JENKINS: So short history of
22 gas taxes. I'll try to make it painless. The
23 program as originally envisioned had three
24 primary sources of income, gas taxes being the
25 largest. We also get, you know, the gate fees

1 when you go into the park and the green
2 sticker fees from when you register your
3 vehicle. Gas taxes, generally, you know,
4 three-quarters or so over budget. And up
5 until 2007, the gas taxes were based on the
6 percentage. They tried to -- we would do
7 studies and those studies would calculate the
8 percentage of gas purchased that was burned in
9 the pursue of off-highway vehicle recreation.
10 And so any gas taxes attributable to that --
11 those gallons burned, all of those taxes would
12 then be considered -- well, which would be
13 trust fund dollars.

14 MR. PATTON: Okay.

15 MR. JENKINS: They would be moved
16 from the motor vehicle fuel account and they
17 would transfer to the OHV trust fund. And
18 that's always been considered a given.

19 In the past, there has been lawsuits
20 when that money has been taken out of the
21 trust fund and given to other uses. There
22 have been lawsuits that said you can't take
23 the money. You can borrow the money, but you
24 can't take the money. Because it's -- once
25 it's in the trust fund, it's mixed with non-

1 fungible monies; gate fees and registration.
2 So once it's blended together, you can't
3 separate the constituents of the suit, so you
4 can't take money out of the trust fund unless
5 it's a loan. Lawsuits -- all that is well
6 established.

7 So two things happened that kind of
8 changed the look on that. In 2007, there was
9 a legislation passed that changed the way that
10 they decide how much money we get from the
11 motor vehicle fuel account. They said --
12 there was controversy over the -- the latest
13 gas tax study, about whether it was accurate
14 or not. And so the legislature, at that
15 point, decided not to base our gas tax
16 transfers on the study, but rather to base
17 them on 2007 as the calibration. They said
18 the program is the size it needs to be in
19 2007, so the percentage of gas taxes that are
20 transferred in 2007, that's the percentage
21 from now on. And every five years we'll look
22 at it and see if it needs adjusting. So we're
23 moving along with that.

24 And then last year, year before
25 last, with all the need for state parks to

1 have more funding to keep parks open, various
2 legislators started looking at those gas tax
3 transfers and said, "Well, why not take some
4 of that money and move it in a different
5 direction?" And there's long debate about the
6 appropriateness or not of that. And of
7 course, from, you know, all the folks who
8 negotiated 752 were quite concerned because
9 742 -- SB 742 was kind of structured on the
10 OHV community agreed to certain things in
11 exchange for the environmental community
12 agreeing to other things. So it was this very
13 carefully balanced entirety of the program.
14 It was like we'll look at the program top to
15 bottom, once and for all, and then we have the
16 final answer, and that's a fair way to move
17 forward, and that's what we did.

18 Because of all the pressures on
19 state parks, the legislature relooked at the
20 transfers and said, "Well, we aren't going to
21 just stick with the 2007 level. We're just
22 going to take ten million, and instead of
23 sending it to the OHV trust fund, we're going
24 to send it to state parks, so it goes to
25 SPRF." So last year and then this budget

1 year, ten million dollars is diverted way from
2 the trust fund where it would have gone under
3 the 742 formula. Instead, it goes over to
4 state parks. And that's caused quite a bit of
5 concern on the OHV community because this year
6 our budget -- we lost that ten million dollars
7 again this year, plus they reduced our grants
8 budget from twenty-one million dollars to ten
9 million. And they cancelled about ten or
10 twenty million dollars capital outlay
11 projects. So we got -- we got hit to about
12 thirty million dollars this year.

13 And then on the other side of the
14 department, now they're getting, you know,
15 money pumped up, pumped up, pumped up. So the
16 OHV community is very up in arms, very
17 concerned about the trends. So --

18 MR. PATTON: Okay.

19 MR. JENKINS: That's just -- that's
20 the history of gas taxes. It's its own kind
21 of long, long history. Much more detailed
22 than what I just gave you as a thumbnail
23 sketch.

24 MR. PATTON: Yeah. No, I think
25 that's -- that rudimentary understanding is

1 probably sufficient for our purposes.

2 MR. JENKINS: Yes.

3 MR. PATTON: I appreciate you taking
4 a look at that with me. Anything else that
5 you want to add to your comments that I maybe
6 should have asked you and didn't think of?

7 MR. JENKINS: The -- I had said
8 earlier on that, when we got to the -- any
9 hint that there might be money that we weren't
10 aware of, and I said when we get to the gas
11 taxes or when we get to the motor vehicle fuel
12 account -- I got that in my head -- when we
13 get to the OHV trust fund I would mention it.

14 When the loans were being done, I
15 was always a little baffled because we would
16 be looking at that year's budget documents,
17 you know, the Jan. 10 budget and it would show
18 a balance. And then all the discussion would
19 go on and then they'd say, "Okay, we're going
20 to borrow," in the one case, "ninety million
21 dollars." Which took us essentially to zero
22 balance, or they might have just been just a
23 hair left in there for economic uncertainty,
24 they call it. But, essentially, wiping out
25 our balance.

1 And then the next year you would see
2 the budget and it would be like, "Well, now
3 there's twenty million dollars in our
4 balance." And I one year, even with
5 reversions, how did we get twenty million
6 dollars back in the account? And then they
7 borrowed twenty million again. And then the
8 subsequent year, there was another borrow that
9 was, you know, in the twenty million dollar
10 range. It's like where does this money keep
11 coming from? Like, because they keep taking
12 us down to zero, and then you look at it again
13 the next year, and there's money in the
14 account again. So even with those loans this
15 last budget cycle, it showed our reserves at
16 forty-two million dollars. It's like how is
17 that possible? And it's just part of this --
18 now that I'm looking at this, it's part of
19 this whole kind of wavy line of are you over,
20 are you under -- it's a very odd thing to try
21 to understand.

22 MR. PATTON: Um-hum.

23 MR. JENKINS: Which I don't
24 understand, is what I'm telling you.

25 And so when it happens --

1 MR. PATTON: Do you think Mallory
2 understands it? All those --

3 MR. JENKINS: Maria?

4 MR. PATTON: Maria?

5 MR. JENKINS: No. Maria and I put
6 our heads together all the time and try to
7 sort this out.

8 MR. PATTON: All right.

9 MR. JENKINS: When Manuel was here
10 and he was trying to, you know, help us manage
11 our budgets, and we would go down to zero, and
12 that's where I say nothing specific that I
13 could ever say. And I always, at the time,
14 trusted Manuel, and I still -- the things he
15 told me -- the things that he said to me over
16 the years about the budget I've always found
17 to be accurate. But when I got some questions
18 was when we'd go down to zero, he would say,
19 "Well, you know, there's kind of two ways to
20 look at the balance," he would say sometimes.
21 And he would say, "But it's just way too
22 complicated." And we would really never go
23 any further than that, because it was just --
24 it sounded really complicated and it would be
25 like, "Ah, I don't get it, but it just seems

1 odd to me." So that I was always just a
2 little -- I -- there was just always this seed
3 of doubt about if what they say is actually in
4 the reserve is a real number or is one of
5 those, you know, budget numbers that's like
6 this -- that's like a gray area instead of a
7 pinpoint of this is the number. It's a number
8 in this range was always the feeling you got.
9 And so that's the reason why, when I started
10 hearing about this number, it was like, oh, it
11 doesn't -- on the one hand, it doesn't
12 surprise me too much because they're always
13 talking about these kind of range of numbers
14 instead of a pinpoint number. It's the
15 difference between accounting and budgeting, I
16 guess.

17 MR. PATTON: It wouldn't be the
18 first time you saw twenty million dollars just
19 reappear.

20 MR. JENKINS: Yes.

21 MR. PATTON: Yeah.

22 MR. JENKINS: Yeah. It -- yeah,
23 exactly. It's --

24 MR. PATTON: So this was -- this was
25 happening in OHV like yearly. You say that

1 you'd spend it down to almost zero, the
2 appropriation amount, and your budget would --
3 your balance would look like you'd spent it
4 down. And then, all of a sudden, there's an
5 automatic recharge.

6 MR. JENKINS: Yeah, which was --
7 which could either be back to reversions --

8 MR. PATTON: Yeah.

9 MR. JENKINS: -- or just odd
10 bookkeeping that takes two years to catch up
11 from reverses two years ago.

12 MR. PATTON: Well, like you said,
13 you weren't -- the OHV people weren't really
14 made privy, you said, to being able to track
15 all the, you know, where all the monies were
16 going that came and got used or re-infused.

17 MR. JENKINS: Yes. Because what we
18 should be able to do -- when I first got to
19 the division, was taught what I needed to kind
20 of look at as the chief of the division.

21 MR. PATTON: Um-hum. Um-hum.

22 MR. JENKINS: How I needed to track
23 the budget.

24 MR. PATTON: Um-hum.

25 MR. JENKINS: And I worked with two

1 people; Jerry Johnson was an ex-division chief
2 that I had worked with for years in my career
3 when I was out in the field. So he'd come in
4 and try to help me. And then Joan Grammar,
5 when I first got into the division in 2005,
6 was our administrative chief. And so they
7 would walk me through -- once again, it was
8 all based on the fund-condition statements.
9 Where you should be able to track down, with
10 the amount of conversions and expenditures,
11 there's an outstanding balance, and they
12 should be able to take that year's budget and
13 track the ending balance with the beginning
14 balance and run down. They just track the top
15 to the bottom and the amounts all go down.
16 And you can do that with those fund-condition
17 statements year-to-year, which looks super-
18 clean. I mean, it just -- it makes -- there's
19 a certain logic to it at the end of the day
20 that is comforting. It makes sense. It's
21 like tracking your checkbook and getting it
22 down to the penny and you feel really good
23 about it.

24 MR. PATTON: Right.

25 MR. JENKINS: In looking at the

1 budgets year-by-year like that, it seems to
2 make sense, except, like I say, every once in
3 a while the balance just seems to be -- it's
4 like I don't know where those reversion -- the
5 prior year correction numbers come from. And
6 that's like the wildcard in the formula. So
7 it's like you can do all the math, and then
8 there's this -- you never know what that
9 number is going to be or what drives that
10 number, I should say.

11 MR. PATTON: Well, you --

12 MR. JENKINS: That's why when you
13 see, when you see all the neatness in that
14 year-by-year, the ending balance, and the
15 beginning balance, you can do the math in the
16 column and it makes sense, flies in the face
17 of these numbers that show this variance
18 because, just looking at fund-condition
19 statements, it looks like a very orderly
20 budget.

21 MR. PATTON: Okay. So that's
22 your --

23 MR. JENKINS: That's my world.

24 MR. PATTON: -- recollection of
25 looking at your fund-condition statements.

1 You're matching up year-end balance with the
2 year-beginning balance for the next year.

3 MR. JENKINS: We're feeling
4 really --

5 MR. PATTON: You don't --

6 MR. JENKINS: We're feeling good
7 about it.

8 MR. PATTON: Yes.

9 MR. JENKINS: And our only kind of
10 confusion is that prior year adjustment.

11 MR. PATTON: Yeah.

12 MR. JENKINS: And where do
13 reversions go and how do they get back in.

14 MR. PATTON: But you're -- and so
15 you're -- what you've been looking at, you've
16 never seen this big swings.

17 MR. JENKINS: Never.

18 MR. PATTON: Interesting.

19 Were you -- were you privy to -- I
20 talked briefly with Daphne, and I'm going to
21 be having a fairly lengthy interview with her,
22 but she told me briefly about an effort to get
23 OHV more authority to track their dollars.

24 MR. JENKINS: Yeah -- yeah. So when
25 we were doing our strategic plan, because

1 there were several things going on, the
2 department was going through -- they were
3 losing money, so they were trying to -- a
4 hiring freeze. They were putting hiring
5 freezes in place and not hiring, so the
6 department's staffing was shrinking. We're
7 working with 742, looking at we're going to
8 have a doubling of the registration fees, or
9 registration income doubled as a result of
10 that same legislation.

11 MR. PATTON: When was that? That
12 was Assembly Bill 742?

13 MR. JENKINS: Yes. SB 7 Bill.

14 MR. PATTON: SB 742?

15 MR. JENKINS: Steinberg SB 742. It
16 was passed in 2007, so it went into effect in
17 2008.

18 MR. PATTON: Okay. That's the one
19 that you told me, and they came up with --

20 MR. JENKINS: Yeah, they came up
21 with a new formula.

22 MR. PATTON: -- we're going to stick
23 with this -- we're going to stick with this
24 formula.

25 MR. JENKINS: We doubled the

1 registration fees on OHVs.

2 MR. PATTON: Okay.

3 MR. JENKINS: We added eighty-four
4 positions to the division.

5 MR. PATTON: Okay.

6 MR. JENKINS: So we're going
7 through, you know, we're like working on this,
8 we're going to be growing, and at the time, we
9 were actually approved for 160 positions.
10 Because what we were looking at was the
11 impacts on the parks and how do we meet our
12 mandate environmental protection and adequate,
13 you know, protections while providing
14 recreation. And looking at just the mechanics
15 of it, we were dramatically understaffed. I
16 mean, really dramatically understaffed because
17 trails were needing more maintenance and, you
18 know, that was evidenced later when they tried
19 to sue us to close Carnegie. It's all driven
20 out of this we need to upgrade the level of
21 maintenance we're doing on the trail systems.
22 So we had 160 positions that we were going to
23 get in two waves; eighty-four the first year,
24 and the remainder the second year. We got
25 approval for the eighty-four, but we never --

1 then all the other things going on in
2 government started happening, so they never
3 approved the second half.

4 So we had this money, this funding
5 coming in. And that's another one of those
6 variances, is the doubling in the registration
7 fees which took registration fees up to about
8 seventeen million dollars a year, where it
9 used to be about half that. So that would be
10 a swing that we should start seeing in 2008.
11 You do registration every two years, so it
12 first happened in 2008.

13 MR. PATTON: And it went from what
14 to what?

15 MR. JENKINS: Went from twenty-five
16 dollars for two years to register a green
17 sticker, to fifty dollars for two years to
18 register for a green sticker.

19 MR. PATTON: Okay.

20 MR. JENKINS: And so when all that
21 was going on, we're growing, we've got more
22 revenue, we've got new programs, we're trying
23 to do all of this. And the department was
24 saying, "Yeah, we can't give you the support
25 for that; we're shrinking." You know, "We're

1 busy with our own stuff." So we put in our
2 strategic plan that we wanted to -- one of our
3 goals was to get some positions and run some
4 of those processes ourselves. It's like,
5 "Well, we can just do it over here." We've
6 got the authorization for positions. We've
7 got the ability to pay those positions. And
8 then we could track the formula from beginning
9 to end. And so we were trying to kind of take
10 that burden off state parks, of having to do
11 all of this detailed tracking on the OHV trust
12 fund, which really doesn't affect them. It's
13 truly almost a hundred percent in our program.

14 MR. PATTON: Um-hum.

15 MR. JENKINS: So that way we could
16 watch our money from like birth to death. We
17 could see the whole cycle of the money. And
18 we got very rigid pushback on that from --
19 first from Manuel. He called me up one day
20 and said that he felt that that was a very bad
21 idea and that it wouldn't be efficient. He
22 had a lot of angst about splitting out
23 functions that had lived in his shop to
24 another shop.

25 MR. PATTON: Um-hum.

1 MR. JENKINS: And I got the feeling
2 at the time that it was more about efficiency
3 than him losing control. It's like, you know,
4 you can kill more birds -- you know, more --
5 two birds with one stone. If you have a
6 person here that can work on both funds, why
7 have one person here and one person there?
8 It's just ridiculous to double. He didn't
9 like that idea at all.

10 And then Ruth also called and talked
11 to Daphne one day and told her that that
12 was -- they thought it was inappropriate for
13 us to be pursuing that.

14 The plan had been approved by our
15 OHV commission with that caveat; that we would
16 take that responsibility, track our own fund,
17 be able to show all that accountability for
18 our fund a hundred percent ourselves. That's
19 the version of that strategic plan that was
20 voted on by the OHV commission. Ruth made us
21 take that section out, so the actual version
22 that you see on-line doesn't have those goals
23 and objectives related to tracking our budget.

24 MR. PATTON: Okay.

25 MR. JENKINS: It does have some

1 information in there. Transparency has always
2 been one of our -- one of the things that
3 changed dramatically when Daphne and I started
4 working our budget. Is everybody was
5 always -- my first commission meeting that I
6 went to, to observe, before I took the job,
7 there was a big, loud fight over budget issues
8 between the commissioners in the division
9 because the folks at the time weren't able to
10 answer the commissioner's questions about the
11 budget, because they were always very close
12 with the budget. Since it's based on
13 projections, sometimes you just say what all
14 the projections are and then at the end of the
15 year they want to know why everything didn't
16 happen exactly as projected. Well, it was a
17 projection; it never happens exactly as
18 projected. So there's the accounting at the
19 end that's the real number.

20 MR. PATTON: Um-hum.

21 MR. JENKINS: So Daphne and I, in
22 order to -- one of our goals in the strategic
23 plan was to increase transparency. So we
24 started sharing a lot more budget numbers with
25 the community and with the commission. And so

1 we would create -- and I actually brought a
2 couple -- we would create these flowcharts
3 that would show here's where the money comes
4 in, kind of in a chart form show what I was
5 trained how to do by my predecessors and
6 looking at those fund-condition statements,
7 following it through the cycle, because I
8 always wanted to know where -- where the money
9 was going. And so we created these -- I just
10 brought one as an example. So like last
11 year's budget, it would show our major sources
12 of income, it all goes into the trust fund.
13 Then you get the budget act, you can get this
14 number out of the actual budget.

15 MR. PATTON: So this is your FY 10-
16 11 year-ending balance?

17 MR. JENKINS: Right.

18 MR. PATTON: So this is the
19 beginning 11-12 starting balance?

20 MR. JENKINS: Um-hum.

21 MR. PATTON: You're expecting sixty-
22 five million in fuel tax.

23 MR. JENKINS: Fuel taxes. Three
24 million in entrance fees.

25 MR. PATTON: Fee entrance fees.

1 MR. JENKINS: Seventeen in
2 registration.

3 MR. PATTON: Yup.

4 MR. JENKINS: And then this
5 miscellaneous number that always pops up.

6 MR. PATTON: For a total available
7 resources of just under 148 million.

8 MR. JENKINS: Right. And then the
9 budget act was passed, 122 million.

10 MR. PATTON: Give you -- that's your
11 spending authority?

12 MR. JENKINS: Yes. That's our
13 spending authority for, essentially,
14 operations, capital outlay and local
15 assistance program.

16 MR. PATTON: Yes. Yes.

17 MR. JENKINS: And then we tried to
18 break down, you know, where that money goes in
19 local assistance, what are the capital outlay
20 projects that we do. And then this is the
21 SVRAs, this is our headquarters section. And
22 this is that pot of money that goes to the
23 department I was telling you about where
24 there's pro rata, there's, you know, these
25 various things that they keep money for over

1 there. So this was a draft -- these numbers
2 aren't actually correct because --

3 MR. PATTON: Well, and they --

4 MR. JENKINS: -- these were based on
5 the projected budget. It's not the final.

6 MR. PATTON: It looks to me from
7 this chart, at least by the title, that the
8 amount diverted, the ten -- it's actually
9 almost eleven million non-division
10 administrative costs, it basically looks like
11 they're going to compensate themselves some
12 amount of money for doing the administrative
13 work.

14 MR. JENKINS: Right. And this is --
15 and some of this -- we're not saying this
16 money shouldn't go there. It's just that we
17 don't know exactly how it's used when it goes
18 over there.

19 MR. PATTON: Right. Right.

20 MR. JENKINS: Because we do -- we're
21 small enough that it makes no sense for us to
22 recreate like the EEO section.

23 MR. PATTON: Right.

24 MR. JENKINS: So we send money over
25 there to help fund our portion of the costs.

1 MR. PATTON: Yeah, they've got
2 audits. They've got --

3 MR. JENKINS: Yeah, all those things
4 that --

5 MR. PATTON: -- DPR admin. I don't
6 know what pro rata refers to.

7 MR. JENKINS: Pro rata -- so that's
8 what all agencies pay a pro rata cost, which
9 is --

10 MR. PATTON: To fund overhead.

11 MR. JENKINS: -- the cost to fund
12 the government. That's --

13 MR. PATTON: Yes.

14 MR. JENKINS: -- you guys, the
15 Governor's office, everything.

16 MR. PATTON: Taking might be kind of
17 a strong word.

18 MR. JENKINS: Well, no, this isn't
19 the ten million take.

20 MR. PATTON: Oh, that's not your ten
21 million taking?

22 MR. JENKINS: No. No. No. No.
23 The take is outside of this budget.

24 MR. PATTON: Okay.

25 MR. JENKINS: So in other words,

1 this budget starts with the budget act.

2 MR. PATTON: Yup.

3 MR. JENKINS: That takes --

4 MR. PATTON: Yup.

5 MR. JENKINS: -- motor vehicle fuel
6 accounts funds over here --

7 MR. PATTON: Right. Right.

8 MR. JENKINS: -- and puts them here.

9 MR. PATTON: Um-hum.

10 MR. JENKINS: And this was
11 projecting sixty-five.

12 MR. PATTON: Yup.

13 MR. JENKINS: What they actually did
14 is take ten million and say, "We're not
15 sending it here. We're going to send it over
16 here to SPRF."

17 MR. PATTON: Okay.

18 MR. JENKINS: And so we're sending
19 them this ten million dollars, plus -- I'm
20 sorry, not to SPRF, I misspoke, I should
21 correct that. The ten million dollars goes to
22 the general fund.

23 MR. PATTON: Oh, okay.

24 MR. JENKINS: Yeah, the ten million
25 dollars. This year there was seven million

1 dollars that went to SPRF. That's why I was
2 confusing that.

3 MR. PATTON: All right. And I don't
4 want to try, really, to understand the theory.
5 I'm sure somebody's got a theory behind that,
6 but that's sort of outside the scope.

7 MR. JENKINS: No, that's outside the
8 purview of this, but --

9 MR. PATTON: But I am curious in
10 this, I'm just curious looking at your number
11 that the ending balance for fiscal year 10-11
12 on your chart is listed as 62.372 million.
13 And so I'm looking over here at my chart for
14 something that says sixty-two million and I
15 don't see it. I see --

16 MR. JENKINS: This would have come
17 out of the Governor's -- the fund-condition
18 statement.

19 MR. PATTON: Yeah.

20 MR. JENKINS: The Governor's budget.

21 MR. PATTON: Yeah. I wonder why,
22 because this number here, 131, is reflected as
23 being the amount reported, 131,551 is
24 represented as being the amount reported as
25 the year-ending balance for FY 2011 in the

1 Governor's budget documents and the fund-
2 condition statement. And that 131 is not the
3 same as 62.

4 MR. JENKINS: No.

5 MR. PATTON: Let me hang onto this
6 and I'm --

7 MR. JENKINS: Yeah.

8 MR. PATTON: -- going to ask
9 finance.

10 MR. JENKINS: And I'll -- and I'll
11 check this. Like I said, this was our -- we
12 draft these up early in the year.

13 MR. PATTON: Yes.

14 MR. JENKINS: So I just picked the
15 fastest one I could find.

16 MR. PATTON: Okay.

17 MR. JENKINS: So I'll go back and
18 make sure that the one that I'm giving you,
19 that this number is, in fact, what was out of
20 the Governor's budget.

21 MR. PATTON: Okay. Good. Good.

22 All right. I think that's really
23 all we've got and we appreciate your time.
24 Unless there's anything else you think we need
25 to be aware of?

1 MR. JENKINS: No; not unless you
2 have anything specific.

3 MR. PATTON: No.

4 MR. JENKINS: The budget is --

5 MR. PATTON: That was a good OHV
6 education.

7 MR. JENKINS: It's been a long
8 journey learning.

9 MR. PATTON: Yes. Yes. Okay.
10 Thanks, Phil.

11 We're going to go off the record at
12 4:28 p.m.

13 (Off the record at 4:28 p.m.)
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TRANSCRIBER'S CERTIFICATE
Phil Jenkins interview on 9-26-12

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[02 - aside]

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