

PROJECT USA 2007

Conference Day 3 — Friday 11th May 2007

West Coast Strategy

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| Sampson Brown | Knight & Carver YachtCenter |
| John Corrough | The Corrough Consulting Group |
| Peter Jago | Peter Jago & Associates |
| Todd Roberts | The Marine Group Boat Works |
| Doug Sharp | Sharp Design Inc |
| Neil Wilson | Driscoll Boat Works |

Martin Redmayne

Alright. Final session; thank you for putting up with me. West Coast Strategy. Very simply, to discuss what the potential is for San Diego—what needs to be done to raise it to a serious yachting location. Not that it's not serious at the moment, it's just that it has massive potential that needs to be capitalised on.

The people to my right—in no particular order, I'll invite Peter Jago to set the scene because he's Mr Independent; and then just hop through the whole panel to give 5-10 minutes each to give their views on San Diego as a location and then we'll open up a discussion as to what needs to be done from the Port's perspective; we've heard about Customs issues, we believe Bill Snyder is coming back later on to give an official statement on the Customs issue that we had yesterday which raised a few eyebrows. So this should be an interesting final session.

Peter, your minutes of fame, please.

Peter Jago Peter Jago & Associates

I'm independent, in theory. However if anyone asks me why I'm not wearing a piece of string on my flies on my pants, I shall kill them. A lot of what I'm about to say is contentious. Because I'm independent of everyone here; but I've worked with lots of people and I'm still a consultant to Knight & Carver. So that gets that out of the way. There will be differences between us all so it should be a fairly lively session and this is why we're going to talk for a very short time and then throw it open to the floor.

I've been working for 5 years on the very subject of this meeting. I'm damned if I'm going to have it negated in 10 seconds by someone speaking out of turn yesterday. I have in my pocket a statement from the Port Commissioners themselves, who said visiting yachts would not be taxed. The Port Commissioner that I first met here said to me I know all about superyachts, I own one. And I then found out he owned a boat under 100 feet. Well it depends rather on whether he was boasting or paying for it. If he was paying for it, it was 98 feet, if he was boasting about it, it was 102 feet. I told him in no uncertain terms that that would be a mega tender. So naturally this went down like a lead balloon. So I would prefer the term megayachts not superyachts because my primary interest is in large yachts. I think the smaller yachts will turn left, which is foreign, or right—which is quicker by car. Except to Catalina which may or

may not be in existence today. I am also a guru on superyacht marinas and YSVs, yachts, small vessels.

The megayacht or large yacht business, can go out in any weather. Which means that San Diego is the venue for big yachts. And finally we're on a border, and I think the border should be used more than it is at present. The Mexican border is absolutely crying out for usage. I sailed many many years on this coast from Mexico and indeed Panama up to Alaska, with large yachts, by which I mean 283 feet. OK.

Martin

Doug you follow on because you have a different view from the three shipyards. Just give your 5 minutes of San Diego, where it's going to be.

Doug Sharp Sharp Design Inc

Well, as most of you have seen from my bio, I grew up here, third generation San Diegan, and have been in the yachting scene since 6 years old. But my business takes me far afield to all of the major ports in the world and builders all around the world and point blank statement, first and foremost, with all due respect to the young gentleman who owns a yacht, of an age where I was in business before he was born, San Diego is not Fort Lauderdale, it won't be Fort Lauderdale and it doesn't have to be Fort Lauderdale. San Diego is San Diego, it is one of the nicest, most beautiful natural harbours in the world. It's got a huge infrastructure around it, places where people can go and see things, and participate in culture, and sports, we can go surfing in the morning and snowskiing in the afternoon, it's just a wonderful place. But picture if you will, a coastline, and think of a radius 1200 miles in each direction, and I'm just going to rapid fire read these off. None of these places is more than 100 miles away from San Diego in succession. Going south you've got Ensensada, Punta Banda, Estero beach, Todos Santos islands, Guadalupe islands, Cedrus islands, San Cantina, Belina bay, Mag bay, Capa San Lucas, the whole sea of Cortez, Mazatlan, Secoro island, Manzanillo, and Port of Arreta. That's 1200 miles in a southerly direction. Going north we've got Mission bay, Oceanside, St Anna point, Catalina islands, San Clemente island, Santa Cruz island, Santa Rosa island, San Miguel island, San Nicolas island, Ventura, Santa Barbara, Hurst castle, Monterey, Santa Cruz, San Francisco, Drakes Bay, Humble Bay, Estoria and the Columbia river and Seattle and the Puget Sound area.

This gives you in a radius 1200 miles in each direction the most amazing diversity of life, sea life, diving conditions, that you can imagine. We've got kelp forests, we've got marine reserves, you can go off the beach here in la Jolla and go right into a trench that goes as far as 3000 feet deep just within a few miles of shoreline, we've got pinnapedes, mammals, marine mammals, whale migrations, we've got sport fishing, game fish, deep bottom fish, in other words we have the most amazing variety of yachting activities one could imagine. The other comment is that, as Peter said, San Diego is right on the edge of a major current, it's the Eastern Pacific current, we have beautiful water for cruising if you like to go to sea. We have a long Pacific swell, with an overlaid chop that gives you calm conditions in the morning and any kind of liveliness you could expect in the afternoon. The boats that are being designed worldwide nowadays are designed to go to sea and there's no better place to do it from or to San Diego.

Martin

Doug, thank you very much. Neil, please.

Neil Wilson Driscoll Boat Works

I've been working in San Diego bay on boats for over 40 years; I started as an apprentice folding sandpaper. For three years folding sandpaper before I was even allowed to use a brush. So I understand how crucial it is and how hard it is to get people to work on boats. Anyhow, fast forward—worked on boats my whole life, crewed on boats for 10 years, had my own yacht refinishing business for 10 years, worked in the big shipyards here and transformed and brought a bunch of big yachts into the big shipyards, worked with Campbells Industries, which used to be right down the road, had megayachts coming out of our ears, had a good 10-12 year run with Captain Jago, I could go on. Campbells shipyards shut down because it was an old fishing type boatyard; we lost a 3200 ton dock, a 1200 ton dock, 400 ton dock, 1800 ton railway, 600 ton railway, a whole bunch of very different ways to haul vessels which was kind of sad because we lost a lot of accommodations for megayachts. The good news is, Knight & Carver put in a 300 travel-lift, we just got the new 660 by Marine Group going in on the west coast to help fill that gap of what we have lost. Another good piece of news is that up in San Francisco the Bay Shipping Yacht people have just installed a 1200 ton synchrolift, 5 berths on land and covered docks, and this is all brand new Rolls Royce type equipment. So the old has gone by the wayside and we're getting some new facilities in here. Another interesting thing and stat about San Diego, the two primary reasons that San Diego is here is that the primary driving engines for San Diego are tourism and military. Both of which I believe have a lot to do with megayachting. First, the megayacht owner can be a tourist here in San Diego bay and then when he's done using his yacht or cruising round San Diego bay or having his dinner cruises etc he can then turn and have work done at any of the various yards, and any of them who can't accomplish a specific task, we have the fabulous wealth and plethora of sub contractors that can perform unbelievable tasks that you can't get performed in any other city or port in the world. I could go on and on with the list of sub contractors that we have in this city that are here to support the nuclear aircraft carrier business, the nuclear sub business, so a little example I like to tell people a story about is, I had a 60 metre Dutch built boat in here about 6-7 years ago and we did a small refit on the boat, it was getting read to head to Alaska on a chartered guest situation and the boat was just getting ready to leave, two days away from leaving and panic, the engineer came up to my office with this funny looking metal cupronickel reverse metric thread fitting that was broken and he said oh my god, what am I going to do. By the time I've Fedexed this to Holland, got it back it'll be 9-10 days. And I said well gosh let me see what I can do about it. And I literally got in my car and drove it down to one of the specialty machine shops in National City that is the military sub contractor and I had that part back to him the next day. And that's pretty unique, it was a pretty cool deal. And this guy couldn't believe it. He had sent the piece off and had figured on going up the coast without one of his fin stabilisers and little did he know the next morning he had the part, and he was under way. So that's a really strong asset for us to have in this town, is to have this plethora of different sub contractors, whether it be a tile guy, or a stainless steel guy, a terrazzo table floor guy, there's huge sub contractors that support the US military that we have learned to use and to glean help and support from. A good sub contractor base. So the business is growing, we've just got to keep Queen Latifa under our hat and we'll be in good shape I think.

Martin

Neil, thank you very much. Todd and Sampson, you've both got something to show us this afternoon. Which one would like to go first? Age before beauty?

Sampson Brown

Knight & Carver YachtCenter

I agree with the comment that Neil just made about sub contractors. What you see in San Diego is the fact that we are a place where there is large ship repair, and the yachts that are being made are more like small ships than they are like large yachts. So we're particularly well qualified to deal with that and we find that to be extremely valuable; we've been able to use the shipyards here to team with, to do some large projects with, and I believe that's all good. That's worked out real well. I think that the comment that was made about Fort Lauderdale—I think we have the opportunity to do it right here in San Diego, we don't need to be the next Fort Lauderdale, we need to be San Diego, I agree with Doug. We have a unique opportunity to start over. I think that some of the things we need to do is we need to learn a little bit of a lesson from Europe, I can tell you a quick story that when I first started with Knight & Carver I was encouraged to go to Europe and take a look at what was going on and I said well what does that have to do with San Diego? And I finally went over there and I saw well, it's whole different world over there. And some of the preconceived notions that we have about what megayachts want to do and where they want to go are actually not true. You can have a facility with public access, where people can see what's going on, you don't have to have it all behind a big wall. You can have the coexistence of the industry next to other things. There's a lot of lessons we can learn from that experience. And if we want to create that opportunity here we have to welcome people to San Diego. That's something that we all have to do. And our responsibility in San Diego is to make sure that people feel welcome. Now obviously one of the things that happened yesterday is that someone said that there was a ruling and all the bad things are going to happen, and now no-one wants to come because something bad may happen. Well the first issue is, experience. The truth of the matter is, it hasn't happened. And when I practised law one of the things that people said was, bad facts make bad cases. Well, when you have a circumstance that occurs, you can't take that as being instructive of everything that will happen afterward. What you do look at, is what actually happened. What's actually happened is we've brought some of the largest yachts in the world to San Diego, south of the Bridge, which is another thing people said couldn't happen, there's been a number of large yachts come to San Diego and we've never had a problem. We just plain haven't. We haven't had a problem with the sales tax, we haven't had a problem with the use tax, we haven't had a problem with Federal excise tax, we haven't had any of those issues. And that's because the people regulating those things aren't interpreting those statutes the way that somebody here said yesterday. I was unfortunately not here yesterday. Bill Snyder I was on the phone with for an hour this morning trying to understand what was happening here. He'll be here, and we'll address the issue. My belief is that port information notice does address the issue, as far as we're concerned. We've never had an issue outside of that and we've never had a vessel that's had a problem. Some of the distinctions people need to understand—I think you all do—a foreign flag vessel owned by a foreign corporation is just that. Going beyond that looking at who owns the corporate stock of that corporation is maybe important for national security issues but not for fiscal issues. That's not really what's going on. If there's a national security concern I'm sure that someone would look past the foreign corporation's ownership to determine that. But I think that those are some of the issues and I don't want to take too much time; I'd be glad to answer any questions. But those are some of the issues that we all need to address here in San Diego, make sure that people are welcome, make sure that the truth about what actually is happening is coming out, because the truth of the matter is if you look at a statute or you look at a law, or anything, unless there's what they call a safe harbour provision in it, that tells you exactly what you must do, it's all subject to interpretation. But you have to look at the practice. And you have to look at the practicality of it. And the practice and the practicality in San Diego is that in fact

these things are not being enforced the way they were represented. So again, I'll be glad to answer questions afterwards.

Todd Roberts The Marine Group Boat Works

It's always good to be last. I agree—OK, second last.

Martin

Don't worry about John. He's not going to say anything!

Todd

You know Neil made some terrific points; as you can hear, Sam has a terrific grasp on the Customs issues that we face with importation; a lot of what I had down to talk about what we have to offer, I'd say Doug and Neil covered. Location is critical; the use of skilled trades is critical. I came from a commercial background; I was born and raised here in San Diego and went to sea in the commercial industry and we used to say what really makes the port right is—is it a good place for the crew. And in the repair world, that's even more critical, because the crew is off the boat. And that's one thing that you don't hear people talk too much about, San Diego offers a terrific scene for the crew. If you've got a crew of 15, their ages are normally from 20-35 years old; we've got a great night life, it's easy to get around, it's a good place to be. We've got good airport access for leave, that's a critical function. One of the things that I really want to hit on as we try to develop this business. It comes down to facilities. And having the equipment in the facilities to do the jobs. We can have the best weather in the world, the greatest bars in the world, the best skilled trades in the world but if we don't have the facilities to accommodate them it's all for nought. And by facilities I mean marinas; I mean infrastructure within the marinas, I mean the boatyards that are capable of doing it and can do it in an environmentally sensitive way. And that's really what comes down to it. We get a lot of support from the state of California and there's a little known fact about the State Lands Commission—who actually controls the port of San Diego who all the boatyards lease from, is that the State Lands Commission has a mandate—they have a mandate in place in San Diego right now that says we're not going to let you take another boatyard away and build a series of hotels and restaurants until you can relocate whatever boatyard you want to take away. And the reason I bring that up, and the reason I say that is, someone in the State government is realising that the boat population from large yachts to small boats continues to grow, and the facilities need to exist to service these boats. And sure, is there a higher rate of return for the landlord and the agency on a hotel, yes, my guess is the Hyatt pays a little bit more rent than the boatyards do. Is it the highest and best use? Maybe it is and maybe it's not. Financially speaking of course it is. But for servicing the waterfront, is it. And that's the real question. And that becomes a priority issue and something that comes down to what do we have to look at as a community. And I think we need to look at the bay overall as a community in continuing to have the support from our agencies, to develop and improve and increase these boatyards is absolutely critical and I think the port has done a great job by assisting us in our development, and I think it all paid off in spades.

Martin

Todd, thank you very much. John, will you wait 10 minutes? Because two gentlemen have walked in wearing guns. So I have to be prepared for what they have to say.

Can I invite you guys to come up and say your piece? CVP in full uniform, dressed to impress and to correct a wrong.

Bill Snyder

Good afternoon. My name is Bill Snyder, I'm Port Director for Customs Board of Protection here in San Diego. Yesterday I was on a panel where we discussed some of the things needed for arrivals for yachts and pleasure boats in San Diego. And one of the questions was asked, was in regard to duty being charged on vessels that come in and have US citizens who own foreign corporations on those vessels and if CBP would go beyond the corporation into the residual of the corporation and ownership as far as charging duty. Well the question stemmed from some events that occurred back in 2003 where there were some vessels involved in some duties and possible penalties, and the ownership question of the corporation was related to those events in 2003, when in fact there were other mitigating factors that were involved in those duties and penalties that occurred back in 2003. But there still remained the question of corporation ownership with US citizens and the yachts and duties. So with me today I have Mr Peter Flores who's assistant director of trade in our San Diego field office and he and I have discussed this and had a few conference calls this morning, so we want to make sure we clarify to the best we can at this point, with this forum, and respond to the questions appropriately. So with that, I'm going to turn this over to Mr Flores and let him brief you a little bit on what we have.

Assistant Director Flores

Good morning, there's a few minutes left in the morning. It's a pleasure to be here. Within the San Diego field office and our ports I like to be proactive as much as possible in addressing issues as they come up, as they arise, and potentially before they drastically or negatively impact our operations, either at the ports or within the field office that we overlook. As assistant director at the field office we oversee on the trade side the cargo operations and movement of trade at various ports within the San Diego area and the Imperial valley area. The question that was posed I guess to Mr Snyder, our port director, was how far we go into looking behind foreign corporate ownership in the assessment of potential duties for the importation of a yacht. Now we've had several phone calls over the course of this morning with our headquarters office. And I don't know how familiar you guys are with our ruling process, the regulations, I'm sure plenty of you know a lot about that. As far as the ruling process goes, we have had several rulings out there posed by members of the yachting community, the megayachts in different scenarios. And the rulings that have come out in the past pertaining to this issue, specifically I can count five of them, I don't know if there's more than that, but I know there are five of them—the ability for us to look beyond corporate ownership of a foreign flag is there, and I'm sure you are aware of that. We have the ability to do that. I guess the question that was posed yesterday was how often, or how do we do that, or what's the determining factors in how we accomplish that, and when do we do that and so forth. As far as that goes, for the most part in general I would say we're taking the documentation and we're looking at it. And we're looking at it at face value as we get the information in and we're making an assessment of the documentation. Any part history, prior history, violations, any type of mitigating factors that we see with the information that is presented to us. If over the course of reviewing the information in front of us or

obtaining additional information as far as the history of the vessel, of the people, of whoever involved in this, there may on occasion be an instance where we go beyond the foreign corporation. That is not the norm, I would put it out there. That is not the norm of typically what we do. Obviously if we see something that's unusual or we see something that's out of the ordinary, or we see something that is out there that causes us to be of the inclination that potentially there's a violation or potentially the vessel is intended to be brought into the US for importation, then that may take us to the next step of going beyond that foreign corporate ownership. So what we're looking at is documentation, prior information and trying to figure out what the intention of that arrival is. If we feel the intention is quite possibly for an importation into the US then we will go beyond that foreign corporation, what we see on the documentation. If we perceive the intention not to be that, then obviously then there would be no need, or there are other mitigating circumstances and no need to go beyond that scenario that we have in front of us. The question was also posed, the issue that was also brought up, of the fact that some ports do things a little differently than other ports. And I realise the concern with that, and as an agency we have a concern with that as well. Fortunately and unfortunately we have a set of regulations, we have a set of rules, and we have a set of policies out there that we follow. In following those rules and regulations and following the directives in the policies that are put out for CBP I would say there is some leeway. A lot of times things aren't black and white. Depending on the personnel you have on staff, depending on the manpower you have, depending on the scenario you have in front of you. There is leeway on the mitigation factors that you use to determine what your course, what your procedure, will be for that particular process. So saying that, you may run into the occasion where it may take a little longer for your vessel arrival at one port as opposed to another port. Just because of personnel issues, of manpower issues. Because of the type of enforcement they're running. All of it being within the regulations we hope, none of it being outside of our policy. But you will tend to find some of those differences. In talking with headquarters this morning on possibly issuing some clear guidance on policy in these areas, I have taken it to them this morning, I'm going to follow up with them, I don't know if they'll perceive this to be a significant issue or something they will want to issue firm guidance on but I have brought it to their attention and I will follow up with the issue, to try to standardise this as much as possible from port to port.

Martin

Thank you very much indeed.

Can we throw a few questions on this? To clear this matter up. Right at the back.

[From the floor]

Because intent to import is so subjective, is there any way to come in with an expedited process whereby before a vessel comes in we could email or fax your office with maybe a history of where the boat has been so that we can get some comfort that when they arrive at the dock they're not going to get hit with the duty?

A/D Flores

Well that's probably a process we'd have to consider; I mean email obviously is quite prevalent and a lot of people have access to it so there may not be an issue. The question would be of the timing, obviously, of how soon you're going to get it to us, when will the documentation be expected, when will the vessel arrive. There would probably be some issues as to what type of documentation you will be sending to us

for that verification to look at it. That would be something we'd have to—I'd have to sit with Bill to ensure that we could handle that.

Eric

With all respect, I think you're mixing apples and oranges here. If a foreign corporation brings a yacht into the United States for the purposes of resale or charter, that is a dutiable event. That has nothing to do with corporate ownership. So when you say you're going to look at who is the beneficial owner in making an interpretation, you're going from one set of rules, and there is case law on what is going to be for charter. Now you can say there's an ad and the ad says, not available for purchase or charter in the United States. Now in Florida that's wonderful. You can have a particular officer here in San Diego that goes, you know, I think that may have something to do with intent because there is a magazine article so obviously the guy want to sell it so now we're going to go and take the next step—and one of the other things you have and that ruling from 2005 interpretation is, you take the vessel's document. You basically arrest the vessel when it comes in to have work done. So we've got standards for when it triggers duty, sale, charter. And then we've got this nebulous thing, and all you need is again, with respect, one officer on a bad day or who gets angered by a captain, or an owner, and now me, as the owner's representative or attorney, I have the owner looking at me going OK Eric, you said it was OK to come here, I'm looking at a million dollar tax bill and my boat is seized. This is your problem, fix it. And I say well, there was a really nice guy at this conference and he said you really shouldn't worry. Help me!

A/D Flores

I understand your concern but obviously on the enforcement side of things of what we're doing, we understand there are two different issues at play here, as far as what we're looking to enforce. However we've had, and we do have, we've had the scenario here in San Diego, granted it was a few years ago, we haven't any issues with that in the past few years as far as I know, unless you can tell me different, but I don't think we've had that issue here in San Diego

Eric

I guess this is the problem. When I bring a foreign flag vessel into what's supposed to be, theoretically, the safest most secure port in America, the port of New York, they're nice, they come in, you give them a T-shirt, they're happy. And life goes on.

A/D Flores

Don't tell me any more!

Eric

And now it's come to San Diego and it's you know, trust me, it'll be fine. There's a procedure that's filed, it doesn't matter if it's the port of New York or Miami or Fort Lauderdale,

A/D Flores

Agreed.

Eric

We're coming over here and it's different. Different is scary. Because there's a lot of dollars involved and it's a lot of dollars involved in something that the reality of it is, none of these owners need it. They don't need these boats. What they really don't need is the hassle or concern. How is it that you in San Diego are going to make it so that big tough New York attorneys like me aren't afraid?

A/D Flores

Again, if we have specific instances on how things are different here in San Diego and how we're falling outside of policy or regulations—we can address that. If under certain circumstances there are specific scenarios, we can address them. As far as how policy, and how we work within our policy and regulations, I don't see where we've been out of those policies and regulations. There have been some determinations—also we have violations that occur, we have vessels brought in and we find out that their intention was to import into the United States. Those occur. And so we have those scenarios. That is what keeps our officers on the lookout. Now as far as I know, as I mentioned a little bit earlier, here in San Diego that has not been an issue within the last few years, and the issues that we did have, had some mitigating circumstances behind them as to why they went forward with that process.

Eric

So I guess what I'm asking is this. Based on what you're saying. There's no other port where Customs & Border Protection comes in and takes your document. Your certificate. No-one takes that. You guys according to what's published, take it. That's a concern. Now the other thing is, in no other port do they say we're going to look at who's behind the corporation to maybe see if your intent is different. Intent is a really hard thing to prove. So opening that door a crack because you're looking really at a different issue; it's not ownership, it's intent to see or charter.

A/D Flores

Well the document piece, obviously we can look into here locally, on what we're doing and what other ports are doing, as far as what their policy is, to take the document. As far as looking into intent, though, I would beg to differ, that there are ports out there who have, and I know of ports where penalties have been issued, and importation has happened, as far as that goes.

Eric

But you're missing what I'm saying. And this is I guess the critical point. There is no question that there are instances when owners import, where owners charter, or owners are working deals on sales. There's no question they exist. That's a separate issue from some guy coming in, he wants to have work done at Knight & Carver. And next thing you know, he's at the dock, because they need four days before he can come in. He's at the dock, you take his document and go, well we want to do a little bit more research here. He's going WHAT? There's nothing that triggers it, there's no standard that says you're going to do it, other than you want to. That's the scary bit, and that's what I'm asking you to look at, to see if we can eliminate that issue so that there are X triggering events that we in the industry know are legitimate reasons for you guys to come in. Sale, charter, import.

A/D Flores

Right. I can take that back, obviously. We can look at that. But as far as looking at documents and requesting documents, obviously there are certain documents depending on what type of vessel it is that should not be leaving the vessel. There are others that obviously you can take out. We will look at that.

Martin

Thank you. Can I ask Doug to come in. Esther, Graeme Lord has a question as well.

Doug

I think Eric hinted at what I was going to say. Sam, at the end of the table here, says we haven't had a problem, based on his experience, and the gentleman here said well there have been some instances but I wonder if there's a bit of a disconnect between Sam's, which is a repair, and an obvious intent to bring the boat in for a specific purpose, versus maybe some of these things where you said there were mitigating circumstances.

[Panel]

Well the incident I'm referring to was a number of years ago. But the point that Eric was getting at is there must be some kind of, for want of a better word, a threshold level or something that triggers this, and it seems to me that for legitimate repair and what have you, maintenance repair, provisioning, that's a no brainer.

A/D Flores

Absolutely.

[Panel]

I know that particular incident because that boat was at our yard and the owner had intent to bring his brother down and use the boat which "deemed it a charter" so that's where that whole thing started. The captain was straight up about it and told her about it and that's where it fell into that parameter and that's when it went through the roof and took about 4½ months to solve.

Doug

So is there a way to publish the triggers?

A/D Flores

Well obviously there isn't one particular thing. And many of you have read the rulings that have been put out by our office of regulations and rulings; they cite specific areas that are looked at within those documents.

Eric

See now, for example, I'm going to play the lawyer for the guy who says I want my brother in law to use my boat. That's not a charter. If the brother in law says here, let me buy a case a beer and put some gas in your tank, that's a charter. So it's not the use. And if there's private use, or familiar use, or whatever, of the boat, if there's no

consideration passing hands—this is just the law everywhere else. Then you don't have the issue. The problem becomes when you have these large yachts, they come in, they want to take some friends out, and you go, you know, maybe that isn't—we're going to look at that a little bit closer than what the law is. It's the grey area. And that's the scary bit.

A/D Flores

I mean, without going specific, and addressing the cases that happened previously, there was scenarios in there that prompted looking further into what the circumstances were. And that was taken to our office of regulations and rulings and it was done, of course, within the letter of the law, and the determination and definitions and the process went forward from there.

Martin

Could that case be actually made public? As a guideline?

A/D Flores

Not by us, no.

Martin

Sam, do you want to say something?

Sam

Yes, I think one of the issues is the sole issue of beneficial ownership. And I think that's one of the things that concerns people here, is that the fact that a foreign corporation has some kind of ownership by a US citizen is not the determining factor as to whether the boat is being imported. And that's where I think people are putting things together where they're saying, OK well, only if the company is foreign owned and only if there's US citizen, then that's what we're going to look at. If there is a US citizen or if there isn't a US citizen, if a foreign flag vessel comes in to be sold or chartered it's the same issue. It's not just the fact that there's a US citizen.

A/D Flores

Absolutely right. And that in itself, having someone who is a US citizen behind the corporate ownership, may not even be an instance where we choose to look further. That's just one of the scenarios that are out there. The fact that somebody is a resident isn't the driving factor in all cases here.

Graeme Lord International Yacht Collection

The line that seems very blurred here and that troubles me a lot is the intent and then actually breaking the law. I think there needs to be a very firm line, it's a bit like saying if I buy a sports car, as I leave the showroom I automatically get a speeding fine because I bought a fast car means I'm going to speed. I agree that you can gather the information and see, but a yacht has to physically break the law before you go after them. This idea that we're going to penalise you, or we're going to hold you up, just because we think you might break the law, it doesn't work for me. And I think that there needs to be a very clear determination on that. And it would certainly make it a lot easier from my point of view if I'm advising a client and say hey, you

know what, I know we charter everywhere else in the world—Spain has exactly the same issue. When you go into Spain, make sure that only you use it and be real careful. These are the things you need to watch out for. We can do that, easily, in San Diego. We just need to be real clear on this whole idea of intent.

A/D Flores

Well, you know, intent is a factor in there and it's one of the factors that we use in there. I don't think we've ever issued a penalty or seized a boat on intent. It doesn't happen. We wouldn't have a regulation or statute to stand on, on intent on that. What we have issued penalties on in violations is the fact that we have come to realise that there was a violation that took place.

Sam

I'm trying to think of the best way to put this. I think that what we've been able to establish, again, we're in our own little world where we are, in repair and refit, and in repair and refit we have established that if someone is coming here to repair refit their boat, and then that's what they're doing, we determine that that is not an importation and that does not give rise to doing anything other than bringing the boat in and leaving again. And I think I agree with everybody else that we need to go beyond that in order to understand more fully, get a comfort level, and maybe look at some safe harbour provisions, but the safe harbour provision that I see is that repair refits done in San Diego, our direct experience consistent with the law, consistent with everything that we've seen, and all the practice that's taken place, is that that is not an importation. No-one's ever been fined for that, no-one has ever paid any duty for it. And I don't believe it ever will happen.

Martin

Eric, final comment?

Eric

I think that the refit stuff's easy. What concerns me is I've got somebody who has his boat that actually wants to use it and he's in San Diego and he's at the dock and he's here for 5-6 days and he has people on board and he takes it out and some of the people he takes out actually aren't his children or his wife, and you guys go—we need to look at that. And that's the concern.

A/D Flores

Well, here's what I can offer you. Obviously there are going to be various scenarios out there that take place and maybe some of them in a greyish area, there, is what the concern is in this. But what we do have is a process for anybody to contact our office of regulations and rulings, put their circumstance in writing before that happens, and get a formal response back from them as far as what the outcome would be and what their perception of that scenario is of whether you're within the regulations or outside the regulations. And that is a formal written response from CBP on that scenario that's available to everyone.

Eric

You see, I think what you're missing is, there's first a chilling effect, because people are going to go why would I want to do that when I can go up the road,

A/D Flores

But if you're asking us to provide you that confidence in a specific scenario you have, where you don't think there's confidence out there with that scenario, I'm telling you we use various mitigating factors to determine whether or not you're in policy or inside the regulations, I'm providing you a direct link for that specific scenario for that specific case to gain that certainty.

Eric

What I'm saying is, in the yachting industry, as it's existed and been, that's not how anyone else does it. It's not for us to say is this OK? There's standards. These are the factors. Boom boom boom. You break any of these factors, you're going 65 in a 55, you get a ticket. We know that. OK. So we stay within these guidelines. We sell the boat 3 miles out. We don't offer it for charter. We do these things and now we've got this area, and what I'm saying to you is, nowhere else in the United States is this done. Nowhere else is this an issue. And owners and representatives are now saying wait a second. What's the cause benefit? Is it worth going through this to be here. And I'm not asking you to give me the answer, now. I want bright line tests, not an officer on a bad day saying I want to now check everything out, is the way you might want to be looking at it and I would do it sooner rather than later.

A/D Flores

Well, obviously over the past four years, and as Bill has been port director down at the port of San Diego, I don't see that as a problem. I don't see it as an issue, or any of those occurrences have happened. So if you have a specific example of why people aren't coming because we have stepped into that, or made our own determination, or an officer has, then I'd like to hear about it, and we can talk about it offline. But as far as I know, as far as the way we're running our operation, that's not an issue.

Eric

Well I'll give you the example. I knew nothing about this until yesterday. I sat here and I forget her last name, Leticia, made a comment and everybody went oh boy. There it is. So you go how do I avoid that, how is it that now this issue of intent to sell gets to say I'm going to ignore a corporate entity that the US constitution says it can't do. That's the example. And I don't expect you to stand up there and wave your hand and say here, this is the answer. I'm saying it needs to critically be resolved and I think from CBP you need to say what are we trying to accomplish here? It's not a security issue. It's an economic issue. What are the economies here, what are we really trying to accomplish as opposed to gotcha, or maybe we gotcha. And let's have the lawyers make lots of money to get determinations that maybe contrary to somewhere else in the States and now you get some office in Maine going well, you had this ruling in San Diego and now you're here so we're going to collect that money. These are the things that we need to be concerned about because it's big bucks.

Martin

Thanks Eric. One last question at the back and then we'll let these guys get back to work.

[From the floor]

I was just wondering, is there a way that might clear up the grey area as far as the interpretation and perhaps come up with a way that we can pre-qualify a yacht before it gets here?

A/D Flores

I think that was the suggestion that was brought up earlier about the email.

[From the floor]

Yes, and even further than that. Because I think that would really put people at ease and feel more safe to come here. Because a lot of people are just by-passing the area because of this.

A/D Flores

That's something we can look at, and I'll talk with Bill on the possibilities of having that in place.

Cris Wenthur

So just to cut to the chase. This is what I understand to be the issue. If a boat is legitimately coming in for a repair, refit, modification, provisions, and there's no other indications of some sale or charter, that's not a problem. That's not the issue here. But isn't the real issue, and what I want to know—is there a certain level of presence in the United States of a foreign flag boat owned by a US citizen, a certain level of time that your department actively looks at to assess a duty. Isn't that the real issue here? The issue is, you've got a US citizen here for an extensive period of time, not undergoing repair, refit, modification, owning a foreign flag boat under a cruising licence here in the US.

A/D Flores

And again, there are a number of factors, and if the records show that the vessel has come in and out, and it leaves, and it doesn't appear that it's ever continually stayed here, that it's operated within its cruising licence guidelines, it's operating within that, then there is no fear.

Cris

I understand that. So indirectly what you are looking for is whether or not that foreign flag boat has indeed left the country periodically?

A/D Flores

Obviously that is what we look for when we're looking for violations. Is that the only thing we look for? There again. If you read through the rulings—I mean they even go into the way the vessel was built. And the specifications of the vessel. It goes into leading towards cruising in certain areas as opposed to the US. There are a number of factors out there for that.

Martin

I think we'll let—Sam do you want the final say?

Sam

I know it's not the main issue that we're discussing, but on the provisions that there were out several years ago this issue had come up and a port information notice was sent out to the community which addressed the non dutiable for the provisions and dockside repairs. So maybe I can go and have that put out again and try to get that information out so there is some level of confidence in that area.

Martin

Alright. Gentlemen, thank you very much for your time. I think we've raised an issue that will be looked at. Thank you.

And what we'll try and do is, with any information that comes out of this we'll make it public on our website and through the magazine.

Doug

It strikes me that this whole conversation the last couple of days has been like camping in the desert. An *intents* experience.

Martin

The jokes were last night. Alright, John ? do you have your gun?

John Corrough The Corrough Consulting Group

Clearly that's a hard act to follow. So I'm going to do a little change of pace here, I'm going to do two things. I'm going to intrude into the question and answer session because that time was obviously taken by attorneys, for the most part, and others, and I'm going to speak to this issue in two ways. One I'm going to start by saying thank you very much to Martin, The Yacht Report, their staff, and San Diego, the hospitality of everyone and all of the sponsors. I've had to put together international conferences like this for marinas and waterfront developments in the past, I know how hard it is, and not only thanking those but everyone who attended and I didn't even put together this conference. So I get to do this as the wrap up guy, to thank you from everyone here although they didn't appoint me.

And then my original role here and I won't go into my bio, it's in the document there, but like everyone else up here I've spent a lifetime in both the working and recreational parts of the industry and I've also had a 47 year professional career advising the industry on the facilities side. We talked about facilities. And you folks, for the most part, with the exception of a couple of you who operate facilities here, and that includes yards and marinas, are the demand side of the equation. The facilities are the supply side. Right now the demand for megayacht facilities and services, hard objects and soft people who know what they're doing so outstrips the supply that we are in effect in an infinite demand for a finite resource. And that finite resource is shrinking as opportunities along the west coast for additional development are precluded by environmental, political, emotional, and lack of available affordable sites. What I'd like to do is expand the west coast definition as Doug did it earlier—and build off that. Because of where we're working, and how we're seeing that the way in which the facilities side of this relates to the west coast opportunities and problems and also talk about the facilities' needs. Very briefly.

The example that Doug gave you of the tip of Baja to Seattle was great, it's perfect, I'm going to add one thing, at the north, which is Vancouver. The reason I'm adding Vancouver and Seattle, and San Diego and Ensenada, work in a duality way or can work, should work, of being portals in and out of the respective countries and in and out of the respective means of legally entering, importing, doing a whole series of other things. If you don't have the right number of facilities on each side you're stuck. And since both of those locations, Ensenada and Vancouver, are also major pick up points and drop off points for the yacht transit industry, which is a major asset to those who don't want to have their vessels go there on their own bottom, there is a concern from that side of the industry about a lack of supply. Where are our customers going to keep their vessels before we pick up, and where are they going to be after we leave them. So there is that aspect of demand which is a floating one. And we're seeing an awful lot of that in the areas where those pick up points are and where they would like them to be. Finally, on the extension of the west coast concept, we see on the basis of our experience both with market analysis and also with facility planning and design, 9 distinct locations where the megayacht industry and the megayacht facilities industry are going to have to really work together to get the kind of positional strength and credibility that this kind of discussion that we just had here needs at the political level, at the economic level, at the sort of general understanding level. Those are outside the country at Baja, la Paz and Ensenada, and we'll return to Ensenada in just a moment. Obviously San Diego. San Diego is the big gateway between the US and Mexico and the South Pacific. And the South Pacific is a growing, an extraordinarily growing market. We're all over the place down there, these days. We were there in the 90s, and we're back because people want to expand or convert their facilities, or build new, to deal with megayachts, and with megayacht pick up and drop off points. So across the pond, or into the pond are also major considerations as are passages up and down the coast. Where I'm from, Newport Beach, where I also for my sins have been on the Harbour Commission for a number of years, and we're on obviously the supply side there, we have a large number of megayachts, we have people buying \$20million homes to keep \$40million boats on the pier and never occupying the home. Clearly that's desperation level. But it is a significant consideration. We expect to expand the capacity of megayachts by one means or another in Newport Harbour, the largest small craft harbour, in the United States, forget Fort Lauderdale, by approximately 300% over the next 5-7 years if everything comes together. That includes both public and private facilities. LA and Long Beach Harbour are similarly undergoing expansions or second phases of projects that have now shifted from more of the same from a first phase to something different, megayachts, superyachts and dedicated facilities. So both those ports are part of the equation along with the port of San Diego. San Francisco bay has been alluded to, similarly there are four activities underway up there right now that are directed at megayachts, both public and private facilities that are changing the existing facilities or expanding or adding new. Seattle, Puget Sound we've discussed a couple of examples up there, there are megayacht facilities and changes occurring there. Vancouver, we're engaged right now in planning and design of a major megayacht facility at the brand new convention centre, which will be the largest in the Pacific North West by a long way, being developed by the existing marina operator in the harbour in conjunction with the city. So clearly the supply side is beginning to catch up but it will never catch up. The problem will now be prioritisation, scheduling, and encouraging the rest of the supply side politically and through industry action and information and education of the need to expand the supply. Well who cares about expanding the supply for a bunch of poor millionaires and billionaires with their 150 foot boats. It's just not a political hot button these days for anyone who's an appointed or elected official to take on, as something that they're willing to champion and so forth. Until—that economic study, parachutes in from outside— it was paid for

by the marine industries of South Florida, on what is the impact of megayachts and superyachts in Fort Lauderdale from the standpoint of direct economic benefit and indirect benefit to economics and employment. The moment that hit the street in Fort Lauderdale everyone's attention was riveted on that. The newspaper, the mayor—who needed something to wave at people saying see, I've been telling you. You need something like that. We need that in Newport, they need it up and down the coast. This industry, as an industry, the megayacht demand side and supply side, have got to collaborate on commissioning and funding those kinds of studies industry wide—a megayacht creates this kind of benefit in relation to 10 vessels of 60 feet. That kind of thing. Second, you need to make sure that the industry that I represent, which is the planning and design and management, marketing and so forth, of marinas and facilities fully understands the daily evolution of the needs of megayachts in berthing, in terms of services and so forth. I have to update my development programmes almost weekly these days, at the rate that you folks are changing the design of things, where you're putting the electrical stuff, whether you want this or that, floating docks, fixed docks. The industry itself, the supply side, was trying to respond to that last month in April—in Fort Lauderdale—Bellingham Marine, the largest manufacturer of docks in the world held a seminar with—some of you may have been there—several megayacht captains to once again quiz them on where are you going, what do you like, what don't you like, what do your owners like and not like. So we're proactive, we need you to meet us more than half way of telling us this is where the technology is going, and what we need about docks and security, and what we need about utilities. I mentioned something yesterday and I didn't mention it lightly, that the shock of the faces of the Vancouver city government as to what the demand for electricity was going to be in that megayacht facility is what we're meeting here. This is a whole new paradigm of design, of demand on infrastructure and so forth. But we need help on getting the word out, we need help in defining and we need your support in all order to represent your ultimate needs there.

Finally, the duality issue of the importance on our borders here. The west coast strategy is all the way from La Paz to (I'm going to exclude Costa Rica and Alaska for lack of continuity reasons) Vancouver. For the reasons that I said. Everything from yacht delivery systems to cross border relationships. In Vancouver we're going to have a major facility, we're hoping there will be major facilities in Seattle. We're working on one of them but they're not as major as they should be, we're trying to get an aggregate critical mass on each side of that border that can handle the cross border traffic that we've determined is going to be occurring from the projected demand. Similarly, we've got a project across the border in Ensenada that's proposing and will be providing 76 megayacht berths ranging from 80ft to over 400ft, along with all the other purpose built megayacht facilities; we're expecting that good old San Diego proudly described by the rest of this table up here is going to be able to belly up to the bar and expand the megayacht facilities that are currently here, not just the service facilities, but the *where do I put it* and how do we get pressure on them to reopen the Broadway Pier so you can check in more than one 235 footer at a time, for heavens sakes, in this harbour. So there's things like that which need action from this group, and which are cross border relationships. So I would recommend that, in this case, since we're in San Diego, you work strongly with the folks that are trying to do the facility in Ensenada and say here, we'll pick up our end of the log here, in trying to work that cross border relationship. Thank you for your attention. And I am reminded in closing of a situation very similar to this little call to action speech, in which a bunch of us were sitting around a pizzeria table with about 6 pitchers of beer and out of that discussion was formed the International Marine Association, which was the first organisation of marina operators in the United States in addition to the Marina Operators Association of the United States that was geared to not just exchange of information and gathering of information and dissemination of

statistics about the thing, but it was linked to the National Marine Manufacturers Association, the demand side, so we knew how many boats we were going to have to build for, in terms of projections, and what their sizes were. We need that sort of beer at the table discussion with this industry between the demand and supply side. The second thing that happened was, everyone was saying (and we've heard that here) well we can build these facilities and we've got new technologies and new ideas and all the data we need to have to build them, but where are we going to get the trained people that really know about this stuff, and how are we going to succeed in the thing when one person becomes so good that they're in demand and we lose them? We can't keep them? Well, how do we keep bringing people into this industry? IMI created a training programme for both marina managers and for marina personnel and has created training programmes for everything from forklift people to diesel mechanics to the people in the front office. That's a whole separate division of what is now the Association of Marine Industries. There is no comparable thing for the megayacht industry and the megayacht facilities industry. I would ask that you think on an international basis as well as a national basis, and certainly here in California and cross border, we think about those kinds of things. Because who's going to operate these things, how many languages do they speak, like many of your captains, and many of the people in this room speak many more languages than most of us in the United States, and that's needed, and there's all sorts of continuity skills, people skills, and so forth, that need to be picked up, to pick up the slack from what I've been hearing, not just from this room, but also from my clients and the people that they represent. Again, thank you for your attention, I wish you safe journey home, and successful business. I expect to see you at a pizzeria someplace with a bunch of pitchers of beer in front of you, sometime in the future, to kick this thing off and get it moving. Not only regionally, but internationally.

Martin

John thank you very much indeed. I think we've got about 5-10 minutes for a few discussion points; any hands that need to go up. OK. Desperate to get on the boat. One question for the panel really is, in the last 12 months, how many hundred foot plus yachts have been through the area?

Panel

25, 35.

Martin

OK. It seems that the potential is there, there's a few CBP issues to be addressed, logistical issues to be addressed. If they are addressed, they'll be reported and hopefully we can put San Diego even more on the map. In a closing comment, I've thoroughly enjoyed being in this town, I'm glad you all came, I think we've all had an interesting three days with now an interesting afternoon hosted by Sam from Knight & Carver and Todd from Marine Group Boat Works. They're going to show you what they can do over on their facilities and we'll have an interesting tour of San Diego harbour. Again, thanks to our sponsors, thanks to everyone who's turned up, the speakers, and of course my impeccable team who do all the work, I just turn up, and we'll see you again, wherever it may be. Thank you. And in the words of one of your local famous celebrities, I'll be back.
