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MEETING OF THE STATE LANDS COMMISSION

2 P.M.

MARCH 11, 1957

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ROOM 5100

STATE CAPITOL BUILDING

SACRAMENTO, CALIFORNIA

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COMMISSION MEMBERS PRESENT:

JOHN M. PEIRCE, Chairman

HAROLD J. POWERS, Member

ROBERT C. KIRKWOOD, Member

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STAFF MEMBERS, STATE LANDS DIVISION, PRESENT:

F. J. HORTIG, Assistant Executive Officer

RUFUS W. PUTNAM, Executive Officer

KENNETH C. SMITH, SUPERVISING LAND TITLE ABTRACTOR

JULIA T. STAHL, SECRETARY

F. W. PORTER

E. WERNER

ROBERT La VELL

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PAUL JOSEPH, DEPUTY ATTORNEY GENERAL

J. SHABESON, DEPUTY ATTORNEY GENERAL

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David N. Dale, Reporter

1 CHAIRMAN PEIRCE: All right, folks. Let the meeting come to
2 order. Now the first order of business is the confirmation of the
3 minutes of the meeting that took place on January 28th and Feb-
4 ruary 7th. Copies have been mailed to members of the Commission.
5 Any corrections; any questions?

6 MR. PUTNAM: We have no corrections.

7 CHAIRMAN PEIRCE: Mr. Kirkwood, okeh?

8 MR. KIRKWOOD: Okeh.

9 CHAIRMAN PEIRCE: The minutes will stand as approved and
10 written.

11 Colonel Putnam?

12 MR. PUTNAM: We'll start right in with Item No. 1, sir.

13 CHAIRMAN PEIRCE: All right. Item No. 1 on the agenda. Page 1.

14 MR. HORTIG: On January 10th the Commission deferred action
15 on the specification of a surety bond to be maintained under Oil
16 and Gas Lease P.R.C. 1466 in the Rincon Oil Field as held by
17 Richfield Oil Corporation. The specific lease provides that a
18 surety bond may be required not to exceed 50% of the cost of the
19 filled lands and auxiliary structures to guarantee the faithful
20 performance by the Lessee of the placement and maintenance of the
21 filled lands and the removal thereof at the request of the State
22 upon termination of this lease.

23 Cost estimates under a construction contract which has been
24 awarded for the erection of a drillsite island under the subject
25 lease at an estimated cost of \$2,680,000, current estimates of
26 the cost of removal of the offshore island, and estimates of the
27 cost of island maintenance and ultimate removal of surface equip-
28 ment and of the island have been reviewed by the staff. In
29 conformance with the policy of the Commission for specification of
30 lease performance bonds in a reasonable amount to assure future
31 compliance with all lease terms and conditions, it appears from
32 the aforesaid review that a performance bond in the amount of

1 of \$500,000 should be required.

2 It is the recommendation that the Commission authorize the
3 Executive Officer to inform the lessee Richfield Oil Corporation
4 that a bond in the amount of \$500,000 shall be filed and maintained
5 to guarantee the faithful performance by the lessee of the
6 specific lease requirements under Oil and Gas Lease P.R.C. 1466.

7 A representative of Richfield Oil Corporation is here today
8 if the Commission has any questions to ask him.

9 (Harold J. Powers, member, arrived at this point)

10 CHAIRMAN PEIRCE: Do I recall that at one time we contem-
11 plated requiring a larger bond than this?

12 MR. HORTIG: \$1,250,000 was the original staff recommendation.

13 CHAIRMAN PEIRCE: Now you believe that \$500,000 will protect
14 the State adequately?

15 MR. HORTIG: Adequate and in conformance with Commission
16 policy as it has been conducted in all other leases. This is in
17 excess of the amount that the lessee proposed should be filed.

18 Mr. Cook of the Richfield Company is here and perhaps would
19 like to make some comment.

20 CHAIRMAN PEIRCE: Has the lessee contested this?

21 MR. COOK (Richfield Oil Corporation): We still feel this
22 bond is in an amount that is more than is necessary. However we
23 will agree to the recommendation of the Staff.

24 CHAIRMAN PEIRCE: All right. Is there any further discussion?
25 The recommendation of the Staff is before us.

26 MR. KIRKWOOD: Move its approval.

27 MR. POWERS: Second it.

28 CHAIRMAN PEIRCE: It's been moved and seconded that the
29 recommendation be approved and so be the order.

30 Next item?

31 MR. PUTNAM: Mr. Chairman, we have quite a few appearances
32 and I would like to take them up out of order here if we can?

1 CHAIRMAN PEIRCE: All right. What is next in order?

2 MR. PUTNAM: Pages 46 to 47.

3 CHAIRMAN PEIRCE: All right.

4 MR. HORTIG: An application has been received from Mr. Harry
5 J. Stevens of Cayucos, California, for a permit to prospect for
6 all minerals other than oil and gas in Lots 1, 7, and 15 in the
7 North one half of Section 33, Township 29 South, Range 12 East,
8 in San Luis Obispo County, containing approximately 65 acres.

9 Field reconnaissance and record review by the staff have shown
10 that the area for which application has been made cannot be
11 classified at this time as known to contain commercially valuable
12 deposits of minerals. The subject area was acquired by the state,
13 has been administered by the office of the Adjutant General, and
14 the surface is included in a lease to the United States Army as
15 part of Camp San Luis Obispo. The office of the Adjutant General
16 reported nonobjection to the issuance of a prospecting permit for
17 the subject area, subject to compliance with two conditions to be
18 approved by the installation commander, and written approval with
19 these conditions has been received from the Commanding Officer of
20 the Camp San Luis Obispo.

21 Therefore it is recommended that the Commission find that
22 Lots 1, 7, and 15 in the North half of Section 33, Township 29
23 south, Range 12 east, San Luis Obispo County, are not known to
24 contain commercially valuable deposits of minerals and authorize
25 the Executive Officer to execute and issue a two-year prospecting
26 permit to Mr. Harry J. Stevens in accordance with the Public
27 Resources Code for the subject lands with the royalty payable
28 any preferential lease upon discovery of commercially valuable
29 deposits of minerals to be in accordance with the established
30 schedule established by the Commission heretofore for minerals
31 other than oil and gas.

32 Mr. Peirce who is a mine operator on an adjoining piece of private

1 property adjoining the State lands is here today to protest the
2 issuance of this permit.

3 CHAIRMAN PEIRCE: : Did you say Peirce?

4 MR. HORTIG: Peirce; yes, sir.

5 CHAIRMAN PEIRCE: Where are you, Mr. Peirce?

6 MR. PEIRCE: Here, sir.

7 CHAIRMAN PEIRCE: All right. You have the same name as I
8 and I want to make it clear that you and I are not related.
9 All right. Now you would like to protest this recommendation with
10 respect to this lease being given to this man and so will you tell
11 us why you are against it?

12 MR. PEIRCE: There was a State Engineer came up to look at
13 the property, that, approximately two weeks ago, I guess, and it
14 was raining so hard he didn't get a chance to really look the thing
15 over. It was, everything was a sea of mud up there and it was
16 a hard, stormy rain and there's things that we haven't brought up,
17 didn't get a chance really to bring up such as the operation on
18 Lot 7 couldn't be carried on economically in our estimation because
19 there's too much dirt to move as well as too far to move it and it
20 would block a road that's been there for years and years and this
21 road is an access road to the Trinidad mine which we have leased.
22 And the only economical way in our estimation that could be
23 mined would be to carry dirt out through the present pit which
24 adjoins this Lot 7 and there's ore showing in the base of the pit.
25 The pit slope is cut on a three-quarter to one slope; three
26 quarters out as you drop one, and there's ore showing, a large
27 volume of ore showing right in the face of our pit and this ore
28 has been running there for approximately between 6- and 700 feet.
29 It's been a continuous body of ore with little breaks in it but
30 the pit is there to show where it has been mined and I wish to
31 contend this engineer who was there, Mr. Blossy, didn't have a
32 chance to really see the situation and I would like to have it,

1 this postponed until a further date until the State could send
2 another engineer if they wished to to examine the property under
3 better conditions.

4 CHAIRMAN PEIRCE: Mr. Hortig?

5 MR. HORTIG: Yes, sir. The examination referred to by
6 Mr. Peirce is actually the second one made by our office in con-
7 nection with this property. This application for permit has been
8 pending for approximately two years, with the delays which are no
9 fault of the applicant. The Camp Commandant of Camp San Luis
10 Obispo and the State Water Pollution Board were concerned whether
11 additional mining operations in the area might be detrimental to
12 the Chorro River water shed which is the water supply source for
13 Camp San Luis Obispo.

14 These problems were finally resolved by those other agencies
15 where we again had no control but to await their findings. And
16 it was determined by these agencies that additional operations
17 on this area for which Mr. Stevens has made application would not
18 be detrimental to the water shed; therefore no objections.

19 So we are faced with the problem that under the law if the
20 lands are not known to contain commercially valuable deposits of
21 minerals, that particular land, then the prospecting permit may be
22 issued. The ore discoveries on the adjoining land to which
23 Mr. Peirce has referred were not known to exist at the time of the
24 application by Mr. Stevens. These ore discoveries on the adjoining
25 land have been made during the interim period while all these other
26 delays were ensuing and the other activities relative to the
27 water pollution and so forth were under consideration.

28 Additionally I believe from conferences we have had in our
29 office with Mr. Peirce I believe Mr. Peirce agreed that surface
30 inspection of the State lands shows nothing and knowing only of
31 a surface inspection of the State lands it could not be contended
32 that the State lands contained commercially valuable deposits of

1 minerals. Mr. Peirce's opinion with respect to this mineral con-
2 tent on the state lands is based on his estimate of what there may
3 be under the state lands by reason of his having developed similar
4 ore on the adjoining lands, but as to which are privately owned.

5 But as to the state lands there has been no prospecting, no
6 development and there's no surface evidence on the state lands
7 from which it can be independently contended that those lands are
8 at this time known to contain commercially valuable mineral deposits.
9 The Commission will recall we had a similar situation with respect
10 to uranium deposits in Imperial County and the Court since held
11 that the Commission was to be guided by the criteria which were in
12 existence for the specific state lands, and on that basis the staff
13 has recommended that in this case the permit be issued.

14 CHAIRMAN PEIRCE: Now Mr. Peirce stated if I understood him
15 correctly that the granting of this permit might interfere with a
16 road which connects the main highway with his property; is that
17 correct?

18 MR. PEIRCE: That's correct.

19 CHAIRMAN PEIRCE: What about that, Mr. Hortig?

20 MR. HORTIG: This, of course, would depend on the actual
21 nature of the operation. It is possible, for example, since we are
22 in the realm of theory, under the worst circumstances it could
23 happen that ore permittee, if we have one, would proceed with core
24 drilling the state lands and discover that there are actually no
25 commercially valuable deposits of minerals in the land in which
26 event there would never be any large scale earth removal.

27 If there were, such as might hamper road operations, I think
28 very reasonably alternative road provisions would have to be pro-
29 vided if it has been a normal access road, and certainly this would
30 be required by the camp commandant of Camp San Luis Obispo who up
31 to now has not indicated any concern over the road situation because
32 we have not actually been in to an operation which might involve

1 the roads. In that connection the camp commandant has still
2 retained some measure of surface jurisdiction on the operation in
3 that there is a spe_cific requirement relative to other operations
4 being conducted by our applicant, Mr. Stevens, on private land,
5 that if he mining operations should become profitable and such
6 an operation would require the installation of a mill that the
7 permission for installing a mill and other road and other addition-
8 al facilities will have to be the matter of separate approval of
9 the camp commandant at the time that an actual physical condition
10 is known to exist.

11 MR. KIRKWOOD: Is this a road on State land that is presently
12 being used?

13 MR. PEIRCE: Yes, it is.

14 MR. HORTIG: Well, partially. It wanders through the camp
15 area and out of the total camp area we only have 64 acres of land.
16 There are three groups of land.

17 MR. KIRKWOOD: Is there a right to use that road? If we put
18 something in the permit that would require the road to be kept open
19 would that be admitting a right that otherwise isn't established?

20 MR. HORTIG: That could be.

21 MR. PEIRCE: This road is an old road. The mine was patented
22 in 1882 and this road is mentioned in the field notes which makes
23 it a road that has been there, and the hill is situated so that
24 there could not be another road made without a very steep grade
25 to get to that mine and out, you know, to and on our way out.

26 CHAIRMAN PEIRCE: Do you wish to be heard in connection with
27 this?

28 MR. STEVENS: (Harry J. Stevens) Yes.

29 CHAIRMAN PEIRCE: You are the applicant?

30 MR. STEVENS: Yes. And the road dead-ends about another two
31 or three hundred feet from this lot 7 he's referring to, and I
32 certainly wouldn't try to do anything that wasn't in compliance

1 or good relations in as far as the mining operation.

2 CHAIRMAN PEIRCE: You do not contemplate changing the route of
3 the road or surface?

4 MR. STEVENS: Not at all to cause any hardships or anything of
5 that nature.

6 CHAIRMAN PEIRCE: Are you satisfied with that promise,
7 Mr. Peirce?

8 MR. PEIRCE: Our contention is that in a mining operation, a
9 stripping operation, there wouldn't be sufficient room to dump the
10 dirt below the road. Therefore, any large scale operation would
11 have to cover this road because this lot 7 is a rectangular piece
12 of ground.

13 MR. STEVENS: Who knows whether we need any dirt room?

14 MR. PEIRCE: I don't know if anybody does or not.

15 . . . in so far as the known minerals, I contend that
16 where there's chrome ore been followed for approximately six hundred
17 feet, a body of ore with various little breaks in it, that, and
18 it's just as large in the face of our cut now as it ever was, and
19 where you can see the top of the ore in the face of the cut is
20 approximately forty feet from the State line and there's ore also
21 in a vertical of fifty feet which would make it, will make it
22 impossible to just take the dirt out any other way besides this
23 pit to get that lower out. If there was a mining operation carried
24 on there the State wouldn't get the benefit of the full amount of
25 ore in that area.

26 MR. STEVENS: What about yourself? If we would have to work
27 out an agreement between us.

28 MR. PEIRCE: There will be no agreement, sir. Anything based
29 on where it has to be worked on, an agreement with someone else
30 I don't thin, well, I just don't think it's an operation in its
31 own.

32 CHAIRMAN PEIRCE: Well, now, Senator Earhart, this is in your

1 county. Have you any knowledge with respect to this situation
2 that might be helpful to us?

3 SENATOR EARHART: No, I only have the information the Staff
4 has given to me and I have been interested in the case because it
5 has hung fire nearly two years. I know we have had difficulty with
6 the Army and Guard and those things have been overcome, and I
7 think things should come to a head. This man has an application in
8 and he's trying to operate a project. He will explore it and two
9 years from now we'll know whether there is ore or not and if he
10 then applies for, when this permit expires at the end of two
11 years we'll know where we stand. I am interested that this
12 thing be brought to a head, whether it be Mr. Peirce or Mr.
13 Stevens.

14 Of course Mr. Stevens was the first applicant. Therefore, he
15 has a preference.

16 CHAIRMAN PEIRCE: You don't think the granting of this permit
17 would be contrary to the public interest in San Luis County?

18 SENATOR EARHEART: No; no; no.

19 CHAIRMAN PEIRCE: Now, gentlemen, we of the Commission have
20 to rely on the advice of our technical staff and their recommenda-
21 tion to us is that this permit be granted. It's good for two
22 years and without seeing the ground or knowing any of the details
23 I would assume that Mr. Stevens will carry on his prospecting oper-
24 ations there without committing any nuisances and I infer from what
25 he said that the road which passes through the property would
26 not be closed nor would you be deprived of use of that road.

27 I don't know of any other reason why we should deny this
28 permit. Your statement with respect to the fact that the engin-
29 eering, that the report may not have been adequate, I now hear
30 that there were two such visitations, Mr. Hortig?

31 MR. HORTIG: Yes, sir. On behalf of the State Lands Division
32 there have been other engineering appraisals by independent

1 appraisers and some also retained by Mr. Stevens and it is clear
2 that we have ore on Mr. Peirce's property, but we do not know
3 independently that we have the ore on the State land from explora-
4 tion of the State lands. There is a definite probability and
5 possibility as Mr. Peirce has outlined that it's there. It could
6 also stop right at his line. It has happened before. This is
7 why a prospecting permit should be issued.

8 CHAIRMAN PEIRCE: Yes. Now, Mr. Peirce, have you anything
9 else to say?

10 MR. PEIRCE: I should think that it should be of interest
11 to the State whether an operation can be carried on successfully
12 or not, if there's room to carry this operation on, and I don't
13 think that there's been any engineer look at it with that in view.

14 MR. HORTIG: We have looked at it, Mr. Peirce. The problem
15 before the Commission is that it has an application on lands that
16 qualify for issuance of a prospecting permit from a qualified
17 applicant and has had only one application and that one of
18 Mr. Stevens. You are, of course, the operator on private lands
19 alongside. If we had all of the area under State jurisdiction we
20 would certainly probably recommend a different type of engineering
21 program or app_roach for developement of the State lands if we
22 could do it concurrently with your property, for example, but
23 this we do not have. We have simply the 64 acres under our juris-
24 diction to be developed, the best way possible under the existing
25 State law for issuance of a prospecting permit.

26 MR. PEIRCE: What we would like to see and I think it would
27 be to the interest of the people and State and all would be have a
28 mineral extraction lease and go to the highest bidder such as the
29 State would receive more money out of the thing and so far as
30 guarantee of ore why we would be willing to put up a bond that if
31 we should happen to be the highest bidder that there would be a
32 given tonnage there.

1 CHAIRMAN PEIRCE: Are you interested in the same property?
2 Would you bid if it were put up for bidding?

3 MR. PEIRCE: Yes, I would.

4 MR. KIRKWOOD: Actually do we have any discretion in this
5 matter?

6 MR. PUTNAM: Not if there's no demonstration made as a result
7 of an engineering examination/^{that}there are commercially valuable
8 deposits on this land. It must go to prospecting. If there is
9 a further demonstration then we can as Mr. Peirce has asked put
10 this up for competitive bidding. We got nothing to offer yet.

11 MR. PEIRCE: Well, you wouldn't have to worry about the
12 bidding.

13 CHAIRMAN PEIRCE: Well, gentlemen, what is your pleasure?
14 Yes, Mr. Stevens?

15 MR. STEVENS: I have had this application in for long before
16 Mr. Peirce was out there mining the mine that he so speaks of was,
17 has laid there for about ten years, that hardly anything was taken
18 out of it and he leased the adjoining property about a year and a
19 half ago; something like that. He's been mining this pit about
20 little over a year, that he speaks of and the mine --

21 MR. PEIRCE: That is a known deposit of ore. It was mined
22 back in the 1880's so it's nothing new that just came up. It was
23 a patented claim in 1882.

24 CHAIRMAN PEIRCE: What happens if the prospect turns up some
25 valuable minerals?

26 MR. HORTIG: Then the permittee is entitled to a preferential
27 lease.

28 MR. KIRKWOOD: On which he does not have to bid?

29 MR. HORTIG: That is correct, at the royalty rates as speci-
30 fied in the permit as set out in the recommendation which are identi-
31 cal with all our ore chrome permits and chrome leases that the
32 Commission has leased.

1 CHAIRMAN PEIRCE: When does competition enter, then?

2 MR. HORTIG: Only in two circumstances. One, if the lands
3 at the time of an application are known to contain commercially
4 valuable deposits of minerals in which event they are offered for
5 competitive public bidding or in the event of a prospecting permit
6 containing more than 160 acres. Then in case of discovery the
7 permittee may retain any 160 acres of the area and if the balance
8 has been demonstrated to be commercially valuable that balance
9 is then offered for competitive public bidding.

10 CHAIRMAN PEIRCE: That is the law?

11 MR. HORTIG: Yes, sir.

12 MR. KIRKWOOD: You mentioned a case earlier in which there had
13 been a finding and ore discovery on adjoining property didn't neces-
14 sarily prove up, or a similar case to this, or what was that?

15 MR. HORTIG: Yes, Robbins vs. the State where a mining
16 claimant contended that the lands commission had improperly classi-
17 fied a piece of State lands as being valuable for prospecting
18 permit in that that mining claimant had actually removed ore
19 from the State land and sold it in an attempt to establish its
20 commercially valuable deposits even though they in this instance
21 tried to do it on the surface, not simply next door, but actually
22 on the State lands. The Court held that the State's classification
23 was dependent upon the State's examination of the lands at the
24 time of the application and that there was no basis for demonstrat-
25 ing that the State lands themselves contained, were known to con-
26 tain commercially valuable deposits of minerals and therefore a
27 prospecting permit was properly issued.

28 CHAIRMAN PEIRCE: Any further discussion?

29 MR. PEIRCE: I would like to, if we could get a stay, a grant
30 of time, a month before this was closed, for to give us a chance to
31 get actual figures and engineers, you know, to go over the
32 property.

1 CHAIRMAN PEIRCE: Well, this thing has lagged now, or been
2 before us for what, two years?

3 MR. HORTIG: Two years.

4 MR. PEIRCE: Well, two years. And one month more would not
5 be much.

6 CHAIRMAN PEIRCE: Well, the only thing is that it can't go on
7 indefinitely. Again I want to say we have had two engineering
8 examinations of the property according to Mr. Hortig, and I am
9 reluctant to suggest that there be any further delay. Senator
10 Earhart has pointed out that we have had this in the hopper for
11 two years and he urges us to act without further delay.

12 MR. HORTIG: Three years; may I make that one correction.

13 CHAIRMAN PEIRCE: All right; three years.

14 MR. KIRKWOOD: As to the law. I am curious. Do you know,
15 have you checked on that case?

16 MR. SHABESON: No, sir, we weren't consulted in this matter.
17 I do know there are some decisions by the Department of Interior
18 that indicate a rather broad interpretation of the phrase, "Known
19 mineral land". Now I think, I wouldn't want to say anything until
20 I have had a chance to do some book work on this particular
21 problem, but they have interpreted the phrase fairly broadly.

22 MR. PEIRCE: It would be my contention that the ore showing
23 in this pit face right adjoining would indicate, or in some way
24 show that there is ore on this State land. Now ourselves, we have
25 drilled right next to the State land. I can't bring that as evidence
26 because you can't go there and see it but I know it's there, but
27 no one else besides our driller knows it's there. We drilled right
28 up to the line and along the line before we made our present cut
29 and we know the ore is there. But to bring it out visually no one
30 else knows because they haven't seen it besides our driller and
31 two of my brothers.

32 CHAIRMAN PEIRCE: Well, gentlemen, what do you think?

1 MR. KIRKWOOD: "Known to contain," is a finding at the time
2 of the filing?

3 MR. HORTIG: At the time of issuance of the permit, actually.

4 MR. KIRKWOOD: We are making a finding as of today?

5 MR. HORTIG: "No permit shall be issued for any lands which
6 have been classified by the commission prior to such application
7 as containing commercially valuable mineral deposits. Upon
8 receipt of an application for a permit, the commission shall
9 determine whether the lands described therein are known mineral
10 lands. If it determines that the lands are known mineral lands,
11 it shall thereupon so classify them and shall reject the appli-
12 cation for a prospecting permit."

13 And then, "The commission shall issue a prospecting permit
14 under such rules and regulations as it may prescribe for lands
15 which are not known mineral lands to any qualified applicant upon
16 the payment of the prescribed fee."

17 CHAIRMAN PEIRCE: You want to vote now, or postpone it?
18 What do you think, Butch?

19 MR. POWERS: Well, that depends on whether there's known
20 mineral on this land.

21 MR. PEIRCE: Well, it's not visually -- you can't see it. We
22 know it's there but we can't show it to anyone unless they would
23 grant us permission to drill a hole right on the line.

24 MR. POWERS: I am reluctant to go against the Staff's findings.

25 MR. HORTIG: Well, Governor, it reduces to this. What Mr.
26 Peirce says is undoubtedly a good gamble but it will not be known
27 until it is either actually excavated or drilled into.

28 MR. KIRKWOOD: When do you ever classify as known?

29 MR. HORTIG: We have had at least two circumstances where
30 because of trespass other people have uncovered ore bodies on
31 state lands.

32 MR. KIRKWOOD: Is a finding ever made short of a trespass then?

1 MR. HORTIG: Short of an exposure, no, sir.

2 MR. POWERS: Does our Staff have the facilities to go in there
3 and determine if there is ore or not?

4 MR. HORTIG: Yes, sir, such an examination was made and as a
5 matter of fact such an examination of the State land was actually
6 made by Mr. Peirce on the surface and from his own examination on
7 the surface of the State land he cannot state that the State lands
8 are known to contain commercially valuable deposits of minerals,
9 but from the probability of the developement on the adjoining
10 land, his own land, he feels that it is probably a better than
11 average gamble.

12 MR. PEIRCE: This ore body is a hundred feet wide, approxi-
13 mately a hundred feet wide and quartering into the State land
14 and it's right up to the line. We found where our drill holes is
15 right to the line and a hundred feet ore body don't just break off.
16 It's possible, yes, but I have had a lot of experience in mining
17 chrome and anyone else that has mined it will tell you that.

18 MR. POWERS: The Senator seems to think that it should be
19 settled and he probably is right. Three years is a long time to
20 carry it on.

21 MR. HORTIG: As a matter of equity I think I should point out
22 to the Commission the fact that for the first year and a half of
23 the pendency of this application by Mr. Stevens in which the delays
24 as I stated were through no fault of his own nothing was known of
25 the minerals on the adjoining property which Mr. Peirce now reports.
26 In other words, these developments came starting a year and a half
27 after the application, but for the conflict and the other admini-
28 strative problems in the normal processing this prospecting
29 permit would have come and gone by now and probably come and gone
30 before Mr. Peirce's operations actually started next door.
31 This is what makes the thing additionally complex because now it
32 may not be basic law. There seems to be equity, some matter of

1 equity consideration in Mr. Stevens' application also.

2 MR. PEIRCE: Wasn't there, though, this ground was not
3 open for prospecting permit or mineral lease or anything else
4 until just recently. Wasn't it until the Adjutant General opened
5 it here a couple of weeks ago?

6 MR. HORTIG: No, sir, it has been eligible for application for
7 prospecting permit as long as it has been owned by the State of
8 California. The State Lands Division has never received an
9 application for a prospecting permit on these lands from anyone
10 other than Mr. Stevens.

11 CHAIRMAN PEIRCE: What's your pleasure, gentlemen?

12 MR. POWERS: I am reluctant to delay it any longer. I think
13 we might as well get started on it.

14 MR. KIRKWOOD: I would say that if the finding is as of the
15 date of the application or if by reason of the equities involved
16 that is the time we should make the finding, I don't think there
17 is any question from the evidence before us that as to the
18 classification. That is the basis. Now I don't know whether I --
19 I would be a little inclined to make that subject to a check with
20 the Attorney General's office or a clearance that that's the
21 finding we make.

22 MR. HORTIG: I believe if the Staff recommendation was predi-
23 cated even on making the finding as of conditions today that we
24 cannot state independently that the State lands are known mineral
25 lands.

26 MR. SHABESON: I might say if the classification, first of all
27 the Act refers to the lands being known mineral lands at the time
28 of the application, indicating that that is the test date, but if
29 the test were being made today I believe that under the practice of
30 the Department of Interior these could be classified as known
31 mineral lands even though they haven't been specifically explored.
32 Now I haven't done any particular research on this problem but in

1 connection with other matters I have, and I just want to say that
2 that's my recollection of the law in this area for what it's worth.

3 MR. HORTIG: I hasten to point out to the Commission, cer-
4 tainly not in debate on the legal issues involved, but the Depart-
5 ment of Interior practices under the Federal Mineral Leasing Act,
6 and they are distinct from the practices that have been carried on
7 under State law because the self same minerals are not classified
8 equally as minerals and known minerals under Federal and State
9 law. Consequently there are numerous distinctions and lack of
10 applicability of Federal practice to State practice.

11 MR. SHABESON: That's quite possible.

12 MR. KIRKWOOD: Your advice is regardless of the time of
13 classification, whether it's today or time of application, that
14 you could not classify this land as known; is that right?

15 MR. HORTIG: Independently from any review which can be made
16 in the field today restricted to the State land.

17 MR. KIRKWOOD: What if there was a bluff there and it was
18 exposed?

19 MR. HORTIG: And you could see into the State land proper?
20 This, of course, would be a different picture than we have. We
21 can only see into Mr. Peirces land. We cannot see into the State
22 land and Mr. Peirce himself will agree that from standing on the
23 State land and looking at the State land alone if he didn't know
24 about his land he would know nothing of the mineral value of the
25 State land. Is that not correct?

26 MR. PEIRCE: That's correct, but it's like this, as this
27 gentleman says, it is just as a bluff now, this pit that we have in
28 there. It's just as though you were standing down a bluff looking
29 horizontally at the State line you can see this ore there and
30 it's, although it's not actually on State land, all indications in
31 the world are, and any mining engineer I think you will find will
32 agree that that is carried on there. I don't know whether any of

1 them will or not.

2 MR. KIRKWOOD: You would not reclassify by reason of any
3 delay beyond today?

4 MR. HORTIG: No, sir.

5 MR. KIRKWOOD: Okeh, Butch, I will second the motion.

6 CHAIRMAN PEIRCE: The motion has been made and seconded that
7 the recommendation of the Staff with regard to granting this
8 mineral exploration lease to Mr. Harry J. Stevens will be approved
9 and so is the order.

10 MR. PUTNAM: Page 48, title, gentlemen.

11 MR. HORTIG: Mr. Peirce, I believe you stated mineral
12 exploration lease. Could we have that modified to mineral
13 prospecting permit?

14 CHAIRMAN PEIRCE: All right. It will be corrected.

15 MR. PUTNAM: Page 48. Ken Smith, will you take over on this
16 one?

17 MR. SMITH: The application of Mr. Ernest M. McKee to purchase
18 440 acres of land in Lake County was referred to the State Lands
19 Commission for consideration at its meeting held in Sacramento
20 on February 7, 1957. The Commission deferred further action on
21 the same pending discussion with the Attorney General's office
22 as to appropriate action to be recommended at the next Commission
23 meeting. Said recommendation was to be made at the next meeting
24 of the Commission that was not earlier than 30 days beyond the
25 date of the current meeting. The time in which Mr. McKee could
26 make payment of the additional application deposit was to be
27 extended concurrently. During that meeting, it was agreed that
28 the attorneys for Mr. McKee would furnish a brief within 20 days.
29 The brief was received by the Attorney General's office who was
30 likewise to submit an answering brief. That has been accomplished,
31 and the recommendation is that the applicant be granted an
32 additional 10 days from March 11, 1957, within which to submit the

1 required amount of \$97,900.00 to meet the appraised value of the
2 land and in the event Mr. McKee does not make this deposit within
3 the time specified, the Executive Officer is authorized to cancel
4 Mr. McKee's application and to return the land to the vacant
5 state school land list to be available for new applications and
6 for acquisition under the public bidding procedure.

7 MR. PUTNAM: Mr. McKee is here, sir, and also his lawyer.

8 CHAIRMAN PEIRCE: Mr. Tocher?

9 MR. TOCHER: (G. N. Tocher) Yes. Mr. Chairman, evidently
10 we didn't convince the Attorney General's office of our position.
11 Actually we had three purposes of being here today. I would like
12 to state them very briefly.

13 One, we didn't want to be in a position of abandoning. We
14 want to pursue all of our remedies with the commission and didn't
15 want to be in the position of abandoning our position before it
16 goes into a superior court.

17 The next, as Mr. Joseph stated last time, it will have to
18 be probably determined with court action. Now we would like -- as
19 we understand the problem the file is a public record and we
20 know there is an indemnity script certificate in the file and also
21 Mr. McKee's original application. I can see no objection why we
22 should not be entitled to certified copies of those documents and
23 if we are going to have to go through court procedure on this I
24 believe we should be entitled to those.

25 CHAIRMAN PEIRCE: Colonel Putnam?

26 MR. PUTNAM: I think that would be up to the Attorney General's
27 office to advise us whether or not those should be supplied.

28 MR. JOSEPH: Well, if you are asking me, I think there's a
29 a part of the file and I think there's no question it was in the
30 file and it won't do any harm unless there's something confidential
31 about the file. It's a fact that something is in there that they
32 call a script certificate and if they want to convince the court

1 that it is I suppose a true copy of whatever is there will have to
2 be furnished to them.

3 MR. PUTNAM: No objection to it at all then, Paul?

4 MR. JOSEPH: No. It's never been delivered to the applicant
5 but that fact has nothing to do with what the certificate is.

6 MR. TOCHER: We merely wanted certified copies. We would not
7 want the original document, of course.

8 MR. PUTNAM: Well, I think then, with what Mr. Joseph has
9 just said if you will furnish us a formal request of just what you
10 want I am pretty sure we'll be glad to go just as far as the
11 Attorney General will let us go.

12 MR. JOSEPH: It's a fact and nothing to be concealed in any
13 way.

14 MR. TOCHER: The last point I would like to bring up is we
15 filed a brief and an answer was filed by the Attorney General's
16 office. I would like to make it clear that we heartily dis-
17 agree with most of the contents of that answer. We mentioned
18 the law involved and stated on Mr. McKee's application. We cited
19 the Code sections and that's our brief. And as far as the law
20 goes and we are informed that those code sections had absolutely
21 no application in this particular circumstance. For instance, the
22 went ahead and cited their own law that this timber land was a
23 provision in the code that the timer land should be sold for cash
24 only. The State has the right to sell for cash only. Well, for
25 instance, I am just citing one example, Mr. McKee did not buy this
26 land from the State of California. He bought it with script from
27 the Federal Government. They had a chance to look at the land
28 and make their own appraisals. In fact they did turn down the
29 application and Mr. McKee appealed it from the Federal government.
30 For instance, they mentioned a document that we in our file, that
31 we say is script. They say it's merely an inner-office memo.
32 Now these are all going to be questions of fact that I believe will

1 have to be determined in court.

2 The main reason that I believe it is bothering the Attorney
3 General's office and the Staff which is pointed out in their
4 conclusion is that there's \$100,000 worth of land here that's
5 trying to be purchased for Mr. McKee for a considerable value
6 less. Now at the time which was many years ago that this appli-
7 cation was submitted that was not an unreasonable price for the
8 land. All I am saying is that the answer to our brief I don't
9 believe covered many of our points.

10 Now the reason I am pointing this out, I would like to
11 make a suggestion that under Public Resources Code section
12 7921 the Commission, if it doesn't want to make a decision on it,
13 can refer it to the court where the land is situated which would
14 be Lake County so rather than have it brought in with a writ of
15 mandate on a court battle the decision as to whether or not this
16 script was issued and is full purchase price for the land, that
17 could be determined by the superior court in Lake County. The
18 Commission does have power to refer it to the superior court.

19 CHAIRMAN PEIRCE: Will it not automatically go before the
20 superior court if you take the action that I infer you plan on
21 taking?

22 MR. TOCHER: Yes, Mr. Chairman, it will go before the superior
23 court. This is just a method which will alleviate a lot of cost
24 to both sides and will be a much quicker method. By being refer-
25 red to the superior court by the Commission the court will merely
26 determine the question of laws and fact as we have presented them
27 and as I believe under the code section/^{and}from the cases it will
28 be binding.

29 CHAIRMAN PEIRCE: May I ask Mr. Joseph if the State Lands
30 Commission adopts the recommendation at the foot of page 48
31 that's recommended by the Staff, will that preclude Mr. McKee
32 taking this matter to the Superior Court of Lake County?

1 MR. JOSEPH: Not as I understand it. I don't know what the
2 procedure under this code section is but apparently it's some
3 referring a legal question to the court, but as I understand if
4 this Commission turns down the application, or rather if it
5 extends the time for payment and there's no payment made there
6 will be an opportunity for Court review of some kind.

7 MR. KIRKWOOD: Your recommendation would be that we adopt
8 the printed recommendation?

9 MR. JOSEPH: Yes. I think on the law, there's law providing
10 for the sale of this land for cash, in my opinion. On the facts,
11 as I see it, while there may be some question that there was a
12 fraudulent application made. However, leaving that aside I
13 believe that the application was made on a deposit of \$5 and the
14 balance of the purchase price was going to be determined by an
15 appraisal of the land after the United States patented the land
16 to the State, and now because there's a document in the file that
17 says script certificate, there's an attempt being made to obtain
18 the land for a \$5 deposit, and this \$5 was never anything but a
19 deposit as far as I can see from a review of the file, and in my
20 opinion this recommendation is very equitable giving them an
21 extension of time to pay the price agreed upon.

22 CHAIRMAN PEIRCE: After the ten days Mr. McKee still has
23 access to the superior court?

24 MR. TOUCHER: The only point I was trying to make, we realize
25 it probably will be in superior court. This was just an alterna-
26 tive method rather than us bringing a writ of mandate and having
27 a law suit arise out of it. It would be merely a proceeding in
28 the superior court without a suit being filed. It's merely
29 referred and the court in Lake County would make its decision.

30 MR. PUTNAM: Mr. Chairman, wouldn't that be a matter for the
31 Attorney General and the attorneys for Mr. McKee to decide after
32 ten days have elapsed. It's a matter of procedure. I couldn't

1 recommend to the Commission the form of procedure to take. I
2 think that's a matter for the Attorney General.

3 MR. JOSEPH: Mr. Peirce, in answer to your question I cannot
4 say that the applicant's position will be as good in a court after
5 the lapse of ten days as it will be before that time. I can't
6 say that. But if there's going to be a court proceeding they can
7 have it within the ten day time if that's the thing that they should
8 do. If not they can wait until after the ten day time. But I
9 certainly think this was a sale for cash and there's a balance of
10 \$97,900 due and unless they pay that the application should
11 lapse or some such thing should be done with it because they simply
12 haven't paid the appraised value of the land.

13 MR. KIRKWOOD: You don't wish to proceed under the alterna-
14 tive suggestion? You want us to proceed under this one?

15 MR. JOSEPH: Frankly I am not acquainted with the alternative
16 procedure that's been mentioned. But I see no reason for doing
17 it. It seems clear to me as a routine matter merely the balance of
18 the purchase price hasn't been paid.

19 CHAIRMAN PEIRCE: Any further discussion?

20 MR. TOCHER: Well, I believe if the Attorney General is not
21 acquainted with that provision then we do have ten days and we will
22 just take the standard method of filing suit in the superior court.

23 MR. KIRKWOOD: Move the approval of the recommendation.

24 MR. POWERS: Okeh.

25 MR. MCKEE: I have been working on this five years now and
26 I have been to a lot of expense. I have been before your Commis-
27 sion and the Attorney General has not made any direct answer to
28 the code that existed on my application, has not made any direct
29 denial that there was script issued and I have the word and
30 evidence of Mr. Ireland that I was getting script on a deposit that
31 would be settled upon the approval of the Interior Department.

32 That was done last June and there is some nine months elapsed

1 since and you gentlemen have heard the code, seen the script, seen
2 the application, and of course I have nothing to say to influence
3 your decision. But apparently it's up to you to decide on the
4 validity of this application and distribution of this land. I have
5 spent five and a half years on it now. All I want is fair action.
6 And of course my position is that I bought and paid for the land.
7 I was so advised before and after in the State Lands office. I
8 have proceeded accordingly. I tried to get along with your Staff.
9 Offered compromises and offered everything possible. Even went so
10 far as to pay extra fees to have them investigate all the angles,
11 of the application which they had a right to see whether it was
12 agricultural land or not which I think they decided it wasn't.

13 It was the only matter of controversy whether it was agricul-
14 tural or wasn't agricultural in my application so all I can say is
15 make your decision, and if your decision is adverse of course our
16 only recourse is superior court.

17 As Mr. Tocher said you initiate it and to save some more
18 of my time and troubles. I have spent a lot now. Thank you very
19 much.

20 CHAIRMAN PERLGE: Thank you, Mr. McKee.

21 Now we are following the advice of our staff, our technical
22 staff and the office of the State Attorney General. Mr. Kirkwood
23 has moved and Governor Powers has seconded the motion that the
24 recommendation as set forth on page 48 and as submitted by the
25 Staff be approved and so is the order.

26 MR. PUGHAN: While Mr. Joseph is here he's in another one of
27 our important cases here and that's page 18.

28 This has dragged on since September of '49 where a quiet
29 title action was filed by Mr. and Mrs. Perry against the State in
30 connection with the occupancy and use of an island. This has been
31 through court, and got to the superior court.

32 MR. JOSEPH: And it was appealed to the District Court of

1 appeals. The State won in the superior court and it was reversed
2 on appeal on the facts.

3 MR. PUTNAM: And referred back for further evidence, further
4 testimony to be taken, and we have explored the matter and can
5 obtain some experts, spend a lot of state money and so on. But I
6 have always felt that even if the State came out with a favorable
7 decision in the case there are a lot of factors involved and for
8 that reason I have recommended to the Attorney General and Paul
9 Joseph handling the case has recommended to the attorneys for the
10 other side that we settle this thing on the basis that the recom-
11 mendation here that the State accept payment in the amount of
12 \$1,000 for releasing its claim to the island and further arrange
13 for a lease for the water area in the channel between the island and
14 the mainland, occupied by finger piers, at the Commission's
15 established minimum rate of \$100 per year.

16 I believe you concur in that, don't you Paul?

17 MR. JOSEPH: Yes. There has been talk of settling this case
18 for years ever since it was remanded to the superior court. The
19 people have gone in there and improved an offshore island there
20 and the controversy is whether it was originally a part of the
21 swamp and overflow survey and there's considerable difficulty and
22 it involves establishing the river bank in 1851 when the state came
23 into the Union and we produced in court some evidence and the other
24 side did and the Judge concluded that we were right in our con-
25 tention. Then the District Court of Appeal said that the evidence
26 didn't amount to very much and it should go bac' for certain
27 testimony which will involve a goodly sum to get these experts.

28 In the meantime these people have put all the money they have
29 into improving this little offshore island. I think it's fifteen,
30 twenty acres, and they have improved it as a fishing resort down
31 at the junction of the Mokelumne and San Joaquin Rivers and their
32 life savings are going if they loose this law suit, and at the same

1 time it's important for the State to establish a precedent and
2 principle. However, this does not seem to be a case to do it in
3 and no one will know after we get all through with the law suit
4 just what the facts were and it will be very expensive to prove the
5 facts.

6 There's probably a week's trial involved and it seems to not
7 be a case to be retried, although we did win the case once.

8 CHAIRMAN PEIRCE: What do you think the value of this property
9 might be? Does this represent a fair value?

10 MR. PUTNAM: It would be a compromise because if we got into
11 this case originally when they started to improve the island
12 I don't believe the island would have been worth two- three hundred
13 dollars, but they have put in substantial levees all around the
14 island and raised the elevation of the land inside and put on
15 substantial improvements. Now our fault lies in years ago not
16 catching on to what they were doing and advising them that they
17 were getting into dangerous territory so I am perfectly willing to
18 make this recommendation here.

19 CHAIRMAN PEIRCE: You are satisfied with respect to this
20 recommendation?

21 MR. JOSEPH: Yes. This is practically the offer made by the
22 people there and the compromise came rather mutually from each
23 side. It isn't a suggestion that we are making. It's a mutual
24 suggestion and I am satisfied with it.

25 CHAIRMAN PEIRCE: Mr. Kirkwood has moved.

26 MR. POWERS: All right.

27 CHAIRMAN PEIRCE: Governor Powers has seconded the motion.
28 The recommendation is approved and so will be the order.

29 Next, Colonel?

30 MR. PUTNAM: Now we have an item on page 45; Leon Studios.
31 Here's that San Francisco bay out here, the heavy line over there.

32 MR. KIRKWOOD: Is there objections to this deferment?

1 MR. PUTNAM: Yes, it's quite disputed. Otherwise I would
2 have taken care of it myself. Here's the line with the green,
3 the big heavy line (indicating on diagram), and there's some land
4 over here which has not been granted due to the City of Sausalito
5 but under Assembly Bill 323 which is now pending it is proposed
6 that all the rest of the land of the City of Sausalito be granted
7 to the City. Now back in here there's one street that's within
8 the grant to the City, and that's Richardson Street. These in
9 green are Main Streets and Bridgeway are outside the grant.
10 Now it is proposed by these interests that they build an apartment
11 house in the area I have got my liner on and to get access to
12 it they want to build some suspended slabs in here by way of
13 street access.

14 CHAIRMAN PEIRCE: Is this under water?

15 MR. PUTNAM: Yes. And that describes practically everything
16 here except that.

17 CHAIRMAN PEIRCE: The pink part is owned by the State?

18 MR. PUTNAM: Owned by the State. The green is owned by the
19 State.

20 CHAIRMAN PEIRCE: That's it; the green by the State.

21 MR. PUTNAM: And the City has granted a building permit just
22 within the last few days for the building and for the encroachment
23 on the pink street. But after that came to our attention we
24 learned about Assembly Bill 323 which was going to grant all this
25 area to the City and so I have made the recommendation that this
26 application for the work in the green area be deferred pending the
27 outcome of Assembly Bill 323, or of any other bills which effect
28 the boundaries of the legislative grant to that city feeling that
29 we may be moving into legislative grounds or prerogatives if we
30 issue that permit. The amount of the money is nominal.

31 CHAIRMAN PEIRCE: Is Assemblyman Mc Collister the author?

32 MR. PUTNAM: Yes.

1 MR. KIRKWOOD: This is within the city limits of Sausalito
2 but is not owned by them and the city of Sausalito has no objection
3 to our granting this permit?

4 MR. PUTNAM: No, I have got a letter to the effect that if
5 this grant was made, just got it, to the City the City Manager
6 states that he would recommend approval of this work in here.
7 It's a matter of legislative policy that ¹didn't feel right about.

8 CHAIRMAN PEIRCE:: All right. First of all is there anyone
9 here who desires to speak in opposition to this recommendation of
10 the Staff? Now the recommendation of the Staff is that action
11 on the application be deferred.

12 MR. GIDEON(David B.): I am an attorney from San Francisco
13 and I represent the applicant owner and I would like to speak in
14 opposition to the recommendation that action be deferred.

15 CHAIRMAN PEIRCE: If you will proceed, please.

16 MR. GIDEON: The initial word that we had from the City of
17 Sausalito was that all of the streets were under the jurisdiction
18 of the City of Sausalito and so we originally addressed our
19 application to the City of Sausalito for permission to use the
20 streets which abut upon my client's property. Subsequently it
21 was discovered that as to two of the streets they were under the
22 jurisdiction of the State and had not been granted to the City of
23 Sausalito so we had to split our application and address a part of
24 it to the City of Sausalito pertaining to the Street that had been
25 granted to Sausalito and as to the other two streets which is
26 before the Lands Commission we are still under your jurisdiction.

27 I was advised just a short time ago that there is this bill
28 323 pending which would consolidate, you might say, the granting
29 of all this land to the City of Sausalito. I learned of that just
30 a few days ago and in view of the fact that the City had granted
31 us a permit to use the street under its jurisdiction I went to
32 the Mayor and City Manager and asked them whether this bill does

1 go through if they would object to action on the part of the
2 state granting us a comparable easement and they said, and we are
3 willing to reduce it to writing, the letter is a part of the file,
4 that indeed they having just granted us such an easement would see
5 nothing inconsistent on the part of the State in granting such an
6 easement. If the bill goes through, in other words, the City says
7 we'll grant the easement, so they take the position that there
8 is certainly nothing inconsistent in obtaining the easement now
9 and the point is a question of timing. If we feel that we have to
10 await the enactment of the bill it will be well into September,
11 and the building permit issued to my client stated it was to take
12 effect upon the granting of this encroachment permit.

13 On the basis of my first discussion with the State Lands
14 Commission in Los Angeles I assume there would be no technical or
15 other objection to the granting of the permit and it was only
16 when I found that Mr. Mc Collister's bill was in that we ran into
17 this delay. I spoke to Mr. Mc Collister this morning and he says
18 as far as he is concerned he's not in a position to take any
19 stand on it. His bill is aimed at giving to the City of Sausalito
20 the remainder of the land which was not given to them in 1951
21 and if the City of Sausalito says they are willing to give us
22 access to our property as they have, both in the original ease-
23 ment granted last week and in this letter you gentlemen have
24 before you he certainly can't object to that and if the State
25 should give the easement now he wouldn't object to that.

26 You have jurisdiction now and the, if the bill goes through
27 the City is willing and between the two of you there is assurance
28 on both sides that we should have the easement so we ask respect-
29 fully that we not be asked to wait until September but the easement
30 given now.

31 CHAIRMAN PEIRCE: Colonel, is there opposition?

32 MR. PUTNAM: There is opposition. I think there will be some

1 discussion here.

2 CHAIRMAN PEIRCE: Do you have anything further to state?

3 MR. GIDEON: There was opposition before the City Council
4 last week and the Council voted four to one to give us the permit
5 and the encroachment permit over the opposition.

6 MR. KIRKWOOD: Why is it only an easement? Why can they
7 build the building without a permit?

8 MR. PUTNAM: The building is on land which they own. What
9 they want is an overhand road approach from the building to get
10 in from here on Richardson Street and to come back here on Main
11 Street.

12 MR. GIDEON: We are in the position of owning a block of land
13 having complied with all of the zoning requirements and building
14 requirements. We are not asking for an exception to use or any
15 type of variance permit. It's admitted on all sides that it com-
16 plies with zoning and construction requirements. The only question
17 is we can't get to our building unless we get from the state an
18 easement over this road which is under water which we were
19 originally under the impression belonged to the City of Sausalito.

20 CHAIRMAN PEIRCE: Who represents the opposition? Anybody
21 here who wants to speak in opposition to the state granting an
22 easement to the property owners through property owned by the
23 state or over such property? (no reply from audience)
24 Colonel, what are the names of some of the people?

25 MR. PUTNAM: I have a couple of written letters, one by
26 Lenore and James Smith. The objections lie largely towards perhaps
27 the obstruction of the view because this will be off the Coast from
28 the highland there and the second was from a Mrs. Loren. There's
29 still another, from a Mrs. George C. Cummings, and one from a
30 Mrs. Robert E. Ross. They are all, I take it, in the upland up
31 here.

32 CHAIRMAN PEIRCE: In other words, the opposition comes from

1 people who own property above this property who feel that the con-
2 struction of this apartment building will obstruct their view ?

3 MR. PUTNAM: That's correct.

4 MR. HORTIG: And create traffic hazards, it is alleged.

5 MR. GIDEON: Mr. Chairman, I might point out that those were
6 the bases of their questions before the City Council and the
7 question of whether it constituted an impediment in the City of
8 Sausalito was discussed and threshed out at four meetings of the
9 City Planning Commission and they were defeated as I say by a
10 four to one vote. So their objection goes really not the the
11 State's jurisdiction over this land but to the fact that the
12 apartment is being built and we feel that the owner of the proper-
13 ty having complied with all applicable laws shouldn't be subjected
14 to additional obstruction on the part of the persons who have had
15 their day in Court.

16 CHAIRMAN PEIRCE: If the Mc Collister Bill is enacted into
17 law and if the City maintains its present attitude in this matter
18 this permit will be granted as of the middle of next September?

19 MR. GIDEON: The letter from the City Manager states that
20 they intend, if the Bill goes into law, to give us the encroachment
21 permit whether the Bill is effective or not.

22 CHAIRMAN PEIRCE: So your recommendation is that we defer
23 action with respect to this permit until say September 15th?

24 MR. KIRKWOOD: Do these letters ask for deferment or oppose
25 the project?

26 MR. PUTNAM: They oppose the project.

27 MR. KIRKWOOD: If the Bill doesn't go through then it's back
28 in our laps again?

29 MR. PUTNAM: That's correct.

30 MR. KIRKWOOD? Then what would be your recommendation?

31 MR. PUTNAM: My recommendation would be in favor of it, of
32 their application.

1 MR. KIRKWOOD: Wouldn't it have to be?

2 MR. PUTNAM: Yes. I could see no reason why to recommend
3 otherwise.

4 MR. KIRKWOOD: It seems to me to me this morning that we
5 are gyping the State out of \$58.50, if the applicant is willing to
6 put up the money, aren't we ahead?

7 MR. PUTNAM: The suggestion has been made, and this may be
8 the answer, to change my recommendation to the effect that this
9 permit be granted subject to transfer to the City of Sausalito
10 if, as and when the lands are ever granted. Then we get the \$58.00.

11 CHAIRMAN PEIRCE: But the building project is postponed for
12 six months.

13 MR. PUTNAM: No, I didn't make myself clear, I guess.
14 I say, that the Commission grant a permit which will be good only
15 so long as the State still has control over the lands.

16 MR. KIRKWOOD: Gee, that would put them in an impossible
17 situation of going ahead.

18 MR. GIDEON: It wouldn't put us in as bad a situation as if
19 it were denied. I feel having discussed this with the City that
20 they would pick this up immediately on the transfer of jurisdiction.
21 If you give us the permit now and when the Bill goes through they
22 will pick the permit up and we will have a continuity of the
23 permit. I have discussed this with the City Manager and they would
24 take this, you might say, subject to you might say any encumbrance
25 that the State might make on it. They have said they would inter-
26 pose no objection, I believe, Colonel.

27 MR. PUTNAM: Mr. Shabeson has reviewed this matter with me,
28 very recently after this was written and I believe you are in
29 accord with some such interim arrangement?

30 MR. SHABESON: I didn't see any reason if the city of
31 Sausalito didn't object to this, I think this is certainly within
32 the power of the Commission at the present time and I didn't see any

1 reason for not issuing the permit. Of course if the City objected
2 to it then perhaps there would be a reason for waiting but I
3 couldn't see any reason for waiting under the present circumstances.

4 MR. KIRKWOOD: Mr. Chairman, I move that we go ahead. I
5 don't know the technical language that it should go in but I
6 assume that could be worked out, and get the fifty-eight fifty,
7 and if the Bill goes through and there should be an adjustment
8 and some of that go to the City make the adjustment at that time.

9 MR. PUTNAM: We have to do that on lots of these grants.

10 MR. KIRKWOOD: I can't see that anything is to be gained
11 really as long as the Assembly man doesn't seem to have an interest
12 and as long as the City has gone along.

13 MR. POWERS: I would second Bob's motion.

14 CHAIRMAN PEIRCE: The motion has been made and seconded that
15 the permit to the Leon Studio be approved. Any further discussion?
16 If not, it will be the order.

17 Next item?

18 MR. HORTIG: Page 20. The Commission on February 7th
19 approved the costs proposed to be expended by the City of Long
20 Beach, including subsidence remedial work, during February, 1957
21 and estimated expenditures in the first portion of March, 1957
22 for payrolls and similar items.

23 These same elements of subsidence costs expenditures which
24 are to be paid during March and the first portion of April, 1957
25 for payroll force account and voucher payment other than construe-
26 tion must again be considered by the Commission for approval if
27 the City is to have the authority to make these expenditures and
28 receive proper credit under Chapter 29 of the Statutes of 1956.

29 The Subsidence portion of the amount of \$40,000 estimated to
30 be expended during the month of April, 1957 for payroll has been
31 estimated by the Harbor Department 89% which is in approximate
32 conformance with previous estimates.

1 It is recommended that the Commission approve the costs
2 ^{to} proposed/be expended as indicated on attached tabulation exhibitA
3 for the month of March, 1957, to include subsidence costs and the
4 amount of \$40,000 to be expended during the first portion of April,
5 1957 to cover force accounts and vouchers ofther than construction
6 subject to the standard conditions that the amounts ultimately to
7 be allowed as subsidence costs deductible under the statutes
8 will be determined by the Commission upon an engineering review and
9 final audit subsequent to the the time when the work under any
10 of these items is completed, and that the Executive Officer or
11 the Assistant Executive Officer or the mineral resources engineer
12 be authorized to execute appropriate written instruments reflecting
13 the Commission's conditional approval.

14 CHAIRMAN PEIRCE: Did this meet with the City's approval?

15 MR. LINGLE(Harold A., Deputy City Attorney, Long Beach):
16 It's all right with us.

17 MR. KIRKWOOD: Could I ask, just as a matter of curiosity,
18 why we can't inform the City on these routine matters that we will
19 approve them; is there need for the City to be represented each
20 month?

21 MR. PUTNAM: They are cleared with the City before we submit
22 them.

23 MR. KIRKWOOD: It does seem to me, unless they have reason
24 to send a representative up here, as long as we are acting along a
25 pattern, that there's no reason why they should not be --

26 s MR. PUTNAM: I think you're a hundred per cent right, and
27 when we get to the final engineering review and audit that would
28 be the time for them to appear in case we can't agree and discuss
29 the matter before the Commission. This month it's really routine,
30 I agree with you. If we can iron it out down south?

31 MR. KIRKWOOD: I don't want to tell the City how to do its
32 business, but they may not be aware of the fact that we have gotten

1 to that point.

2 CHAIRMAN PEIRCE: Anyone else?

3 MR. WHEELER) I am Mr. Wheeler of the Harbor Department,
4 and we know that these have been checked with us, but in one case
5 we did come up with a correction in one of them that we feel it
6 would pay us to come up each time on this.

7 CHAIRMAN PEIRCE: You both agree with respect to that? We
8 are merely trying to simplify things for you.

9 MR. LINGLE: Yes. Thank you.

10 MR. KIRKWOOD: I move the approval of this.

11 MR. POWERS: I second it.

12 CHAIRMAN PEIRCE: Moved and seconded that the recommendation
13 be approved and so will be the order.

14 Next Item?

15 MR. PUTNAM: I think we have appearances on the item on
16 Pages 3, 4 and 5. Mr. Smith, will you take this one?

17 MR. SMITH: This is in regard to an application to purchase
18 320 acres of school land in San Bernardino County. The original
19 application was submitted by Mr. Eugene G. Pettengill of Long
20 Beach to purchase the 320 acres at \$30, the minimum value estab-
21 lished by a prior appraisal..

22 An inspection and appraisal by a member of the Commission's
23 staff on September 26, 1956 established the value of the subject
24 land at \$30 per acre, and also indicated the land was not suitable
25 for cultivation without artificial irrigation. The land was
26 advertised for sale with a stipulation that no offer of less than
27 \$9,000 would be accepted.

28 And pursuant to this advertising, a Mrs. Florence Steiner and
29 a Joseph H. Longeval of Rio Vista submitted a bid of \$11,200.
30 Pursuant to the Commission's Rules and Regulations the first
31 applicant, after Mrs. Steiner and Mr. Longeval had submitted a
32 bid of \$11,200, was allowed 20 days from date of his original bid
within which to submit the additional amount to meet the highest

1 bid received. The first applicant, Eugene G. Pettengill, met the
2 high bid within the period specified above.

3 By letter dated February 27, 1957, Attorney Robert Krause
4 of Long Beach reported that Mrs. Steiner would appear before the
5 Commission for the purpose of protesting the sale of the land to
6 the first applicant. The letter also stated that Mrs. Steiner
7 believes she is the original bidder and should have the opportunity
8 to raise her bid if necessary to become the successful purchaser
9 of the land.

10 The records of the State Lands Division shows the following
11 information relative to applications by Mrs. Steiner for the
12 subject land. On August 10, 1948 there was received and filed an
13 application from Florence Longeval--now Florence Steiner-- to
14 purchase the land accompanied by the required minimum deposit of
15 \$2 per acre, plus an expense deposit and filing fee, pending
16 appraisal. The land was appraised at \$6 per acre. At its
17 meeting held December 10, 1948 the Commission by unanimous
18 resolution authorized the sale of the subject land to Florence
19 Longeval at a cash price of \$1,920. She refused to meet the price
20 of \$6 per acre and accordingly at her written request the appli-
21 cation was canceled and all funds returned to her less the expenses
22 incurred.

23 On March 20th she also filed a new application and an offer
24 of \$6 per acre. That application was returned for the reason that
25 the land for which she intended to apply was not properly des-
26 cribed or identified in the application, and further more the
27 application did not contain an offer of \$30 per acre consistent
28 with the rules and regulations of the Commission requiring that
29 if the land had heretofore been appraised, that appraised value
30 must constitute the initial offer. It appears therefore, in view
31 of the record, that all rights of Mrs. Steinger were forfeited under
32 her 1948 application at her own written request, that the lands

1 were vacant and subject to the filing of an application by her
2 at any time until the close of the bid period above-mentioned, and
3 that all requirements of law have been complied with.

4 It is therefore recommended that the Commission find that said
5 land is not suitable for cultivation and authorize the sale of
6 the subject land containing 320 acres to the first applicant,
7 Eugene G. Pettengill who has met the high bid at a cash price of
8 \$11,200, subject to all statutory reservations, including minerals.

9 Mrs. Steiner is here, I believe.

10 CHAIRMAN PEIRCE: Mrs. Steiner, you have heard Mr. Smith
11 outline the history of this application and the various appli-
12 cations applicable to this land. Now we would like to hear from
13 you with respect to the recommendation we have received from the
14 Staff. Mrs. Steiner?

15 MRS. STEINER(Borence): My attorney was not able to be here
16 today but I will try to explain to you to the best of my ability.
17 When I made the first bid, August the 10th in 1948 it was pretty
18 much of a rabbit hutch and \$2 an acre was my bid. The State
19 accepted that \$2 bid. They gave me an application number and then
20 after that they wrote to me and told me I should raise it another
21 \$320. I sent them the check. I have the canceled check here.
22 The bid was advertised in the newspaper at \$960 just as Mr.
23 Petengill, who is the last bidder on this today, advertised it at
24 \$9,000.

25 Now I feel that they have, the State has been unjust because
26 I was actually in competition with the State by their open letter
27 they tell me that the State didn't have a bidder on that \$960
28 after it had been advertised for thirty days. What made them
29 determine that I shouldn't have that property unless I paid \$6
30 an acre? That's been in my mind for a long time, about the State
31 after this had all taken place they requested that I pay another
32 \$960 which I did not feel was just and not only that at that time

1 I was a little pressed for it. The time went on and the records
2 that the State issued showing lands that are available, that had
3 always been crossed out and my husband and I have worked on the
4 property adjoining it. We own it and I have known about this
5 property for a long time. Now I -- we spent a lot of money
6 and work and time developing our property and in turn developing
7 the State's property although we didn't have a legal title to
8 it but today I feel that we actually did and we should have had
9 that property at \$960.

10 Now as the time went on I decided to take the correspondence
11 that I had from the State telling me when they raised it to
12 \$6 an acre that was the application that I should fill in at
13 \$6 an acre. Now I sent the application in. It had the letter
14 attached. The State had originally written to me. Mr. Ireland
15 who was at that time taking Mr. Smith's place or he was there
16 previous to Mr. Smith. This application had a check attached to
17 it for the amount that they had requested. The letter that I
18 got back, what I want to point out is that on my first bid in '48
19 the State took my \$2 bid. They gave me a number but they didn't
20 do that with this second bid of \$2,000. They sent back the appli-
21 cation, the application and everything and in the meantime
22 Mr. Pettengill got in there. Now we are working on a road,
23 working on a subdivision and we developed a well in there and
24 that's when he got into the bidding. The fact that the letter
25 was sent back with my check and I didn't have the opportunity to
26 increase the bid to \$30, I wasn't aware of the fact that that
27 property was \$30. That would have given me the chance to be the
28 first bidder.

29 Now the 30 days they advertised it for \$9,600, for in fact
30 I called to find out and they -- then I had learned that someone
31 else had bid in there over me. I knew then that I wasn't the first
32 bidder again, but I decided to raise his bid, and he in turn met

1 my bid. Now I feel that the State hasn't been just with me all
2 through this affair. Number one in the first place I think I should
3 have had the property at \$960, and in the second place this second
4 bidding, the state should have kept my application. It has the
5 description on it. It has the description attached if you want
6 to see exactly the way it was sent to the State and it was
7 stamped in the back by the State and it also has, although it isn't
8 a true, it says 3626, -- "And in support of my application represent
9 as follows: Then I had the description 3626."

10 Well, I didn't go into a lengthy description about it because
11 I had been corresponding with the State sometime on this property
12 and I also had this letter attached giving a thorough description.
13 And not only that but I had the previous application number that
14 they had given me in 1948. So that's why I feel that I was not
15 justly and fairly treated by the State.

16 MR. KIRKWOOD: May I ask the Staff a couple of questions?

17 CHAIRMAN PEIRCE: Mr. Kirkwood?

18 MR. KIRKWOOD: Why was the, rather when was the Pettengill
19 application filed?

20 MR. SMITH: That was received on March 30th and officially
21 filed on April 2, 1956.

22 MR. KIRKWOOD: Just four days after the second application
23 from -- What was the reason for the 1955 reappraisal of the land?

24 MR. SMITH: On the basis of an application filed in 1955 which
25 subsequent to the appraisal was canceled out. In other words,
26 that \$30 per acre value was established in 1955 under an appraisal
27 prior to this one which is the subject of this calendar item.

28 MRS. STEINER: The point I want to bring out is that I was not
29 aware of the state having reappraised that and all I had in the
30 state office was my application which should have been kept just
31 like it was originally when I made the first application for \$2.
32 The state sent me then -- he has correspondence there to show that
the State sent me back a number, application number and requested

1 that I should give them another \$320 which I did. Then why did
2 the State not in turn, unless that's the State procedure, that if a
3 person advertises that the state decides they don't want to let
4 you have it. They say, "No, you have got to put so much more on
5 it." If the state's interested in making more money, then I figure
6 under the circumstances let them make more money on this case too.

7 CHAIRMAN PEIRCE: Mr. Smith?

8 MR. SMITH: I think that point is covered in the last paragraph
9 of page one of the calendar item where she submitted \$2 per acre
10 for the land which was the minimum amount required by law at that
11 time pending appraisal. The appraisal was made at \$6 per acre
12 but it's pointed out here in the calendar item she was inadvertently
13 advised that the minimum value was set at \$3.

14 MR. PUTNAM: That was a mistake on our part.

15 MR. SMITH: Subsequent to that, however, on the basis of \$3
16 per acre or \$960 as indicated in the calendar item submitted to
17 the Commission she refused to pay more than that and we proceeded
18 with publication. Following the submission of the matter to the
19 Commission the recommendation was made that it be sold to her for
20 not less than the appraised value of \$1920 or \$6 per acre, so she
21 was entitled to purchase it at the current day fair market value,
22 established at that time.

23 MRS. STEINER: May I ask a question? How did the State
24 determine -- Now I paid a filing fee and expense fee originally to
25 send a man down there to tell me how much the ground was worth.
26 That's why I decided the ground was worth \$3 an acre instead of
27 \$2 an acre because I had paid that fee to cover that. Yet the
28 State comes back and tell me later on after the bid had been
29 advertised and no one was bidding against it that they don't want
30 to let me have it except for again as much as I originally bid.

31 MR. SMITH: The law provides that the Commission may set the
32 value on these lands. It was set at \$1920 and she was entitled to

1 buy it at that.

2 MR. KIRKWOOD: Mr. Chairman, I can't see that Mrs. Steiner
3 has any right under the original filing. That doesn't concern me.
4 It seems to me that was closed in 1948, but, and at that point it
5 was an entirely different Commission. I don't see how we can hold
6 it open from 1949 on. I am curious as to what our usual procedure
7 is on receipt of a letter. Does the application have to be in
8 exact form before you give it a number and before it has precedence?

9 MR. SMITH: That is correct, sir, and complete in all respects.

10 MR. KIRKWOOD: If you get an offer and it's complete in all
11 respects except that there is an unknown appraisal you would
12 return it and inform of that appraisal and say before this is
13 again recognized as a filing you would have to meet this appraisal?

14 MR. SMITH: That is correct. The rules require that when an
15 application is received and does not contain an offer comensurate
16 with the previously appraised value it is not acceptable.

17 MRS. STEINER: How is it if I may ask that the laws although
18 there may be a different Commission today than there was at that
19 time, the laws must be the same, why could they have accepted my
20 paper then if it wasn't correct and in the right amount? They
21 had to go out and appraise it too.

22 MR. SMITH: It was correct and consistent with the law
23 requiring a minimum of \$2 per acre offer which was the case at that
24 time. There had been no prior appraisal made of that land in
25 1948.

26 MRS. STEINER: How did they determine that it was \$3? They
27 advertised it at \$3. Why didn't they tell me it was \$6?

28 MR. SMITH: On the basis of the appraisal and as pointed out
29 you were inadvertently advised.

30 MRS. STEINER: At the time I made the application it was
31 August 10th. It was almost four months later that the State
32 decided to tell me it was worth \$3 an acre.

1 MR. KIRKWOOD: I think had the application here that was
2 filed for \$30 an acre, if afterward we had gone out and appraised
3 it at \$50 that applicant would have received a similar letter
4 saying you have to come up fifty. And I can't see any rights
5 under the early or rather earlier application. It seems to me in
6 '49 the Commission turned you down and you received back the money
7 that you had deposited and I would think that made that one deader
8 than a doornail. But the question I tried to ask was whether you
9 were the prior applicant under this letter that you wrote to us
10 on March 26th?

11 MR. SMITH: It was not a bona fide application.

12 MRS. STEINER: I have it here. I would like to have you see
13 it.

14 MR. KIRKWOOD: Well, had there been this other appraisal,
15 and as I understand it from the staff there was, of \$30 an acre,
16 why clearly if that is the rule I don't think we can question it.

17 MR. PUTNAM: The rules were changed, oh, perhaps two years
18 ago.

19 MR. WERNER (E. from Staff): In 1951.

20 MR. PUTNAM: No, in '55 the rules were changed so that the
21 bona fide application would have to meet the most recent appraisal
22 that had been made as a minimum deposit.

23 MR. POWERS: How's that again? I didn't get that.

24 MR. PUTNAM: Well --

25 MR. POWERS: Someone makes a bid on a piece of land and then
26 before you give it to him there's another bid come in higher, the
27 first applicant has the right to meet that?

28 MR. PUTNAM: That's true, but before we start the bidding
29 process we must have an application, and the application to
30 qualify as such must meet a certain minimum price or the minimum
31 most recent appraisal value an acre. You gentlemen adopted it
32 about two years ago, and that's where this thing comes in now.

1 MR. POWERS: How many times do you bid on that? You can
2 only raise it once; is that right?

3 MR. SMITH: Pursuant to advertising it can be increased as
4 many times as the applicant wishes.

5 MR. POWERS: Supposing one applicant makes a bid on a piece
6 of property and someone raises that bid, then the first applicant
7 has the right to meet the later applicant's bid?

8 MR. SMITH: That's right, at the close of the publication.

9 MR. POWERS: But the second one doesn't have the right to bid
10 again? In other words, you have just one bid open?

11 CHAIRMAN PEIRCE: Mrs. Steiner, the record before us indicates
12 that on January 3, 1949, which is eight years ago, you had advised
13 the State Lands Commission that you were not desirous of increasing
14 your bid from \$3 to \$6 an acre, the latter figure being established
15 by appraisal and this says that the refund of your \$960 was made
16 and I would therefore infer from that that you waived all interest
17 in the particular land by taking that action.

18 MRS. STEINER: Well, I am not familiar enough with the laws
19 to know just exactly where I stand but I do feel that it was
20 unjust on the part of the State. Now Mr. Pettengill who is bidding,
21 the State had the right to reject his offer, do they not, in the
22 interests of the state?

23 CHAIRMAN PEIRCE: Colonel Putnam, does the State have the right
24 to reject Mr. Pettengill's bid at this hour? At this time?

25 MR. PUTNAM: Yes, it can reject any and all bids.

26 MRS. STEINER: If the State has the right to reject the offer
27 of Mr. Pettengill in the interests, the Commissioner has the right
28 to reject the bid in the interest of the State, I am here to tell
29 you that the State will realize more money out of it because I
30 am willing to raise that bid that he has.

31 MR. PUTNAM: I don't think it's good policy to reject bids.

32 MR. POWERS: Wait a minute, now. You appraised this property

1 at some particular value. Mr. Pettengill has met that. On what
2 grounds would you reject his bid? You would have to have some
3 ground.

4 MR. PUTNAM: The only ground we could reject the bid is there
5 might be some --

6 MR. POWERS: Unless there had been some development extra-
7 ordinary between the time you appraised it and the present time
8 you are practically morally bound to accept that bid, are you not?

9 MR. PUTNAM: I would say so.

10 MR. ROBTIG: You have the right to reject, but without suffi-
11 cient reason you wouldn't exercise the right.

12 MR. POWERS: Yes, but under ordinary circumstances you are
13 morally obligated to accept that bid?

14 MRS. STEINER: Then why is it that the State did not accept
15 my bid originally in 19 -- I want to go back to the same in 1948
16 as it is at this time. Why did the state not accept my bid which
17 was in good form and which was what they required and it was
18 advertised and no one was a successful bidder but myself, no one
19 had come in to bid that; the State just decided to say to me,
20 "Well, it's so much more and that's it." Now that doesn't --

21 MR. POWERS: The Staff will have to answer that because they
22 are the ones that did that.

23 CHAIRMAN PEIRCE: The point is, and after you submitted your
24 bid the property was then appraised and it was appraised at \$6
25 an acre whereas your bid was originally \$2 an acre and then raised
26 four, to \$3 an acre because of some misunderstanding in the meantime.

27 MRS. STEINER: They way I understand it when this bid of
28 Mr. Pettengill started originally there was a period of I don't
29 know how many months before the State decided what the price should
30 be or when it came out for advertising. I beg your pardon; didn't
31 you say someone had set it up at \$30? Well, anyway, the State
32 sets the price at \$30. Now there is evidence that I can prove of

1 the increase in value in that property today since the time of
2 the bidding. In the last year we have put on a subdivision there
3 and have sold half of the lots in there and I know exactly what the
4 property will bring and there's a county road that we brought in
5 there. We got all the access roads in there and brought a
6 county road that goes clear into the Victorville road.

7 MR. SMITH: Our original appraisal was made in 1955 and
8 reinspected again in September of 1956 under Mr. Pettengill's
9 application.

10 MRS. STEINER: The State Real Estate Commissioner has our
11 subdivision tract and has passed on it.

12 MR. KIRKWOOD: On January 25th of '57 you bid \$35 an acre,
13 didn't you?

14 MRS. STEINER: Yes.

15 MR. KIRKWOOD: Which at that time presumably you considered
16 to be the proper value?

17 MRS. STEINER: No, I considered that it was more than his
18 bid.

19 MR. POWERS: That's fair.

20 MRS. STEINER: It was \$1600 more than he bid.

21 MR. POWERS: Fair enough.

22 MR. PUTNAM: I see no basis, Mr. Chairman, for recommending
23 that the Commission reject.

24 MR. KIRKWOOD: Might I just ask, you say there was a rule
25 change in '55. The \$2 that had to be submitted up to that point
26 per acre is set out in the law or set out in a rule at that point?

27 MR. PUTNAM: In the rules.

28 MR. KIRKWOOD: But it was a fixed amount in all cases?

29 MR. SMITH: Yes, sir. May I read this rule for the Commission?
30 "To qualify as a bona fide applicant and obtain the rights enumerated
31 under Section 2502(d), a person shall tender to the Sacramento
32 office of the Commission his complete application on the form "

1 "prescribed, accompanied by a filing fee and an expense deposit of
2 \$100 and the full amount of his offer. The minimum acceptable offer
3 shall be \$2 ...", provided however, and this is what was added
4 in '55, "That -- provided however that should the lands applied for
5 have been appraised by the State prior to the filing of the appli-
6 cation at a value in excess of the amounts stated above, the mini-
7 mum acceptable offer shall be such appraised value."

8 MRS. STEINER: May I say something again?

9 CHAIRMAN PEIRCE: Yes, Mrs. Steiner.

10 MRS. STEINER: I keep coming back to 1948 because I just
11 can see how what pertained in 1948 even if there ^{are} some changes
12 regarding the law, in case of fairness there was a price set of
13 \$2 an acre, the lowest acceptable bid, yet the State after an
14 appraisal which apparently was an appraisal because they allowed
15 it to be advertised for \$3 an acre that was the price that came out
16 in the newspaper. There was no other successful bidder. There was
17 no one that even bid against that property. There was no one even
18 interested in that property because it was nothing but a rabbit
19 hatch then. Now today after all of the development I know what the
20 value of the property is and I know that there is really no one
21 that is quite so entitled to that property as myself.

22 CHAIRMAN PEIRCE: why didn't you bid in this property in 1953
23 or '4 or '5?

24 MRS. STEINER: In 1955 we were drilling a well. It costs
25 about \$15,000 to drill a water well.

26 CHAIRMAN PEIRCE: You have waited until 1956 as I understand
27 it when Mr. Pettegill bid the property in at the minimum appraised
28 value of \$30 an acre and under the law you are privileged to match
29 his bid; is that it, Colonel?

30 MR. PUTNAM: That's right.

31 CHAIRMAN PEIRCE: To match his bid and you have done that.

32 MR. PUTNAM: It's the other way around.

1 CHAIRMAN PEIRCE: Raised his bid and he had the right as the
2 original bidder to meet your bid and he has done that and I
3 don't see that we can do anything about it at this late date.

4 MRS. STEINER: I still think regardless of what you honorable
5 gentlemen say that I do have a legal right to it and I think that
6 I will take it to court because it -- there must have been a reason
7 that this, that the State felt that they could charge me another
8 \$6. Legally I had that at \$960. The State has to have a good
9 reason the way I understand it, for rejecting my bid originally.

10 CHAIRMAN PEIRCE: They didn't reject it. They merely had the
11 property appraised, found out it was worth \$1920 and you turned
12 that down for reasons not known to us. You apparently waived your
13 interest in the property at that time.

14 MRS. STEINER: I will tell you what happened. The State sent
15 me, I have never seen a patent, I told it to Mr. Smith. I don't
16 have it here with me, and I don't think that I have dreams but I
17 do know that I was sent a piece of paper that said the application
18 on that and gave me the number and it's perforated on one side
19 and they also sent me another piece that said patent on it, and
20 of course I felt I had a tie in on it. I could probably have
21 recorded this. I have that. I will locate it and the day will come
22 when I will bring it up in court. Now that may have been a mistake
23 it may have been a mistake on the part of the State or what
24 happened I don't know. But for a long time the State did not
25 on that list where they say the grounds that are available for bid,
26 that particular piece of acreage was crossed out and, and the
27 reason I found out too that in the Los Angeles office when I went
28 down there I was interested when we were drilling for water out
29 there we had a little oil showing and I decided I would try to
30 apply for the mineral rights and that's too when I learned that
31 Florence Longeval, it was on record there that Florence Longeval
32 was the owner of the property. My name is Steiner now but that was

1 my maiden name.

2 MR. SMITH: Mrs. Steiner you have told me on several occasions
3 that you had a patent on the land and if you would surrender
4 whatever you had indicating your evidence of title we certainly
5 would review it but there's been no mistake made by the State and
6 no evidence of title ever been issued.

7 MRS. STEINER: Well, the state, it is possible for the state
8 to make a mistake. The State here says that on this sale of
9 vacant school lands, on the last paragraph, says, "Subsequently
10 an appraisal under this application established the land value at
11 \$6 per acre. On October 21, 1948 the applicant was inadvertently
12 advised that the minimum value of said land had been fixed at
13 \$3 per acre and was requested to submit the additional amount of
14 \$320."

15 MR. POWERS: That's the error of the state.

16 MRS. STEINER: Well, the error of the state, but nevertheless
17 it put me in a spot.

18 MR. SMITH: The value was set by the Commission. However, as
19 they have a right to do in 1948, and you were entitled to meet that
20 value which you did not wish to do.

21 MRS. STEINER: Because I felt that I did own it. I felt that
22 the state didn't have a right to raise it for no reason.

23 MR. KIRKWOOD: Mr. Chairman, I can't see at this point that
24 we have any alternative as I read the regulation and look at this
25 recitation of the facts but grant the, or follow the recommendation
26 of the Staff. I am not happy with this 2301 as it stands now, I
27 must say. I think it can run us into trouble and I have hopes the
28 staff will take another look at it as to whether it's the best rule
29 for us to operate under. But it's on the books and we are bound by
30 it and I don't see that we have any alternative.

31 MR. POWERS: The error we made is that \$3 here.

32 MR. KIRKWOOD: I don't think that's timely, Butch, at this point.

1 MR. POWERS: But that's the only error I can see that the
2 State made any place following the rules. I realize that it was
3 canceled after that.

4 MRS. STEINER: May I say a word? I would like to have you
5 gentlemen look at this application. Now Mr. Smith is the one that
6 determines whether it was okeh or not.

7 MR. KIRKWOOD: The rule says that we had to have \$30 and you
8 didn't have \$30 an acre, and that's why I was looking at the rule
9 and I think we are bound by that rule, and you will admit yourself
10 I believe that you didn't put up \$30 an acre at that point.

11 MRS. STEINER: I will get his letter.

12 CHAIRMAN PEIRCE: The Colonel desires to --

13 MRS. STEINER: It says, "Said application and check were
14 returned herewith for the reason that under Item 2 of the
15 application you have not inserted the description of the land
16 which you are applying for."

17 MR. KIRKWOOD: Is that all the letter says?

18 MRS. STEINER: "If you are applying to purchase land such and
19 such contained in 320 acres please be advised that a minimum offer
20 of \$30 an acre is required to qualify an application for the pur-
21 chase thereof." That was the same thing that happened in 1948.
22 Two dollars an acre wasn't adequate at that time either.

23 MR. SMITH: It was adequate at that time. That was the mini-
24 mum required pending appraisal. It's the minimum required to
25 qualify an application at that time.

26 MRS. STEINER: To hold the application in your office, is that
27 it?

28 MR. SMITH: To accept it and publish --

29 MRS. STEINER: When I had my engineer over there subdividing
30 the property it was at that time that I was willing to go pretty
31 high with the State to bid. You asked me about how I bid here.
32 I will go into that. That may not interest you, but I had a check

1 from a man that wanted to go in with me on this piece of property
2 because he knew the value of it too, but during that period he told
3 me you send in this thing for the land, State land at two thousand
4 twenty-five. Now I don't know if Mr. Pettengill is associated with
5 him or not but I think it's very strange that within four days
6 that there was another bid in there that snapped this thing out
7 from under my nose.

8 CHAIRMAN PEIRCE: Colonel Putnam, did you have something to
9 say?

10 MR. PUTNAM: Yes. I am going to have to run and catch a plane
11 very shortly and I do have one item I would like to dispose of
12 immediately and then Frank Hortig and Ken Smith can carry on.

13 CHAIRMAN PEIRCE: All right.

14 MR. PUTNAM: Page 17.

15 CHAIRMAN PEIRCE: Do you want to take that up before you
16 resolve this? Are you ready to make a decision?

17 MR. KIRKWOOD: I don't think we have any alternative with the
18 rules and law as we stand.

19 CHAIRMAN PEIRCE: Mr. Kirkwood moves.

20 MR. KIRKWOOD: I move.

21 MR. POWERS: I will have to second.

22 CHAIRMAN PEIRCE: The motion has been made and seconded that the
23 recommendation of the Staff be approved which will grant this property
24 to Mr. Eugene G. Pettengill who has met the highbid at a cash
25 price of \$11,200. If there's no further discussion that will be the
26 order.

27 MR. PUTNAM: May I suggest we move to page 17?

28 Page 17 has to do with the appointment temporarily as the
29 Assistant Executive Officer of Mr. Francis J. Hortig, and the
30 appointment of his present assistant Mr. Adolph W. Pfeil to the
31 position of Mineral Resources Engineer. These are to move these two
32 men up to fill primarily the vacancy caused by the death of

1 J. Stuart Watson.

2 CHAIRMAN PEIRCE: Any discussion? The appointment of Mr.
3 Jortley meets with my full approval.

4 MR. POWERS: It meets with mine.

5 MR. KIRKWOOD: Yeah, this is fine.

6 MR. PUTNAM: I had to make this recommendation. Frank wrote
7 it. He can handle the rest of this stuff.

8 MR. KIRKWOOD: This, I suppose was cleared?

9 CHAIRMAN PEIRCE: So Mr. Kirkwood has moved and Governor
10 Powers has seconded the motion and so is the order.

11 MR. POWERS: Before we go, do we have these meetings in the
12 morning? The legislature meets in the afternoon and it takes me
13 away from the session and Senate. Could we do that during the
14 session, Colonel?

15 MR. PUTNAM: Surely.

16 CHAIRMAN PEIRCE: Hereafter let's have them in the morning.

17 MR. POWERS: And on the last Friday of the month the Regents
18 meet. Like this Friday it's impossible for me to be there.
19 We have the Regents at 2:00 o'clock in the afternoon and the
20 Legislature in the morning.

21 MR. PUTNAM: We'll try to set them in the morning and they
22 must be before the fifteenth of each month to take care of Long
23 Beach.

24 CHAIRMAN PEIRCE: All right, Colonel, you run along. Mr.
25 Hortig, you are going to take over?

26 MR. HORTIG: Page 2, gentlemen. Monterey Oil Company
27 operator lease, P.R.C. 1550 at Huntington Beach, have conducted
28 extensive operations. During the period of the deferment the
29 lessee has prosecuted an exploration program with mobile marine
30 equipment at a cost reported in excess of one million dollars.
31 The last exploration hole drilled under this program was completed
32 February 23, 1957. In addition, a detailed seismic survey of the
resurvey of the lease was also completed, and it's now felt that
the remaining time in the deferment to April 16 is insufficient to

1 to study, correlate and evaluate the subsurface information and
2 seismic data which have been obtained. Therefore the Monterey
3 Oil Company as operator for Lease P.R.C. 1950 has requested a
4 further extension of six months to October 16, 1957 within which
5 to commence operations under the terms of the lease, and the
6 staff recommends such deferment to October 16, 1957 be granted
7 subject to the express condition that the lessee will perform one
8 of the following actions during the period of the deferment:
9 1. Initiate operations on the lease; 2. quitclaim the entire
10 lease area, or three, present new adequate bases for consideration
11 as to any further deferment of the drilling and operating require-
12 ments under the lease.

13 CHAIRMAN PEIRCE: This is in the vicinity of Huntington
14 beach?

15 MR. HORTIG: Yes. As a matter of fact this area is the area
16 that produced the cash bonus bid of three million, three hundred
17 and thirty-three thousand dollars.

18 CHAIRMAN PEIRCE: Has this lease been drilled?

19 MR. HORTIG: This is part of the exploration drilling.

20 There has been no production on the lease, Mr. Peirce.

21 CHAIRMAN PEIRCE: And they want additional time.

22 MR. HORTIG: To study the results of their most recent explora-
23 tion which has cost them in the last six months in the neighborhood
24 of one million dollars.

25 CHAIRMAN PEIRCE: How many holes have they drilled?

26 MR. HORTIG: It's upwards of eighty.

27 CHAIRMAN PEIRCE: And they were all dry?

28 MR. HORTIG: Yes, sir.

29 CHAIRMAN PEIRCE: How much did we receive in way of cash bonus,
30 three million three hundred and thirty-three thousand dollars.

31 MR. HORTIG: It's still a world's record. There's a representa-
32 tive of Monterey Oil Company here also, Mr. Peirce.

1 CHAIRMAN PEIRCE: There's no opposition to this recommendation?

2 MR. HORTIG: No, sir.

3 MR. POWERS: I move that we grant the recommendation.

4 MR. KIRKWOOD: Second.

5 CHAIRMAN PEIRCE: It's been moved and seconded that the
6 recommendation be approved. So ordered.

7 MR. HORTIG: Page 17 -- 16, gentlemen. Shell Oil Company
8 has made application for authorization to conduct submarine
9 geophysical explorations on those tide and submerged lands under the
10 jurisdiction of the State Lands Commission in Orange, Los Angeles,
11 Ventura and Santa Barbara Counties, lying between a line drawn
12 due west from the mouth of the Santa Ana River and a line drawn
13 due west from Point Arguello. A permit has been requested for a
14 60-day period commencing March 15, 1957. The respective Counties
15 and the City of Santa Barbara have been informed that this appli-
16 cation is to be considered. Ventura County is the only one that
17 has not replied as a result of the notification. The other
18 counties and the City of Santa Barbara have reported none objection
19 to the issuance of the permit and it is recommended that the permit
20 be issued to Shell Oil Company for a sixty-day period commencing
21 March 15, 1957, the permittee to reimburse for the inspection
22 costs, and the permit is to be effective only as long as a con-
23 current permit by the Fish and Game Commission is in effect for
24 the same operating area.

25 CHAIRMAN PEIRCE: No objection to it?

26 MR. HORTIG: No, sir.

27 MR. POWERS: I move it.

28 CHAIRMAN PEIRCE: Moved and seconded and so will be the order.

29 MR. HORTIG: Page 6.

30 MR. SMITH: Sale of vacant State school land. It is recommended
31 that the Commission authorize the sale of vacant State School land
32 for cash, at the highest offer, in accordance with the following

1 tabulation, such sales to be subject to all statutory reservations
2 including minerals, and Items 4, 5, 8 and 9 and 10 are routine
3 items. Number 13, there was a competitive bid received and 20
4 days after the close of the bid period the, one of the bidders,
5 Mr. E. J. Nunn increased his bid by \$3,350 for a total of \$16,350.
6 That additional bid was not submitted pursuant to the speci-
7 fications in the published notice and therefore not considered to
8 be a bona fide bid.

9 MR. POWERS: This is all in order, isn't it?

10 MR. HORTIG: Yes, sir.

11 CHAIRMAN PEIRCE: Well, in other words, on page 13 the sale
12 will be made then to this Mr. Ikenfuss?

13 MR. HORTIG: No, sir, the first applicant matched the bid of
14 fourteen thousand submitted by Mr. Okenfuss, Mr. Nunn having
15 submitted the thirteen thousand and at the close of the bidding
16 attempted to increase it.

17 CHAIRMAN PEIRCE: The tabulation I don't see. Oh, it's down
18 below. All right, the original applicant to match the highest
19 bid.

20 MR. HORTIG: Mes, sir.

21 CHAIRMAN PEIRCE: Any further questions?

22 MR. KIRKWOOD: Move the approval of all those items.

23 MR. POWERS: That's okeh with me.

24 CHAIRMAN PEIRCE: Moved and seconded that these various things
25 will be approved and so will be the order.

26 MR. HORTIG: We are on page 19. We can cover that. Survey
27 has been made by the Staff to determine the present area of
28 accreted State land, waterward of the Gallinas Canal line of 1871
29 and it is recommended that the Executive Officer be authorized to
30 approve and have recorded a map of surveys so provided to serve
31 as evidence of the State's boundary.

32 CHAIRMAN PEIRCE: Okeh, Patch?

1 MR. POWERS: Yes.

2 CHAIRMAN PIERCE: Moved and seconded and so will be the order.

3 MR. SMITH: Page 14 involves the sale of 532 acres of land
4 in Shasta County to Curtis M. Rocca. The land was appraised at
5 \$75,556.20 and he was advised to submit the appraised value.
6 Following that instruction to him, however, we were advised of a
7 protest filed to the State's application by the Scott Lumber Company
8 and that protest is still pending and this calendar item is to
9 confirm extensions granted by the Executive Officer to Mr. Rocca
10 within which he may submit the additional amount to meet the
11 appraised value in view of the pending appeal and protest by the
12 lumber company.

13 MR. POWERS: I move.

14 MR. KIRKWOOD: Now what I can't make the dates jibe here.
15 February 28, 1957. Has he come up with thirty-six thousand?

16 MR. WERNER: He made a payment as of that date and will make
17 an additional payment May 30th.

18 MR. KIRKWOOD: There is no need for this to be deferred
19 further?

20 MR. HORTIG: Not beyond the June 30th. What occurred was
21 by Executive Officer's action he was given until February 28 to
22 do this and he actually did it. As to that part we desire Com-
23 mission confirmation and the balance to give the extension under
24 the authority of the Commission.

25 MR. KIRKWOOD: Okeh.

26 CHAIRMAN PIERCE: All right; the recommendation is approved.

27 MR. HORTIG: Page 22, gentlemen, lists the status of bills
28 suggested for legislative consideration by the Staff in which the
29 Commission has heretofore given conditional approval for Staff
30 processing.

31 Page 23 lists the bills currently pending which could affect
32 the administrative cognizance of the Commission. In the same

1 order as listed through page 31 you gentlemen have copies of the
2 bills before you in case you wish some staff work on them, and it
3 is recommended that the Commission authorize the Staff to discuss
4 these measures with the authors and to attend the respective
5 legislative committee hearings for the purpose of presentation of
6 reports of facts and existing Commission administrative procedure
7 and regulations relative thereto.

8 CHAIRMAN PEIRCE: It's the same procedure we followed two
9 years ago?

10 MR. HORTIG: Yes, sir.

11 MR. KIRKWOOD: Before we go on record as approving or
12 disapproving it it would be brought back to us for further action?

13 MR. HORTIG: Yes, sir.

14 MR. POWERS: This just allows you to discuss them now.

15 CHAIRMAN PEIRCE: All right. So will be the order.

16 MR. HORTIG: Page 32 and following through 44 are transactions
17 previously consummated by the Executive Officer on which Commis-
18 sion confirmation is desired. These are the routine general
19 leases, routine renewals of permits, and routine issuances of permits
20 for which there is delegation of authority to the Executive Officer.

21 MR. KIRKWOOD: Move the confirmation.

22 MR. POWERS: Yes; second.f

23 CHAIRMAN PEIRCE: Moved and seconded that the actions of the
24 Executive Officer be confirmed and so will be the order.

25 MR. HORTIG: There is just the one question whether you gentle-
26 men consider it will be appropriate within the scope of the Lands
27 Commission as to a resolution relative to J. Stuart Watson passing
28 on.

29 CHAIRMAN PEIRCE: I think it would be very appropriate. I am
30 glad that you mentioned it. How about you preparing a very suitable
31 resolution for the signature of the members of the Commission?

32 MR. HORTIG: Very well. The Staff will proceed and route it

1 then for signature.

2 CHAIRMAN PEIRCE: Any other suggestions?

3 MR. POWERS: I move that we approve at this time that it should
4 be on the minutes some place that we do that.

5 CHAIRMAN PEIRCE: All right.

6 MR. HORTIG: We'll include an item in the minutes.

7 MR. POWERS: Do you have a resolution that the Staff has --

8 MR. KIRKWOOD: Just incorporate it in the minutes.

9 MR. HORTIG: In the form in which you gentlemen finally decide?

10 CHAIRMAN PEIRCE: Yes.

11 MR. HORTIG: Then we'll proceed with the preparation of the
12 resolution.

13 CHAIRMAN PEIRCE: And have it suitably engrossed and prepared
14 for the widow and the members of the family.

15 MR. HORTIG: Yes, sir.

16 CHAIRMAN PEIRCE: All right, so will be the order.

17 MR. HORTIG: What about a date for the next meeting?

18 CHAIRMAN PEIRCE: Are you able to fix one now?

19 MR. HORTIG: We can have it April 8th through the 12th.

20 MR. KIRKWOOD: It has to be before the 15th.

21 MR. HORTIG: Yes, sir; otherwise we have payroll troubles.

22 CHAIRMAN PEIRCE: Try to work it out.

23 MR. HORTIG: We'll work it out with your secretary.

24 CHAIRMAN PEIRCE: Yes, about the first week in April.

25 MR. HORTIG: About the week of the 8th would actually be the
26 second week.

27 CHAIRMAN PEIRCE: All right. The 8th is on Monday.

28 MR. HORTIG: Yes, sir.

29 CHAIRMAN PEIRCE: That sounds good.

30 All right. The meeting is adjourned.

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