

1.324

STATE LANDS COMMISSION
of the
STATE OF CALIFORNIA

---O---

Regular Meeting of the State
Lands Commission held at 115
State Building, Los Angeles
California, at 10:00 A.M.,
October 8, 1957.

---O---

REPORTER'S TRANSCRIPT OF PROCEEDINGS

---O---

Reported by:
Carroll S. Blodgett.

Tryer, Merrill & Blodgett
CERTIFIED SHORTHAND REPORTERS
124 W. FOURTH STREET
LOS ANGELES 13, CALIFORNIA
MICHIGAN 9806

| 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 | <u>CALENDAR ITEM</u> | <u>CALENDAR PAGE</u> | <u>TRANSCRIPT PAGE</u> |
|---|----------------------|----------------------|------------------------|
| | 1 | 32 | 12 |
| | 2 | 13 | 7 |
| | 3 | 13 | 7 |
| | 4 | 24 | 7 |
| | 5 | 13 | 7 |
| | 6 | 11 | 52 |
| | 7 | 8 | 12 |
| | 8 | 10 | 17 |
| | 9 | 13 | 7 |
| | 10 | 14 | 7 |
| | 11 | 14 | 7 |
| | 12 | 14 | 7 |
| | 13 | 14 | 7 |
| | 14 | 14 | 7 |
| | 15 | 6 | 13 |
| | 16 | 25 | 8 |
| | 17 | 5 | 39 |
| | 18 | 1 | 19 |
| | 19 | 26 | 9 |
| | 20 | 28 | 10 |
| | 21 | 30 | 11 |
| | 22 | 9 | 6 |
| | 23 | 39 | 88 |
| | 24 | 41 | 91 |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE LANDS COMMISSION

of the

STATE OF CALIFORNIA

---o---

Regular Meeting of the State
Lands Commission held at 115
State Building, Los Angeles,
California, at 10:00 A.M.,
October 8, 1957.

---o---

REPORTER'S TRANSCRIPT OF PROCEEDINGS

---o---

COMMISSION MEMBERS:

JOHN M. PEIRCE, Chairman
HAROLD J. POWERS, Member
ROBERT C. KIRKWOOD, Member

STAFF MEMBERS:

F. J. Hortig, Acting Executive Officer
Frank W. Porter, Administrative Assistant
Julia T. Stahl, Secretary

APPEARANCES:

For the Commission: EDMUND G. BROWN, Attorney General,
by Jay Shavelson, Deputy Attorney
General.

Assemblyman Clayton A. Dills, in pro per

For Standard Oil Company: Marcus Mattson, Esq.

For Western Gulf Oil Company: James G. Leovy, Esq.

For Humble Oil & Refining Company: William Gardner, Esq.

For Edwin W. Pauley Associates: Glenn R. Watson, Esq.,
and J. Barton Hutchins.

1 Los Angeles, California, Tuesday, October 8, 1957, 10:00 A.M.

2 (Chairman John M. Peirce and Harold J.

3 Powers are present.)

4 CHAIRMAN PEIRCE: The meeting will come to order. I
5 want to recognize the presence of Senator Richard Richards
6 and Assemblyman Allen Miller. We are glad to have both
7 of you here. Also, Assemblyman Dills. We are glad to have
8 all three of you here and welcome your participation in
9 our deliberations today.

10 Now, the Lieutenant Governor will be somewhat
11 late; he may not arrive until about 11:00 o'clock. We
12 will proceed with the agenda and try to avoid any
13 controversial items until he gets here.

14 The first order of business is the confirmation
15 of the minutes of the State Lands Commission which took
16 place on September 13th. Copies have been mailed to the
17 members of the Commission. Do they meet with your
18 approval, Mr. Kirkwood?

19 MR. KIRKWOOD: No technical changes.

20 CHAIRMAN PEIRCE: The minutes will stand approved as
21 written.

22 Now do you desire to discuss the question of the
23 next meeting of the Commission, Mr. Hortig, or shall we
24 wait until the Lieutenant Governor arrives? We have to
25 meet before November 15th, don't we?

26 MR. HORTIG: Preferably.

1 CHAIRMAN PEIRCE: Perhaps we better leave that for
2 later determination.

3 MR. HORTIG: That will be satisfactory.

4 CHAIRMAN PEIRCE: Mr. Hortig, will you proceed with
5 the agenda, bearing in mind any items in which the
6 Lieutenant Governor may wish to participate, should be
7 held until his arrival.

8 MR. HORTIG: Mr. Chairman, may I suggest that extra
9 to the prepared agenda you have received, is a request
10 from the City of San Francisco by Mayor Christopher relative
11 to the desire of the City to make a presentation to the
12 State Lands Commission on problems they have with respect
13 to acquisition of State lands. The representatives for the
14 City of San Francisco are here. If it is convenient, you
15 might hear them at this time.

16 CHAIRMAN PEIRCE: Are you gentlemen from San Francisco
17 in a hurry to return to your home city? The Lieutenant
18 Governor is not here yet, and I feel it might be advantageous
19 if you defer your presentation until he arrives.

20 MR. WARD: We can wait, Mr. Chairman. We have until
21 3:00 o'clock to catch a plane to go back.

22 MR. KIRKWOOD: We hope to be through long before that.

23 CHAIRMAN PEIRCE: We hope to be through before noon,
24 as a matter of fact.

25 Mr. Hortig, we will hold that in abeyance and
26 proceed with the next item in order.

1 MR. HORTIG: Calendar Item 22, Page 9, gentlemen.

2 The Construction Aggregates Corporation is
3 lessee under a State Mineral Extraction Lease in San
4 Francisco Bay providing for the removal of sand and gravel
5 in two areas known as the Fort Knox and Presidio Shoals.
6 No extraction operations have actually been taken under
7 the lease to date, however, the lessee is interested in
8 continuation of the lease because of several prospects for
9 future operations, and feels that the performance of minimum
10 shift requirements without commercial removal of material
11 would serve no useful purpose. It has therefore been
12 requested that the shift requirements in the operations
13 for the lease years of 1956-1957 be waived. In consideration
14 of the lack of competition in bidding at the time of the
15 lease offered, and the fact that annual rentals have been
16 paid by the lessee and that no State lands have actually
17 been occupied and utilized, it is recommended that the
18 Commission authorize a grant of deferment of the operating
19 requirements specified in Section 10 of Mineral Extraction
20 Lease 709 for the lease years ending February 13, 1956 and
21 February 13, 1957, all other terms and conditions and
22 performance requirements under the subject lease will
23 remain unchanged.

24 MR. KIRKWOOD: All right, I move it clear.

25 CHAIRMAN PEIRCE: The recommendation is approved.

26 MR. HORTIG: Page 11, Item 6. It seems to me this one

1 should be deferred to the arrival of the Lieutenant Governor.

2 Page 13, Calendar Items 2, 3, 5 and 9 summarized
3 thereon represent the recommendations for the sale of
4 vacant State school land, for cash, at the highest offer,
5 in accordance with the following tabulation, such sales
6 to be subject to all statutory reservations including
7 minerals. These are all pursuant to high bids received
8 and have been processed in the routine manner. There are
9 no objections to these conveyances.

10 MR. KIRKWOOD: Move the recommendation.

11 CHAIRMAN PEIRCE: All right, the recommendation is
12 approved.

13 MR. HORTIG: I should like to call the attention of
14 the Commission that on Page 14 there are similarly five
15 additional items, also routine, for sale to the highest
16 bidder without objection.

17 CHAIRMAN PEIRCE: Aren't these a part of the
18 recommendation we have just approved?

19 MR. HORTIG: They are, sir, but I had not directed the
20 Commission's attention to them.

21 CHAIRMAN PEIRCE: Altogether nine items; we have
22 approved them.

23 MR. HORTIG: Page 24. Pursuant to an application
24 previously filed by the Department of Natural Resources.
25 Division of Forestry, the State has been offered Federal
26 lands desired by the Division of Forestry. These lands have

1 been listed to the State by the Federal Government.

2 It is recommended that the Commission determine
3 that it is to the advantage of the State to select the
4 Federal land comprised in Lots 1, 2 and 3 of Section 6,
5 Township 5 South, Range 18 East, Mariposa County, containing
6 59.34 acres; that the Commission find that said Federal
7 land is not suitable for cultivation without artificial
8 irrigation; that the Commission select and authorize the
9 sale of said land, for cash to the Division of Forestry at
10 the appraised cash price of \$1,246.14 plus expenses, or a
11 total of \$1,320.14, subject to all statutory reservations
12 including minerals.

13 CHAIRMAN PEIRCE: What is the Division of Forestry
14 going to use this land for?

15 MR. HORTIG: Specifically I do not recall, but I
16 believe it was primarily as a site, an operating site for
17 field facilities of the Division of Forestry. It was not
18 part of an augmented forestry program; however, this is
19 the consummation of an application of several years
20 standing. It is only now that we have had the land finally
21 listed by the U.S. Bureau of Land Management. It is not
22 a new application.

23 CHAIRMAN PEIRCE: All right?

24 MR. KIRKWOOD: Yes.

25 CHAIRMAN PEIRCE: The recommendation is approved.

26 MR. HORTIG: Page 25. Under the 1952 statutes the

1 Commission was authorized to exchange certain lands in
2 Corte Madera Creek for privately-owned lands. The
3 authorization was augmented by the Statutes of 1957 to
4 provide that the Commission might also convey -- also
5 is authorized to convey the mineral reservations in such
6 land. In a final title review of land to be exchanged it
7 was found that lands formerly thought to have been owned
8 by the State and to be offered in exchange were actually
9 already owned by persons desiring to complete the exchange.
10 In order to clarify the title situation, Schultz Construction
11 Company desirous of completing the exchange has submitted
12 a grant deed to the State for the lands formerly claimed
13 by the State in order that the exchange may be completed
14 in accordance with the terms of the Statute. It is
15 recommended that the grant deed from Schultz Construction
16 Company be accepted by the Commission, and thereafter the
17 previously-authorized exchange will be completed.

18 CHAIRMAN PEIRCE: All right?

19 MR. KIRKWOOD: I don't see how the State can lose
20 on that.

21 CHAIRMAN PEIRCE: Not on the ground. All right, the
22 recommendation is approved.

23 MR. HORTIG: Mr. Chairman, would you desire to consider
24 Long Beach subsidence projects which are of a routine nature?

25 CHAIRMAN PEIRCE: Yes.

26 MR. HORTIG: Page 25. The Commission has previously

1 approved on a fiscal year basis a project entitled the
2 Pier A area project. Operations on this project have
3 developed the fact that additional unforeseen costs will
4 be incurred by the Harbor Department arising from work
5 found necessary to be done in connection with the repairs
6 and support of the concrete wharf and the bulkhead at
7 Berth 5, which it could not estimated prior to actually
8 undertaking construction operations in the area. The
9 project has received initial staff review, and is
10 considered --

11 MR. KIRKWOOD: I move the recommendation.

12 MR. HORTIG: -- to include some "subsidence costs"
13 as defined under Chapter 29. It is recommended that the
14 Commission approve such costs proposed to be expended by
15 the City of Long Beach, including subsidence remedial work
16 for the balance of the fiscal year.

17 MR. KIRKWOOD: I so move.

18 CHAIRMAN PEIRCE: All right, the recommendation is
19 approved.

20 MR. HORTIG: Page 28. As the Commission is aware,
21 the subject of property purchase and areal fill is a
22 project being conducted for subsidence protection by the
23 City of Long Beach; it has been reviewed and approved in
24 part on a month to month basis while determining the final
25 legal qualifications on which the entire project may be
26 approved in the future. Therefore application has again

1 been received from the City and it is recommended that the
2 Commission conditionally approve the Town Lot area project
3 as a subsidence project and the costs proposed to be
4 expended as shown on an attached Exhibit A, in which costs
5 are proposed to be expended for acquisition during October
6 and November, 1957.

7 MR. KIRKWOOD: There is now no policy involved in
8 here?

9 MR. HORTIG: No new policy except the one item, sir.
10 I might call your attention to the footnote on the bottom
11 of Page 29. While it is proposed that the expenditures
12 will be made during October and November, it is suggested
13 that a final terminal date of June 30, 1958, be permitted,
14 because it is sometimes not possible to actually complete
15 the expenditures in the month for which they are approved,
16 if the approval is limited to one month, so we propose
17 to limit the completion of these projects to the end of
18 the fiscal year.

19 MR. KIRKWOOD: That is agreeable to Long Beach?

20 MR. HORTIG: Yes, sir.

21 MR. KIRKWOOD: All right, I move the recommendation.

22 CHAIRMAN PEIRCE: The recommendation is approved.

23 MR. HORTIG: The matter of the project for a new
24 location and construction of an administration building in
25 the Long Beach harbor area has been under extended discussion
26 with the Staff. The Commission has heretofore approved

1 conditionally on a month to month basis the execution of
2 necessary preliminary work pending solution or determination
3 of the basis on which the entire project can be approved.
4 It is again recommended that the expenditures proposed for
5 Force Account and engineering expense for preliminary work
6 be approved for the month of November, 1957.

7 MR. KIRKWOOD: Move the recommendation.

8 CHAIRMAN PEIRCE: The recommendation is approved.

9 MR. HORTIG: Pages 32 to 38 contain a tabulation of
10 transactions consummated on the executive authority granted
11 by the Commission. It is recommended the Commission
12 confirm the issuance of these various easements, permits
13 and assignments which have been authorized by the Commission
14 heretofore, all of which have been issued pursuant to
15 standard policies, rules and regulations of the Commission.

16 MR. KIRKWOOD: I move the recommendation.

17 CHAIRMAN PEIRCE: The recommendation is approved.

18 MR. HORTIG: Page 8. On July 15th the Commission
19 authorized the offering of an area in Owens Lake for lease
20 for extraction of minerals from the lands and waters of
21 Owens Lake. Pursuant to this offered lease, one bid was
22 received from the Columbia-Southern Chemical Corporation.
23 However, on the review of the bids it is the opinion of
24 the Office of the Attorney General that the bidder failed
25 to comply with the conditions of the offer and the royalty
26 provisions of the Public Resources Code. Therefore, it is

1 recommended that the Commission reject the bid of Columbia-
2 Southern Chemical Corporation for subject lease.

3 MR. KIRKWOOD: Does anyone wish to be heard on this?

4 CHAIRMAN PEIRCE: Is there anybody who wishes to be
5 heard with respect to this Columbia-Southern Chemical
6 Corporation?

7 MR. KIRKWOOD: I move the recommendation.

8 CHAIRMAN PEIRCE: Being guided by the recommendation
9 of the Attorney General in this regard, the recommendation
10 is approved.

11 MR. KIRKWOOD: What happens on that, Frank? Do they
12 have to put up costs on that?

13 MR. HORTIG: Yes, sir.

14 MR. KIRKWOOD: So the State isn't out?

15 MR. HORTIG: They pay the costs of advertising.

16 Page 6, gentlemen. In brief, a town lot in the
17 Bandini area of Los Angeles County was acquired by the
18 State through escheat proceedings. The land was sold by
19 the Office of the State Controller with reservation of
20 minerals to the State. The administration of the mineral
21 reservation has heretofore been transferred by the Controller's
22 Office to the State Lands Commission. Richfield Oil
23 Corporation has submitted a request that the Lands Commission
24 approve inclusion of the subject land in a community lease
25 which is already effective in the majority of or all of
26 the other property in the area. The form of the lease has

1 been reviewed by the Office of the Attorney General with
2 the conclusion that the Lands Commission may properly
3 authorize the execution of the lease. It is recommended,
4 therefore, that the Lands Commission authorize the acting
5 executive officer to enter into a lease with the Richfield
6 Oil Corporation in accordance with the terms and conditions
7 of the lease form submitted by the Richfield Oil Corporation
8 and as approved by the Office of the Attorney General, for
9 the extraction of oil and gas from a parcel of land in
10 Los Angeles County described in the following, containing
11 eight one-hundredths of an acre.

12 MR. KIRKWOOD: There is no need for competitive
13 bidding under the circumstances?

14 MR. HORTIG: No, sir, there is no way the land could
15 be offered for competitive public bidding. There is a
16 question as to surface rights. There is an inadequate
17 amount of surface right to permit the placement of a
18 derrick on this land under Division 5 of the Public
19 Resources Code. The land is surrounded by, and if there
20 is production, will undoubtedly be drained by means of
21 operations under the community lease. The projection is
22 provided under the statutes. After the State Oil and Gas
23 Supervisor approved the pooling arrangements, as he has
24 in this case, the protective feature is for the land owner
25 to join in the community lease. The Attorney General's
26 office has dictated this is appropriate for the Lands

1 Commission in this instance.

2 CHAIRMAN PEIRCE: Mr. Shavelson.

3 MR. SHAVELSON: These are escheated lands, and at the
4 time that the Controller first conveyed the lands to
5 private owners they were compelled to reserve the mineral
6 rights, but subsequently the Statute has been changed,
7 and if -- and presently provides there is no necessity
8 for reserving mineral rights for escheated lands, and
9 further provides that where mineral rights may be preserved,
10 they may be disposed of in such manner as the Commission
11 may determine. This means in our opinion there is no
12 necessity for competitive bidding for escheated lands or
13 mineral rights.

14 CHAIRMAN PEIRCE: No necessity for competitive bidding,
15 but is there any objection to having competitive bidding?

16 MR. SHAVELSON: No, sir. I believe that the Commission
17 has broad discretion. I believe in this particular case,
18 it is my understanding, that it would be impractical; but
19 the Commission has a broad discretion to convey these
20 mineral rights in whatever manner it wishes to.

21 CHAIRMAN PEIRCE: Mr. Hortig, is this lot situated on
22 top of a producing oil field?

23 MR. HORTIG: It is situated in an area which may be
24 potentially productive; however, due to its limited area,
25 as I commented previously, there is no basis on which anyone
26 other than the holder of the community lease could develop

1 the oil and gas from beneath this lot, because this lot
2 in itself is of insufficient acreage to permit development
3 by drilling on the lot itself.

4 MR. KIRKWOOD: How was the royalty rate established?

5 MR. HORTIG: As they were announced at the time of
6 the negotiations of the community lease with all the
7 adjoining property owners.

8 MR. KIRKWOOD: That is what is being paid on the other
9 property?

10 MR. HORTIG: Yes, sir.

11 CHAIRMAN PEIRCE: What is the value of this?

12 MR. HORTIG: In terms of royalty?

13 CHAIRMAN PEIRCE: In terms of dollars.

14 MR. HORTIG: If we would sell this interest?

15 CHAIRMAN PEIRCE: If we would sell the interest; would
16 it involve \$50 or \$1,000?

17 MR. HORTIG: We would recommend withholding an
18 appraisal of the value of the land for sale until there
19 has been further development in the area.

20 CHAIRMAN PEIRCE: In other words, we are not
21 recommending that it be sold at this time?

22 MR. HORTIG: No, sir, simply that it be leased or
23 included in the community oil and gas lease on a lease
24 basis.

25 CHAIRMAN PEIRCE: Approved?

26 MR. KIRKWOOD: All right.

1 CHAIRMAN PEIRCE: All right, the recommendation is
2 approved.

3 MR. HORTIG: Page 10, gentlemen.

4 MR. KIRKWOOD: 10?

5 MR. HORTIG: Yes. The Commission, pursuant to a
6 1956 request of the Division of Beaches and Parks,
7 authorized withdrawal from public sale 163 acres of land
8 in Imperial County to permit future purchase of the land
9 by the State Park Commission. The concurrent negotiations
10 being conducted for Federal lands by the Division of
11 Beaches and Parks have not been completed, therefore the
12 Division has requested that the Commission authorize the
13 extension of the withdrawal on the State lands to permit
14 completion of the Federal negotiations, subsequent to
15 which time it is the desire of the State Park Commission
16 to purchase these lands, State lands. Therefore, it is
17 recommended that the Commission extend the withdrawal from
18 public sale of the designated lots containing 163.72
19 acres in Imperial County until June 30, 1959, for purchase
20 of the land by the State Park Commission at the appraised
21 value, without advertising.

22 MR. KIRKWOOD: Has anybody else been interested in this
23 land?

24 MR. HORTIG: No, sir, no other applications were
25 presented.

26 MR. KIRKWOOD: I so move.

1 CHAIRMAN PEIRCE: The recommendation is approved.

2 MR. HORTIG: If the Chairman please, I believe this
3 completes substantially the items on the agenda that the
4 Commission may wish to consider prior to Lieutenant Governor
5 Powers' arrival. A recess may be in order.

6 CHAIRMAN PEIRCE: All right, the Commission will
7 recess until the Lieutenant Governor arrives, which should
8 be within the next ten minutes.

9 (Recess.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 (Lieutenant Governor Harold J. Powers
2 entered the room.)

3 CHAIRMAN PEIRCE: All right, the meeting will come to
4 order. A number of items have already been disposed of
5 and now we have a few remaining wherein it was desired to
6 have the Lieutenant Governor's participation. He is now
7 with us, so, Mr. Hortig, will you proceed with the agenda.

8 MR. HORTIG: If the Chairman please, we might now
9 proceed through the remaining calendar simply in the order
10 in which the items happen to appear, starting on Page 1.

11 On August 8th the Commission authorized the
12 initiation of procedures for consideration of amendments
13 and additions to the Rules and Regulations. Pursuant to
14 this authorization, the proposed amendments and additions
15 were published, with a specification that statements
16 relative thereto would be received during the thirty-day
17 period terminating September 30th. One statement was
18 received, and the proposed modifications have also been
19 reviewed further by the Office of the Attorney General. In
20 consideration of this statement and the aforesaid review,
21 it is suggested that the proposed Rules and Regulations,
22 two of them at least, be adopted in modified form as
23 follows. Inasmuch as there are personal appearances here
24 this morning and there will probably be comments of
25 different nature with respect to the three rule amendments
26 and additions proposed, recommendations will now be made

1 separately to the Commission.

2 First, on the amendment to Section 2100 (b),
3 as it appears on Page 3. The language recommended to the
4 Commission is identical with that which was published,
5 which has been reviewed by all parties. There have been
6 no suggestions or dissensions for any change from the
7 published text.

8 Section 1913, relating to the joint bidding,
9 has been proposed for modification in the second sentence,
10 first by the addition of the word "joint bid." This
11 modification is actually to conform the regulation to the
12 statute so that there may be no future question that the
13 meaning of the regulation is different than that of the
14 statute.

15 Secondly, the statute indicates that in the
16 event of a bid by an association of persons, including
17 a partnership, that the names and addresses of the persons
18 holding interest shall be submitted with the bid as a
19 practical matter in connection with participation in a
20 joint bid by a partnership having limited partners, who
21 may be very numerous. The mere submittal of the list of
22 names would not achieve anything for the Commission in
23 terms of determining the qualifications of the limited
24 partners. The limited partners are not in position to join
25 in the management, operation or control of the lease, there-
26 fore it is suggested that the limited partners, as such,

1 need not be specified to the Commission provided that,
2 as has already been proposed on Page 5 of the Calendar,
3 a policy determination will be made by the Commission
4 subsequently to be considered for adoption as a rule, that
5 in the future bids submitted by partnerships, either
6 jointly or individually, will provide that with the
7 submittal of the bid the partnership shall submit a sworn
8 statement in the form of an affidavit or certified state-
9 ment that each and every limited partner is duly qualified
10 under Section 6801 of the Public Resources Code, which
11 qualification is a determination that the Commission must
12 make in connection with the issuance of leases.

13 At this point it might be most advantageous to
14 the Commission, I believe, if additional proposals which
15 may be made by persons in attendance here and discussion
16 be presented with respect to the proposed language for
17 Section 1913.

18 CHAIRMAN PEIRCE: Who desires to be heard with respect
19 to this proposed regulation?

20 MR. MATTSON: I do, Mr. Chairman, not particularly
21 with regard to limited partnerships, but with regard to
22 joint bidding.

23 CHAIRMAN PEIRCE: All right, will you step forward
24 at this time, please, and would you give your name for the
25 record.

26 MR. MATTSON: My name is Marcus Mattson. I represent

1 Standard Oil Company.

2 CHAIRMAN PEIRCE: All right, will you proceed, please.

3 MR. MATTSON: The portion of this new section to which
4 I particularly direct my remarks is the portion which reads:
5 "All persons, firms, or corporations who are to assume
6 a contractual relationship with the State by virtue of
7 a particular joint bid shall be specified in the bid. Others,
8 not participating in management, operation, or control
9 under the joint bid, need not be specified, irrespective
10 of investments for contractual relationship with persons
11 or entities other than the State."

12 Now, that I conceive to be contrary to the
13 statute and inadvisable from the standpoint of the State.
14 It apparently attempts to create two classes of joint
15 bidders, the class of joint bidders who are not interested
16 in management but only in income and profits, and the type
17 which is interested in management alone, perhaps, or
18 management and a small amount of the profits. 6801(d) seems
19 to me to make it clear, it says, "In every instance of
20 joint bidding, the names of all persons, firms, or
21 corporations interested in a particular joint bid shall
22 be specified."

23 Now, I take that to mean everyone who is interested
24 in any portion of the profit or income from the enterprise.
25 That means, of course, it doesn't mean those who are merely
26 loaning money or something of that sort, but it does mean

1 anyone who has an interest in the profits or income. I
2 think the State should know who is going to get the profits
3 out of it and should not permit the profits to be divorced
4 from the management. That is apparent also from 6804 which
5 refers to assignments. It therein refers to assignment of
6 interest, either a divided or undivided interest therein,
7 and provides unless approved by the Commission no assign-
8 ment, transfer or sublease shall be of any effect. Now,
9 if the Commission does not know who has the interest, this
10 provision with regard to assignment without consent has no
11 force or effect. The Commission couldn't do anything about
12 it, and it in effect allows what amounts to an assignment
13 in advance so that the Commission is then divorced from that
14 person completely. He may deal in that interest as he
15 sees fit. As I conceive it, under those two classes of
16 joint bidders that this regulation might set up, the
17 pipeline company that purchases the oil would deal directly
18 with that person as to whom the State has no knowledge.
19 Furthermore, the basic provision of the statute, which is
20 6827, requires that the bids be made by the Commission ---
21 be awarded to the highest qualified bidder or joint bidders.
22 Now, that means they have to award it to the persons who
23 are interested, not to somebody else, and I don't think
24 they can award it to somebody they don't know, of whom they
25 don't know. I would think that it is highly inadvisable
26 from the standpoint of the state to be dealing with a group

1 of persons and only know part of them. It is conceivable
2 that the person who had the management would own 5 per cent
3 or 2 per cent and 98 per cent of the interest be owned by
4 those who are not in management. Now, that to me would be
5 highly inadvisable, and I don't think the landowners normally
6 would stand still for it.

7 CHAIRMAN PEIRCE: Mr. Mattson, may I ask you a
8 question?

9 MR. MATTSON: Yes.

10 CHAIRMAN PEIRCE: Do you have any comment to make with
11 respect to the administrative difficulties involved in our
12 identifying and investigating multiple owners or persons
13 interested in a lease of this character? I am thinking of,
14 for example, a person holding fractional royalty interests;
15 can you envision some difficulty with respect to our tracing
16 down all these ownerships?

17 MR. MATTSON: I think the Commission could require
18 a certification by everyone who has a joint bidder as to
19 his status with regard to the statutes, and could doubtlessly
20 rely upon that at least until something comes up to
21 determine otherwise. It may be that where there is
22 competition that the other bidders might be of some help
23 in that regard.

24 CHAIRMAN PEIRCE: We have a practical problem, as I
25 envision it, I don't know all the details -- it is easy to
26 trace down and identify, so far as financial responsibility

1 is concerned, companies such as you represent. Your
2 records are readily available, and yet there may be a
3 hundred different individuals interested in a lease, as
4 so-called silent partners, and as I understand it we have
5 to trace down each one of these individuals to determine
6 his financial responsibility and develop other information
7 containing his qualifications to bid on a State lease. Now,
8 what about that?

9 MR. MATTSO: Well, I would say that if the Commission
10 required the presentation of the evidence necessary, perhaps
11 certified by accountants of some sort, or other certification
12 which would put the evidence in the hands of the Commission
13 and its Staff, that job would be relatively easy. And I
14 would think that as a practical matter the Commission could
15 rely upon those statements if the proper statement was
16 required.

17 CHAIRMAN PEIRCE: You made a statement that in your
18 opinion we may not have any choice in the matter under the
19 law, we must identify all parties to these leases whether
20 we like it or not, or whether or not there are any
21 practical difficulties. Now, did I understand you correctly
22 in that regard?

23 MR. MATTSO: You did. That is my feeling, that both
24 under 6801(d) and under the other sections I referred to,
25 it is necessary.

26 CHAIRMAN PEIRCE: All right, Mr. Shavelson, may I ask

1 you with regard to that matter. Mr. Shavelson is a Deputy
2 Attorney General.

3 MR. SHAVELSON: Our office has expressed the opinion
4 that the term "interested" in Subsection (d) of 6801 refers
5 to those who are actually participating in the joint bid
6 as bidders; in other words, we construe it as requiring
7 a disclosure of names of those who are actually members
8 of all associations, individuals and corporations who are
9 actually entering into the joint bid, and also in the case
10 of associations, we think there is a requirement for
11 disclosure of at least the qualifications under Section
12 6801 of all of the members of that association. We do not
13 believe that when there is a joint bid there necessarily
14 must be a disclosure of all of those having a mere
15 contractual interest in the proceeds of the lease by virtue
16 of their contracts with persons who are bidders. In other
17 words, disclosure of the bidders, but we don't think the
18 legal requirement is that there be a disclosure of all
19 those having contractual relations with one of the joint
20 bidders.

21 CHAIRMAN PEIRCE: Is that in disagreement with you,
22 Mr. Mattson?

23 MR. MATTSON: Yes, it is. True, certain contractual
24 relationships would not be covered -- for instance, a mere
25 loan, a contract to drill, for instance, at so much a
26 foot, but somebody who is interested in the income and

1 profits of that venture, he is interested, in my view,
2 under the statute and he has again a divided or undivided
3 interest as to which assignment -- which concerns the
4 Commission -- which assignment is necessary, which again
5 it covers. He is a joint bidder because the bidder is --
6 he is one of the persons who is going to have income or
7 profit out of it or take the losses, an entrepreneur, a risk
8 taker, and hence he is interested.

9 CHAIRMAN PEIRCE: Do I understand, Mr. Shavelson, that
10 you and Mr. Mattson are in disagreement with respect to
11 whether or not we must seek disclosure of those individuals
12 who have merely a contractual interest in a lease and who
13 will have nothing to do with the actual development of the
14 lease?

15 MR. SHAVELSON: It may come down to a question of
16 semantics; I think we both agree that certainly the name
17 of every person who is a bidder must be disclosed. Now,
18 the question or standard is, who is a bidder, who is one of
19 the joint bidders. Mr. Mattson indicates this, that everyone
20 who has a share in the profits is ipso facto a joint bidder.
21 It is the contention of our office that he is not necessarily
22 one of the joint bidders unless he has some right of
23 management or control. I do believe there is a difference
24 there.

25 CHAIRMAN PEIRCE: Is there anyone else here who desires
26 to speak to this proposed regulation?

1 MR. LEOVY: Mr. James G. Leovy. I am representing
2 Western Gulf Oil Company. We concur with Mr. Mattson,
3 and feel that if the code section intended to include just
4 people who were participating in management it would have
5 said "The names of all persons, firms or corporations joining
6 in the bids shall be specified," but the use of the word
7 "interested, interested in a particular joint bid," is
8 intended to include anyone who might participate or have a
9 hidden interest, and we feel that the section would be --
10 that the proposed regulation would be in violation of the
11 section.

12 MR. KIRKWOOD: Mr. Chairman.

13 CHAIRMAN PEIRCE: Mr. Kirkwood.

14 MR. KIRKWOOD: I guess I don't understand the type of
15 relationship we are talking about here, how it would arise
16 or what the nature of it is. I must admit my law on
17 partnership and who is the partner and participates is kind
18 of rusty. What sort of agreement are we talking about?

19 MR. LEOVY: We feel this, that this is intending to
20 get at that very thing by the use of the word "interest."
21 The bidder might actually, as Mr. Mattson says, have a 2½
22 per cent interest, might not have any real interest, he would
23 be holding it as a trustee, a hidden trust, and not wish to
24 disclose evidently the name of the actual bidder, the one
25 financing the whole. The money might be put up by the
26 person interested, and actually the bidder not putting any

1 money into it at all.

2 MR. KIRKWOOD: What is the purpose of this 6801? Is
3 that the number of the section?

4 GOV. POWERS: 6801(a), isn't it?

5 MR. KIRKWOOD: Is it purely to establish whether they
6 are a citizen of this country, or what is the purpose of
7 this disclosure?

8 MR. LEOVY: That is one purpose; another purpose is to
9 disclose the financial interest, I believe.

10 MR. KIRKWOOD: Anything else in 6801 that deals with
11 financial status?

12 CHAIRMAN PEIRCE: Well, financial responsibility surely
13 is one of the major objectives in connection with dis-
14 closure.

15 MR. LEOVY: Yes.

16 CHAIRMAN PEIRCE: Mr. Shavelson.

17 MR. SHAVELSON: I wonder if I might go a little bit
18 farther in explaining the reasoning for our position. We
19 would certainly agree that if this were an interest in the
20 abstract, it would include contractual relationships which
21 involve a share in the profits; however, if 6801(d), which
22 applies to the joint bids only, is so interpreted, that
23 would mean that you would have a higher requirement for
24 joint bids than you would for individual bids, and we
25 couldn't see any rational -- for example, if you passed an
26 individual corporation or individual partnership filing on

1 a bid, there is no language that we can find in Section
2 6801 which would require legally the disclosure of all those
3 having an interest, whereas if you had two corporations
4 entering into the bid, therefore having a joint bid, then
5 under the other interpretation you would require a dis-
6 closure of all of those having contractual interest whether
7 they be technically bidders or not. Have I made myself
8 clear on that point? In other words, there would be a higher
9 requirement for joint bidders than there would be for
10 individual bidders, and we couldn't see any rational basis
11 for making that distinction.

12 CHAIRMAN PEIRCE: Is there anyone else who desires
13 to be heard with respect to this matter?

14 MR. GARDNER: Mr. Chairman.

15 CHAIRMAN PEIRCE: Will you step up here, please.

16 MR. GARDNER: My name is William Gardner. I represent
17 Humble Oil & Refining Company.

18 The Humble Oil & Refining Company believes the
19 Commission should not adopt proposed regulation 1913. The
20 regulation as proposed appears to violate the clear intent
21 of Section 6801(d) of the Public Resources Code, and
22 ultimately may be held invalid by the courts for that
23 reason. But much more important is the fact that it does
24 not seem to be in the best interests of the State of
25 California to permit State leases to be held by parties
26 whose identity is unknown to the State. Unless there are

1 great benefits to be obtained by the adoption of this
2 regulation, it would seem advisable for the Commission to
3 continue to require disclosure of the identity of all
4 parties owning an interest in State leases. Full disclosure
5 should be required not only in the case of joint bidding
6 to acquire a State lease, but in the event of a subsequent
7 assignment or transfer of any lease. In this latter event,
8 the names of all proposed transferees should be disclosed
9 to the Commission. It would appear that the State has
10 nothing to lose and everything to gain by knowing who these
11 people are who hold an interest in State leases.

12 MR. KIRKWOOD: What is your answer to Mr. Shavelson's
13 comment, this applies only to a joint bid and not to an
14 individual bid?

15 MR. GARDNER: If I understand what he said correctly,
16 there wouldn't be a joint bid, would there, if you had
17 Company A who was the individual bidder and then had, say,
18 five other companies who would join with them, but not as
19 a joint bidder, but you would never have a joint bid in that
20 sense, would you?

21 MR. KIRKWOOD: Are there relationships there where
22 you would have an interest in the bid that would then be
23 undisclosed?

24 MR. GARDNER: I think as a practical matter you would
25 have just as much interest in the lease, but you might not --
26 I mean, under an interpretation like that, it would

1 completely throw out 6801(d), I should think, and it would
2 make it meaningless.

3 MR. KIRKWOOD: How would you interpret it to include
4 a disclosure under those circumstances?

5 MR. GARDNER: I think it means two companies joining
6 together to acquire a State lease or receive an assignment
7 of a State lease, that both of the lessees or assignees
8 should be named and disclosed to the Commission.

9 MR. SHAVELSON: I will agree with that.

10 MR. KIRKWOOD: Under what circumstances wouldn't 6801
11 require it?

12 MR. SHAVELSON: Well, where the participation is
13 merely a contractual right to perhaps share in the profits
14 or some other sort of a contractual right which gives no
15 right of control and no right of direct participation. I
16 would like to emphasize that what we are talking about, of
17 course, are mere minimal requirements and that certainly
18 the Commission has complete discretion to require more than
19 that. We are merely expressing our opinion as to what the
20 mere minimum requirements are.

21 MR. GARDNER: I can see no practical difference
22 between that and the company that in effect gives a
23 million dollars to another company to spend on the project
24 and has just the one company, in effect, liable and
25 responsible to the State. In fact, it would share in the
26 profits but may not share in the responsibility or the

1 liability, which would seem to me to be somewhat un-
2 satisfactory from the State's standpoint.

3 CHAIRMAN PEIRCE: Any further questions with respect
4 to this witness' testimony?

5 Who else wants to be heard?

6 MR. WATSON: Glenn R. Watson, attorney representing
7 Edwin W. Pauley.

8 I think that it possibly becomes clear from the
9 discussion here that the rich millionaires wish to be
10 in a better position than the poor millionaires. We
11 understand that very substantial sums of money will be
12 required as cash bonus on some of these tide and submerged
13 lands. We submit it would be in the interest of the
14 State to facilitate the accumulation of these funds for
15 competitive bidding, in other words, regulations designed
16 to encourage and promote competitive bidding rather than
17 stifle it and limit it to a few hands, I think would be
18 in the interests of the State.

19 Now, with respect to the statement made that this
20 proposed regulation 1913 would be contrary to the statute,
21 I would like to simply point out that Section 6801(d)
22 provides that in every case of joint bidding the names of
23 persons, firms, or corporations interested in a particular
24 joint bid shall be specified. Now, it would seem that a
25 very useful purpose^{is}/served by Section 1913 as proposed in
26 that the State would be put in a position to know precisely

1 with whom it was doing business; in other words, it would
2 be specified in a bid or it would accompany the bid exactly
3 who the State was going to be contracted with, and I
4 question whether the State is interested at all in the
5 question of who is going to loan the money or provide the
6 money to the bidders. If these bidders are submitted
7 together with their qualifications to the Commission for
8 a consideration, financial statements or whatever else the
9 Commission requires, it would have that material before
10 it and it could decide as to the financial responsibilities
11 of the people it was doing business with.

12 Now, there has to be some reasonable construction
13 placed on 6801(d). What do we mean when we say "every
14 person interested will be specified"? Should Standard Oil,
15 for example, file its complete list of stockholders and
16 should they freeze the transfer of stocks until the bid is
17 acted upon so the Commission should know who the stockholders
18 were? If you have an individual bidder, is he supposed to
19 disclose the name of his wife and spell out her community
20 property interest? In the case of lenders, they are going
21 to receive their moneys back by way of oil payments or
22 net profit interests, or otherwise; is the State going to
23 become concerned in what that situation is?

24 It seems to us there has to be some rule of
25 reason applied to the thing. A line has to be drawn some-
26 where.

1 Mr. Mattson concedes that a mere lender should
2 not be disclosed; how is a lender going to be paid back?
3 He certainly has some kind of an interest in the successful
4 operation in order to get his funds back. And suppose
5 certain proceeds from the oil operations are taken for
6 repayment of the loan, then does that bring him into the
7 situation of an interested party that has to be disclosed?

8 It seems to me that when you have a loosely-worded,
9 indefinite statute, that the Commission would be well
10 advised to draw the line, as the Attorney General has
11 apparently recommended, along the line of operation, manage-
12 ment and control so that the purpose in the State knowing
13 who it is doing business with would be satisfied so that
14 competitive bidding would not be stifled or discouraged,
15 and I think that is very definitely to the financial interest
16 of the State. Furthermore, I would feel that since the
17 Commission does have the right to spell out the details of
18 the statute, that this regulation properly does that on a
19 reasonable basis, and that it would be a valid regulation,
20 and we would support it.

21 CHAIRMAN PEIRCE: Any questions to be directed to Mr.
22 Watson?

23 MR. WATSON: Thank you.

24 CHAIRMAN PEIRCE: Are there any others in the audience
25 who desire to be heard with respect to these proposed
26 regulations?

1 MR. MATTSON: I would like to respond to the last
2 speaker, if I may.

3 CHAIRMAN PEIRCE: Yes, sir, Mr. Mattson.

4 MR. MATTSON: I think the question is to whom does
5 the income and profit go, in the first instance; does it
6 go to the person who is named as a bidder or does it go to
7 someone else? The vice in this is that it permits the
8 income to go to someone other than the named bidder and
9 permits and leaves all the liabilities with the named bidder.
10 In all of these leases eventually you get down to what might
11 be termed the less profitable part of the lease, and at
12 that juncture you are left and the State is left with
13 the someone who has only liabilities, the profits having
14 gone to someone else. I think I would hesitate to have a
15 contractor build a house for me if I knew that all he had
16 were the liabilities and that the income was going to
17 somebody else about whom I knew nothing. There is some
18 inducement to do a good job when you are going to get the
19 income, but there is none when you have only the liabilities.
20 I don't think that there is any enhancement of bidding at
21 all by the disclosure; the same people can bid. The mere
22 fact that they have to disclose doesn't enhance the bidding.
23 It only enhances the bidding in one instance and that is
24 where a man wants to be a party to several bids before the
25 Commission. That is an undesirable thing. So that I think
26 that this is undesirable, it is contrary to the statute,

1 and it is something that I don't think any other landowner
2 would contemplate who is as acquainted with the oil business
3 as this Commission is.

4 CHAIRMAN PEIRCE: Mr. Shavelson, have you issued or has
5 your office issued a formal opinion with respect to our
6 duties under this section of the law?

7 MR. SHAVELSON: No, sir. We have issued an informal
8 letter on it.

9 CHAIRMAN PEIRCE: What is the substance of that opinion
10 with respect to what we should do in regard to these
11 proposed regulations? Do you concur in the proposed
12 regulations as set forth in the agenda?

13 MR. SHAVELSON: I suppose I should check.

14 The opinion expressed was at the request of
15 Senator Richards, and he states it is satisfactory.

16 Our opinion on this portion that we are talking
17 about right now is to the effect that the regulation is
18 legally acceptable, and in certain things the Commission may
19 go farther if it wishes, but that this is all that is
20 required under 6801(d). We feel that certainly many of the
21 requirements are just as applicable to individual bids as
22 joint bids. Perhaps the question should be whether the
23 same criteria should be applied or whether special criteria
24 should be applied to joint bids as to disclosure.

25 CHAIRMAN PEIRCE: Gentlemen, here we have a proposed
26 regulation. It is being opposed by three major oil companies.

1 if I understand correctly, and is being supported by
2 Edwin W. Pauley, who is an independent oil operator. As
3 one member of this Commission, I did not have this agenda
4 called to my attention until this morning. I have only
5 had a limited amount of time to review the material set
6 forth therein, and I assume that Governor Powers and Mr.
7 Kirkwood are in the same position. Now, in light of the
8 testimony that we have received so far, Mr. Hortig, have
9 you any further advice to give us with respect to what we
10 should do? Are we in a position to act on this subject
11 this morning? Or is this something we should take under
12 advisement? Or is this something that again should be
13 reviewed by the Attorney General? Or what is your advice
14 on it at this time?

15 MR. HORTIG: Mr. Peirce, I would recommend that in
16 view of the fact that neither the Staff or the Lands
17 Commission or the Office of the Attorney General have
18 heretofore had the advantage of this additional discussion
19 that we have had before the Commission this morning,
20 although such discussion had been invited previously but
21 was not received, that it would appear that it is only
22 reasonable to suggest that the Commission should take under
23 further consideration the proposed language for Regulation
24 1913, to be reviewed after the transcript of this meeting
25 is available to be re-studied by the Attorney General
26 with recommendations to be made to the State Lands Commission

1 at a subsequent meeting.

2 CHAIRMAN PEIRCE: Would your same recommendation
3 apply to the other proposed regulations?

4 MR. HORTIG: Not as to 2100(b), sir, the one we have
5 already passed, because there are no objections thereto.

6 MR. KIRKWOOD: Can we sever those in the action to be
7 referred to the Attorney General? Or do we have to act
8 at the same time, or do we lose jurisdiction if we adopt
9 one and not adopt the others?

10 We ought to notice, anyhow, this next one. We
11 are talking about a further recommendation on Page 5, isn't
12 it; it was suggested that the related matter be noticed for
13 hearing?

14 MR. HORTIG: That is correct, sir.

15 MR. KIRKWOOD: We could renotece the others for
16 hearing at the same time.

17 MR. HORTIG: It is required.

18 MR. SHAVELSON: I think that would be a safe procedure,
19 to notice them. Your question is whether 2100(b) may be
20 adopted?

21 MR. KIRKWOOD: That is what I understood Mr. Hortig's
22 recommendation to be, that we adopt that.

23 MR. SHAVELSON: Yes, I see no objection to that. I
24 think that would be proper.

25 MR. KIRKWOOD: As I understand the discussion this
26 morning hasn't gone, or at least not fully, into the 1914,

1 It has been directed at 1913, and the suggested last
2 paragraph of 1914 hasn't been fully discussed.

3 MR. HORTIG: That is correct, sir, it has not as yet.

4 MR. KIRKWOOD: Can we get any discussion on that
5 today, or is that --

6 MR. HORTIG: There are representatives who are here
7 who desire to discuss 1914.

8 MR. KIRKWOOD: It seems we should get some of this
9 on the record. I think it is unfortunate that when we
10 notice something for hearing and invite comments that the
11 comments aren't forthcoming at that time so that the
12 members of the Commission are aware when we take up a thing
13 of this sort that there is controversy. It puts us in a
14 difficult situation.

15 MR. MATTSON: Mr. Kirkwood, we did write a letter.

16 MR. KIRKWOOD: But you were the only one, as I under-
17 stand it from Mr. Hortig, who did have any record on this.

18 CHAIRMAN PEIRCE: Senator Richards, do you desire to
19 be heard at this time?

20 SENATOR RICHARDS: Yes, if I may, very briefly.

21 I am Richard Richards, Senator, Los Angeles
22 County. I have an interest in this which came to my
23 attention by virtue of my legislative capacity and in
24 conversation with many attorneys in the oil industry field.
25 Pursuant to that interest, I followed it up with discussion
26 by some of your members and with your staff, and it is out

1 of that that there arose 1913 and 14, and I speak at this
2 time not to urge you to do one thing or another in respect
3 to 1913, for example, although I have a specific request
4 as a legislator in respect to 1914, but I thought it would
5 be appropriate that I might make my comments at this time
6 while they are both before you.

7 Whether you adopt 1913 at this time or take it
8 under further consideration in view of the objections
9 raised by some representatives of major oil companies, which
10 said objections also I had not had the opportunity of
11 hearing until now, I believe that the Lands Commission
12 should have in its mind the thought that if the State is
13 to receive all that the State can receive by virtue of the
14 proper exploitation of our mineral resources, I believe it
15 would not be proper to limit the practical aspect of bidding
16 to large corporations only. This is why, at least within
17 the framework of my own reasoning, 1913 was proposed.

18 Item 1, it has to do solely with the issue of
19 joint bidding. Joint bidding, I think, will be before us
20 many times as the State proceeds to develop its properties.
21 We recognize when it comes to the issue of disclosure of
22 those who have an interest, there has been in the law,
23 particularly in the 1941 Statutes, as it is applicable for
24 both disclosure and forfeiture, no application by the State
25 and forfeiture has never been undertaken, and this, of
26 course, lapses over into our discussion now of 1914, which

1 has to do with partnerships. Anyone making a substantial
2 investment wants to make certain he is not subjecting him-
3 self to unseen liability by virtue of what may happen in
4 the course of the bidding in regard to others, for example,
5 who are either interested or participating in the bid on
6 a nonparticipating basis, as far as the issue of management.
7 We recognize, as brought up by one of the earlier speakers,
8 that a corporation, as such, as a practical matter is free
9 and clear of disclosure. I think it is apparent that if
10 Standard Oil is the sole bidder, or any other large
11 corporation, that the Lands Commission is not about to ask
12 for the submission of all the stockholders in Standard Oil;
13 you are concerned with the fact, as representatives of the
14 State, that the State have a responsible bidder in all
15 respects, and a bidder which will live up to any aspects
16 of the contract which is decided upon between that bidder
17 and the State. You are not interested in who may buy or
18 sell a share of Standard Oil the day before, the day during,
19 or the day after the bid. Now, this is the advantage which
20 exists there, which it seems to me would be profitable to
21 the State if that advantage is made clear to other joint
22 operations. For example, in the field of joint bidding,
23 so far as general or limited partnerships is concerned,
24 which is one of the aspects which I was asked about, which
25 led me to ask a series of questions directed to the Attorney
26 General, which is the matter which has now been mentioned by

1 Mr. Shavelson, and we have a ten-page opinion which is in
2 the hands of Mr. Hortig and your Commission from the
3 Attorney General on these matters.

4 To re-emphasize the purpose of 1913, which I
5 think you should have in your mind, one, it refers to joint
6 bidding, and two, the purpose is to make clear what the
7 practical aspect of joint bidding is or should be, when it
8 is applied by the Lands Commission. In other words, if you
9 deal, for example, with a general partnership with limited
10 partners, do you not have as a practical matter exactly the
11 same situation in re responsibility as when you are dealing
12 with a corporation in which you have an entity, and
13 certainly a partnership is an entity, and the Attorney
14 General has so held, and so has the Legislative Counsel.
15 If you do have the same situation, then it is, of course,
16 necessary by virtue of rules and regulations adopted by
17 the Lands Commission, formalized ultimately in the
18 Administrative Code, to make clear what the exact
19 application of this statute would be. And that, and that
20 alone, is the purpose of 1913, not to allow for secret
21 bypassing of the purpose of the law as we and the
22 legislature understood it to be when it was adopted, but
23 merely to have a practical basis upon which individuals
24 or entities, be they corporations or partnerships, can
25 safely engage in joint bidding, knowing how far their
26 liability will extend, if they so engage. That I think is

1 the basic purpose of 1913 and should be the purpose, whether
2 or not the wording may be changed pursuant to your further
3 deliberations on the subject.

4 But I point out one further aspect of Paragraph
5 4, a very minor matter, but it just now reached my
6 attention in reading it. That is the very same paragraph
7 discussed in some detail by Mr. Marcus Mattson. I believe
8 there is perhaps a typographical error in the line next
9 to the last line in Paragraph 4 appearing on Page 3,
10 Exhibit A, in which it says "irrespective of investments
11 for contractual relationship," I believe the word should
12 be "or" contractual relationship and not "for," because
13 again the purpose behind that paragraph, as I read it,
14 is obviously to establish a basis whereby the State has
15 an entity to which the State may look for full responsibility,
16 and that if there be some investment arrangement or sub-
17 contractual arrangements, that would not be, Item 1, an
18 interest of the State, or, Item 2, which I think is
19 equally important, an individual such as Standard Oil
20 Company may engage in a joint bid with another bidder, such
21 as a general partnership with certain limited partners,
22 would not like to find themselves by misadventure on the
23 part of the limited partners, dragged into a situation or
24 down a holocaust whereby their millions of dollars would
25 be subject to forfeiture under another statute that is now
26 on the books. That again, I think, is the reason for 1913.

1 Now, if I may direct your attention to the
2 interest I expressed previously in 1914, I will at this
3 time take the position on 1914 which Mr. Mattson, Mr.
4 Leovy and Mr. Gardner have taken on 1913, and that is,
5 that as a member of the legislature, I sincerely feel
6 that 1914 as it is currently written fails to solve the
7 problem, and certainly should be subjected to further
8 study by this Commission.

9 The purpose of 1914 was to, as I envisioned it,
10 attempt to designate the degree to which forfeiture would
11 be applied if it was ever necessary to apply it, which it
12 has not been thus far, but in the future it may be necessary.
13 That purpose, however, of delineating and clarifying the
14 risks that bidders will in the future undertake when they
15 bid on oil properties for the State has not been met as
16 1914 as now written, in my judgment. The reason for the
17 changes in 1914, I assume, are the reasons specified by
18 the Attorney General in his letter opinion given to me at
19 my request.

20 In brief, and if I may paraphrase what the
21 Attorney General has decided, and I do not differ with his
22 decision, but I want to point out the difficulties that
23 we collectively face here. The Attorney General has, in
24 effect, pointed out that under the statutes as they now
25 exist he cannot state, because the statutes do not them-
26 selves state, the degree to which forfeiture might be

1 applied under certain circumstances, one of them being
2 nondisclosure such as we are discussing in 1913. Since
3 1914 as now written and as it is now before the Commission
4 does not clarify that fact, it seems to me to throw it
5 right back into the hands of the legislature.

6 I discussed this very briefly with Assemblyman
7 Miller just a moment ago, and I believe that he agrees with
8 me. I also discussed it briefly with Mr. Hortig, and I
9 do not know whether he agrees or not, except that I don't
10 think that he disagrees that there is apparently a need
11 for clarification of the whole purpose of the forfeiture
12 statute and clarification of the degree to which forfeiture
13 would reach into the whole package of a joint bid. If,
14 for example, you have a group of innocent parties who have
15 themselves disclosed and conducted themselves in every
16 respect which is correct in the eyes of the State, but
17 somewhere down the line there is an undisclosed partner
18 or entity who have failed to comply with all the proper
19 regulations, would that forfeiture apply to that one entity
20 or drag all the rest down with him? This is one of the
21 problems that is faced by anyone who proposes to invest
22 a considerable amount of money in an oil bid. That
23 problem is not solved by 1914; that problem, in fact, is
24 complicated by 1914 as it is now written.

25 Although I myself had a hand in proposing
26 originally the wording of 1914, I am forced to concede by

1 virtue of the position taken, and no doubt properly, by
2 the Attorney General that we need more study on that
3 issue before any action be taken by this Commission which
4 would further complicate the bidding procedure. And I
5 further add that I sincerely believe that the legislature
6 itself, in order to give the Attorney General and this
7 Commission a sound basis on which to operate, will have
8 to make some statutory changes, particularly in the field
9 of forfeiture, before we ever have this thing adequately
10 clarified.

11 Therefore, might I merely conclude by saying
12 that I recommend as highly as I can, and as solely one
13 individual and not a specialist in the oil field at all,
14 but one who has been consulted by many who are in the oil
15 industry, something along the lines of 1913 is indeed
16 necessary as soon as it can be agreed upon and properly
17 worded and properly adopted so we will have a joint
18 bidding procedure on the same basis with the corporate
19 bidders, which is in the interest of the State, and I
20 further recommend that 1914 not to be adopted by this
21 Commission at this time, but a further study be given with
22 an aim to seeing if we can clarify this problem which is
23 certainly not clarified in the wording of 1914, and with
24 the further aim of considering additional affirmative
25 legislation in the next session of the Legislature.

26 CHAIRMAN PEIRCE: Thank you, Senator Richards.

1 GOV. POWERS: Mr. Chairman.

2 CHAIRMAN PEIRCE: Governor Powers.

3 GOV. POWERS: If I understand right, Dick, you
4 agree with the Attorney General? You do see a difference
5 in requirements of individuals and joint bidders?

6 SENATOR RICHARDS: Yes, there is. I think what
7 the Attorney General -- what Mr. Shavelson was talking
8 about is that certainly joint bidders should not be placed
9 in a position of having a higher duty than individual
10 bidders, and that in order to avoid that contingency,
11 something along the lines of 1913 is indeed necessary.
12 And I do not, as an individual, I am certainly not prepared
13 to engage in any debate with the highly qualified representa-
14 tives of these oil companies. However, I do not see that
15 which is causing them to worry on 1913 at the moment,
16 because even if we take and apply it in the case of the
17 individual corporation bid, we all know you are not
18 going to know one more thing than you know today as to
19 who these parties of financial interest may be involved
20 within that bid.

21 Now, it isn't a matter of trying to limit the
22 major oil companies at all; it seems to me to be a matter
23 of trying to have a solid basis on which all parties might
24 become prospective bidders and operate with legal assurance
25 that we are operating on a sound basis.

26

1 GOV. POWERS: The State's main interest would be in
2 this respect, that all bidders are financially responsible?

3 SENATOR RICHARDS: That is correct. It seems to me
4 it would be the same as a partnership, if you look at the
5 general partners who submit a bid, you want to know if they
6 are responsible and you are not going to deal with them
7 if they are not. If there were some undisclosed limited
8 partners, that is no greater interest or liability to the
9 State or anyone else than is the stockholder in the case of
10 a corporate bid.

11 MR. KIRKWOOD: Mr. Chairman.

12 CHAIRMAN PEIRCE: Mr. Kirkwood.

13 MR. KIRKWOOD: Mr. Chairman, wouldn't it be appropriate,
14 perhaps, if he is willing, to have the opinion of the
15 Attorney General as given to him submitted as part of the
16 record?

17 SENATOR RICHARDS: I will be delighted. There is
18 nothing confidential in that opinion.

19 MR. KIRKWOOD: I believe it would be helpful if it
20 were to go into the record so we know specifically what
21 we are talking about.

22 SENATOR RICHARDS: Yes, I think that ten-page opinion
23 would be helpful.

24 MR. KIRKWOOD: Mr. Chairman, I would suggest, unless
25 either Mr. Hortig or Mr. Shavelson has objection, and they
26 can speak up as I go along, I would in amending the two

1 recommendations of Page 2 and Page 5, I would first move
2 that we adopt the proposed amendment to Section 2100(b).
3 That, I think, is in order. And I would move that we
4 ask the Executive Officer or authorize him to initiate
5 procedures under the provisions of the Government Code to
6 re-notice proposed Section 1913 and proposed Section 1914,
7 and the proposal contained on Page 5 in the second part of
8 his recommendation.

9 MR. HORTIG: That would be completely satisfactory.

10 GOV. POWERS: Seconded.

11 MR. KIRKWOOD: That, as I understand it, would dispose
12 of the whole thing for the time being.

13 CHAIRMAN PEIRCE: You have heard the motion. Is that
14 all right, Jay?

15 MR. SHAVELSON: May I talk to Mr. Hortig?

16 No objection, sir.

17 CHAIRMAN PEIRCE: You have heard Mr. Kirkwood's
18 motion and it has been seconded by Governor Powers. Is
19 there anybody in the audience who desires to speak with
20 respect to this motion before we make our decision?

21 MR. HUTCHINS: Mr. Peirce.

22 CHAIRMAN PEIRCE: Mr. Hutchins.

23 MR. HUTCHINS: Mr. Chairman, my name is J. Barton
24 Hutchins, representing the Edwin W. Pauley Associates.
25 This is just a point of clarification. Did you call for
26 re-notice, Mr. Kirkwood?

1 MR. KIRKWOOD: I understood that would probably be the
2 cleaner way on these first two, we have to publish anyway
3 on the third phase of it.

4 MR. HUTCHINS: I just wanted to be sure the record
5 would show that in light of the testimony by our friends
6 and major oil companies this morning, we will have a chance
7 to file a brief for the information of the record, and we
8 will do that through the re-notice.

9 MR. KIRKWOOD: Isn't that the way to bring it about?

10 MR. HORTIG: That would certainly provide us with the
11 best insurance in the matter.

12 CHAIRMAN PEIRCE: Our intention is to give everyone
13 through this re-notice procedure an opportunity to file
14 briefs and other data dealing with this subject before any
15 final action is taken by the Commission with regard to the
16 adoption of these proposed new sections 1913 and 1914.

17 Is there any further discussion?

18 If not, the recommendation is approved as made
19 by Mr. Kirkwood. Do you understand what we are doing, Mr.
20 Hortig?

21 MR. HORTIG: Yes, sir.

22 CHAIRMAN PEIRCE: All right. That takes care of this
23 section. What next do you recommend?
24
25
26

1 MR. HORTIG: Page 11.

2 CHAIRMAN PEIRCE: Page 11.

3 MR. HORTIG: At the meeting on September 13th the
4 Commission at the request of Mr. Clayton Dills deferred
5 for consideration an item of a pending application for
6 purchase of certain vacant State school lands for which
7 application had been received from Mr. Dills and also
8 a request from the Department of Fish and Game requesting
9 withdrawal of the same lands from public sale for
10 consideration for future sale to the department, on the
11 reported basis that these lands were necessary in public
12 interest for development of a project which the Department
13 of Fish and Game and the Wild Life Conservation Board of
14 the State of California were desirous of furthering. At
15 the previous meeting the same recommendation was made for
16 discussion, and it was recommended that the application
17 of Clayton A. Dills for the purchase of the designated
18 land containing 485.79 acres in Imperial County be
19 rejected and all deposits refunded, except the \$5 filing
20 fee, and that said land be withdrawn from public sale until
21 June 30, 1958 for sale to the State Department of Fish and
22 Game under their application at the appraised market value
23 without competitive bidding, subject to all statutory
24 reservations including minerals.

25 The Commission had also indicated it was desirous
26 of having representatives of the Department of Fish and

1 Game and the Wild Life Conservation Board present today
2 in order to answer inquiries of the Commission with respect
3 to the public necessity and public interest in connection
4 with the operation of the project which would be placed on
5 the land under discussion. Such representatives are here,
6 Mr. Peirce.

7 MR. PEIRCE: Mr. Douglas is present representing the
8 Department of Fish and Game, and I assume likewise the
9 Wild Life Conservation Board. Will you step forward,
10 please.

11 The question before us is this: Mr. Dills has
12 applied for certain lands along the Colorado River. I
13 have never seen the land, I don't know whether the other
14 members of the Commission have, but in the meantime after
15 he applied for this land, which is available for public
16 sale in the usual manner, the Department of Fish and Game
17 has indicated an interest in this land being reserved for
18 some public use that involves sportsmen, I would assume.
19 And if I understand correctly, the matter was referred by
20 the Department of Fish and Game to the California Wild Life
21 Conservation Board, and the Wild Life Conservation Board
22 approved the recommendation of the Department of Fish and
23 Game with respect to the request to the State Lands
24 Commission to withhold this land from public sale so that
25 the Department of Fish and Game could buy it as outlined
26 by Mr. Hortic.

1 Now, at the last meeting we desired further
2 information which at that time we did not have concerning
3 the public necessity for this land being withheld from
4 public sale. Mr. Douglas, will you advise us in this
5 regard.

6 MR. DOUGLAS: Yes, Mr. Chairman. With your permission
7 I would like to go into a little of the background of
8 some of our problems on the Colorado River. The Bureau
9 of Reclamation has informed us many times that the Colorado
10 River will soon be a straight concrete-lined ditch all the
11 way to the Gulf. As this is accomplished we lose drastically
12 all of our wild life habitat, lose it through the draining
13 of swamps, sloughs, and side-water lakes. We have examples
14 of this in the Needles-Topock areas where such channelization
15 has already been accomplished with the complete loss of the
16 Topock marsh, an excellent waterfowl habitat. That is
17 actually located on the Arizona side, but it is likewise
18 true on the California side.

19 The side-water areas of the river are the only
20 propagative waters of the river, as the central channel
21 is practically sterile. We have made considerable study
22 of the river, and Dr. Carl Hubbs of the Scripps Institute
23 of Oceanography of La Jolla, who is a world-wide expert on
24 fish, assisted us on a number of these studies, and his
25 claims, too, are that the central portion of the river
26 is nonproductive of anything as far as any fish life is

1 concerned. The upstream area which is channeled almost
2 to the Nevada border have become nonproductive. With these
3 losses, other lands become increasingly more valuable. The
4 Cibola Cut, which we have recently been informed will
5 eventually be made, is a 10-mile channel cutting off 40
6 miles of the river, with the result that down in the Palo
7 Verde area it will cut out Davis Lake and Three-fingers
8 Lake which are of vital concern to the local and the Los
9 Angeles sportsmen. Cibola Lake will be the center line
10 of the channel. Cibola Lake is on the Arizona side and
11 has had a terrific value as far as waterfowl shooting and
12 fishing is concerned. This lake will also be eliminated.

13 To date no Federal restoration has been realized
14 in accordance with public law 732. This is better known
15 as the Wild Life Co-ordination Act. The Department of
16 Fish and Game in conjunction with the Beaches and Parks
17 prepared a use program in 1954 for the lower part of the
18 Colorado River in the Picacho 4 F Ranch section, including
19 Section 30, Township 12 South, Range 21 East, which is
20 under consideration at this time. The latter section is
21 an area requested by the Department of Fish and Game for
22 jurisdictional use. Section 36 includes some 486 acres of
23 land lying adjacent to the river. It is about 30 miles
24 above Imperial Dam and about 45 miles below Blythe. Julian
25 Wash, which is within this section, is an excellent habitat
26 for upland game birds, primarily quail and dove, deer, sheep

1 and feral burrow utilize the river borders in the section.
2 During the summer the area has water which is an unusual
3 thing along the river, which is evidenced by the green
4 growth sharply contrasting this section with the adjacent
5 desert areas. The Department's plans include intensive
6 development for waterfowl management to bring back some
7 of the flights of migratory birds to this area. Water is
8 possible through the Secretary of the Interior in accordance
9 with the aforementioned Public Law 732. Water is absolutely
10 essential for any development by any agency or individual
11 in this particular section of the river. A private
12 individual would have difficulty in legally acquiring
13 water rights. There is no surplus of water in the Colorado
14 River as has been stated many times. Last week I had the
15 privilege of accompanying the Congressional Subcommittee
16 on Interior and Insular Affairs, and we covered illegal
17 water uses, squatter's rights, and the Indian reservation
18 lease, and we found that the Subcommittee was very much
19 in sympathy with preserving legal uses of the river.

20 We of the Department of Fish and Game feel that
21 with the fast disappearing suitable lands along the river
22 we must intensively develop what we can. Such development
23 would serve large numbers of sportsmen, not only as a more
24 productive area but as access in accordance with Beaches
25 and Parks plans to construct a roadway down Gavilan Wash,
26 which is only about 8-odd miles distant to the south, or

1 downstream from Section 36 under consideration.

2 Gentlemen, without this small toehold now along
3 the river we may be a long time in working into this area.
4 Our general position has been that of too little too late.

5 In 1955 the figure of some \$487,000,000 was
6 spent in California by hunters and fishermen. This is big
7 business that we can't afford to lose. I might also point
8 out, incidentally, that while I was in El Centro last week
9 a Chamber of Commerce representative advised me that the
10 Imperial Valley took in some \$265,000 during the first
11 three days of dove season. It is of great value to the
12 State, as well as to our Department.

13 Thank you, and I will be happy to answer any
14 questions.

15 CHAIRMAN PEIRCE: Are there any questions, gentlemen?

16 GOV. POWERS: Yes, I would like to ask some.

17 CHAIRMAN PEIRCE: Governor Powers.

18 GOV. POWERS: Apparently when you straighten this
19 river out a portion of this land will be under water,
20 this margin of the Julian Wash in Section 36.

21 MR. DOUGLAS: The particular section, Governor, has
22 not been studied by the Bureau, at least we haven't been
23 advised of their future plans. I imagine all kinks in the
24 river and Julian Wash lies on one of those kinks would be
25 closely parallel. I don't think we would lose much of our
26 land there because we are going up into some pretty rugged

1 country that would be fairly costly as far as dredging.
2 To the east on the Arizona side the land is much flatter.

3 GOV. POWERS: Apparently here, from the looks of your
4 map, you have some, if you wanted to drain this land close
5 to the river.

6 MR. KIRKWOOD: This was a map submitted by Assemblyman
7 Clayton Dills.

8 MR. DOUGLAS: This is fairly flat land and has a good
9 potential for developing for farming (indicating).

10 GOV. POWERS: This is a part that is of value to you
11 here?

12 MR. DOUGLAS: Yes, sir, and the wash as habitat for
13 quail and dove, this wash up here is very valuable for
14 wild life.

15 GOV. POWERS: Your Fish and Wild Life Service has never
16 taken your land for dove and quail, have they? You have
17 protected your fish and wild life migratory birds, I
18 realize that dove is a migratory bird, but nevertheless you
19 have only protected your ducks and geese, wild life of that
20 type, you have never taken any preserve for dove any place
21 in the country, have you? Because if you would have, you
22 would take the entire country.

23 MR. DOUGLAS: That has been fairly open, there has
24 been no attempt to close off the large wild area where dove
25 migrate into during the fall.

26 GOV. POWERS: I would like to listen to Mr. DILLS, but

1 I don't see where you need this background.

2 MR. DOUGLAS: This primarily, Mr. Governor, would be
3 to farm as a waterfowl management area similar to the
4 Wister Management Area down at the south end of the Sea
5 to provide feed for ducks. With the development of the
6 Salton Sea areas, both by the Federal people and by the
7 State, the complete migration almost has been diverted off
8 the Colorado River into Imperial Valley, and the lower
9 section of the Colorado River has received even less and
10 less of that waterfowl migration.

11 GOV. POWERS: Do I understand that you are intending
12 to flood this particular 485 acres?

13 MR. DOUGLAS: That would be considered, but it would
14 be put under small sections where water could be regulated.

15 GOV. POWERS: You would have to go in and provide the
16 proper dams in order to flood it, sir.

17 MR. DOUGLAS: It probably would be pumped, sir. We
18 think we would have a right to the water whereas a private
19 individual would not, through the Wild Life Co-ordination
20 Act of Public Law 732, and that was broached to the
21 Congressional Subcommittee, and from all appearances they
22 reacted favorably to it. Mr. Horn, our co-ordinator, made
23 that presentation to the Subcommittee last Saturday.

24 GOV. POWERS: Do you own this land adjacent to this
25 how?

26 MR. DOUGLAS: No, sir, we have requested jurisdictional

1 use of all that land from Gavilan Wash to the Riverside
2 County Line. Imperial-Riverside County Line.

3 GOV. POWERS: Is this all State land over here?

4 MR. DOUGLAS: Section 36 is State school land, however,
5 it was put under Federal jurisdiction.

6 GOV. POWERS: What is Sections 36, 25 and 26?

7 MR. DOUGLAS: I do not know the title on that, however
8 it has been set aside in the Imperial waterfowl refuge
9 under, I think it is, a Government proclamation in 1941
10 or '42; that is all within the Imperial National Waterfowl
11 Reservation.

12 GOV. POWERS: It looks to me like many other sections
13 here, that would not be much or more valuable than this
14 particular section.

15 MR. DOUGLAS: Water seems to be the main thing. This
16 area is one of the -- in fact the only one that we have
17 found so far that has suitable water close to the surface
18 for pumping, which is evidenced by this green growth,
19 and it is also on State school land, which with the
20 permission of the Commission, we would like to read from
21 our constitution. State Constitution, Article 1, Section
22 25:

23 "The people have the right to fish upon
24 and from the public lands of the State and in
25 the waters thereof, excepting upon lands
26 set aside for fish hatcheries, and no land

1 owned by the State shall ever be sold or trans-
2 ferrad without reserving in the people the
3 absolute right to fish thereupon, and no law
4 shall ever be passed making it a crime for
5 the people to enter upon the public lands
6 within the State for the purpose of fishing,
7 and any water containing fish that have been
8 planted therein by the State."

9 I think that in that section of the Constitution,
10 if the property were turned over to private ownership,
11 that particular man would have to permit access of the
12 fishermen.

13 GOV. POWERS: That would be all right.

14 CHAIRMAN PEIRCE: Any further questions?

15 MR. HORTIG: Mr. Chairman, may I note for the record
16 we have received telegrams from -- I am looking for the
17 name of the organization -- Bard Winterhaven Rod & Gun
18 Club, Palo Verde Improvement Association, and the Verde
19 Rod & Gun Club, telegrams to the Commission requesting that
20 the Commission consider withholding sale of the land under
21 discussion into private ownership.

22 CHAIRMAN PEIRCE: Where are those organizations
23 located?

24 MR. HORTIG: The addresses thereon are all Palo
25 Verde, California and Winterhaven, California, sir, near
26 the Colorado and near the southern border of the State.

1 CHAIRMAN PEIRCE: Mr. Kirkwood, do you have a
2 question?

3 MR. KIRKWOOD: I was just going to ask what is the
4 policy on lands of this sort? Here we have an instance
5 where apparently no action was taken by the Fish and Game
6 until after an application had been filed here. Is that
7 your procedure normally, or don't you lay out a plan? That
8 sort of puts us under the gun, is the problem, and makes
9 us wonder whether you are really operating as a part of
10 an over-all plan in asking for withdrawal at this time.

11 MR. DOUGLAS: I have with me a report that was prepared
12 for the California Fish and Game Commission, which was
13 submitted in August of 1954 requesting jurisdiction of
14 this particular area, and I would give it to you as a
15 piece of evidence.

16 MR. KIRKWOOD: Why did it take so long to get it to
17 this stage, then?

18 MR. DOUGLAS: Some of the details on how this application
19 was filed are unknown to me at this time. I received the
20 appointment yesterday to appear before your Commission,
21 and I didn't quite get all the background on it. However,
22 I think that the whole thing was held up by a letter to
23 the Secretary of the Interior by both the Fish and Game
24 Commission and the State Beaches and Parks Commission,
25 requesting jurisdictional use of this particular section
26 of the river, and as yet we had not heard from them, and

1 we understood that the delay was caused by the recent
2 National Park Survey in the lower section of the river,
3 and I believe that there was a request that some of these
4 uses be withheld until the National Park Survey was either
5 approved or disapproved by the Secretary. Mr. Peirce
6 may know more about that than I.

7 CHAIRMAN PEIRCE: I am not familiar with the details.
8 Are there any further questions of Mr. Douglas?

9 GOV. POWERS: Let me ask one more. Do you have any-
10 thing corresponding to a master plan of development or
11 reservation up and down the Colorado River, or are you
12 just going in and -- it seems to me in this particular
13 instance, you propose to place under your jurisdiction
14 one particular lot when somebody wants to take it. If it
15 is in a master plan, that is an entirely different story.

16 MR. DOUGLAS: That would be considered our master
17 plan for the jurisdictional uses. The entire area that
18 is under consideration is already under the jurisdictional
19 control of the U. S. Fish and Wildlife Service, and is
20 utilized as a refuge. However, hunting has been permitted
21 in various sections, they are opened and closed alternately,
22 and fishing has never been prevented. However, with the
23 development in the five-year plan of the State Division
24 of Beaches and Parks, certain areas in this particular
25 section were requested to be developed by Beaches and
26 Parks. Beaches and Parks have no objection to fishing,

1 however they do to hunting, so the Department of Fish and
2 Game went into this area to evaluate it from the standpoint
3 of waterfowl, and where waterfowl values were considered
4 high, we requested jurisdictional use. The other areas
5 we agreed with Beaches and Parks would be perfectly
6 satisfactory for their development.

7 CHAIRMAN PEIRCE: Any further questions?

8 Now, Mr. Dills, as applicant for this land, we
9 would pleased to hear from you.

10 MR. DILLS: Mr. Chairman and members, first this
11 little question here involves probably a half a mile
12 along the Colorado River. If that is their master plan,
13 well, then, I think I better just read my statement.

14 Gentlemen: I herewith request permission to
15 present to and file with your Honorable Commission the
16 following factual data and persuasive argument in favor
17 of my application to purchase certain State lands and the
18 subsequent request for its withdrawal from public sale by
19 the Department of Fish and Game, State of California.

20 Let us consider separately the reasons given in
21 opposition to my application to purchase?

22 1. That the land borders the Colorado River and
23 embraces the mouth of the Julian Wash.

24 An examination of the Department of Interior maps
25 of the Quartz Peak and Picacho Quadrangles will disclose
26 that the Julian Wash runs westerly with three tributaries.

1 The main wash rises from the river bench or 250-foot
2 contour line, and each tributary rises to altitudes in
3 excess of 1600 feet within a distance of 6 miles. A
4 series of rock falls and steep cascades make it impossible
5 for a jeep or other high-wheel vehicle to ascend the
6 grade. Thus, there is no ingress or egress from the wash
7 and the cost of developing a serviceable road would be
8 prohibitive and impractical.

9 The topography of the Julian Wash area, therefore,
10 precludes the building of an access road to the Colorado
11 River and negates the first objection to the sale of this
12 land.

13 2. The second objection is more indirect and
14 nebulous. Accordingly, it is reported to be valuable in
15 conjunction with public lands for which the Department of
16 Fish and Game has already made request for administrative
17 jurisdiction.

18 First, isn't it proper to inquire who reports the
19 land valuable? Why does not the Department disclose its
20 informant. Why the secrecy?

21 Second, what lands have already been requested by
22 the Department? Where are they located with reference to
23 the land in my application? When and where was such a
24 request filed?

25 Is it a policy of the Department of Fish and Game
26 to file a request for administrative jurisdiction of
public lands and then, after such a request, file an

1 objection to the sale of other land based upon the un-
2 processed and unperfected first request?

3 3. It is further stated that the land in my
4 application is strategically located and extremely
5 valuable in the Department's plans for development and
6 access to the Colorado River.

7 When did the land become extremely valuable?
8 If it is valuable, why has the Department not asserted
9 such a claim before my application was filed? Since
10 April 21, 1954 and again on October 30, 1955 in the
11 Federal Registry the Department was on notice of the
12 revocation withdrawal of the land. How can they, after
13 such dilatory tactics, now assert in good faith the
14 strategic and valuable nature of this small parcel of
15 land?

16 There are additional facts which should be
17 presented to this Honorable Commission to clarify the
18 situation in Imperial County.

19 On February 14, 1941, by Executive Order 8685 the
20 Imperial National Wildlife Refuge was established. The
21 area consists of approximately 51,090 acres situated in
22 Imperial County, California and Yuma County, Arizona.

23 Notices of public hearings in eight separate
24 counties of California, excluding Imperial County, however,
25 have been published at which public approval will be sought
26 by the United States Fish and Wildlife Service of their

1 request of the Bureau of Land Management, United States
2 Government to withdraw 315,000 acres of public land from
3 all forms of appropriation and sale.

4 These reports indicate that the action is being
5 taken at the request of the Department of Fish and Game,
6 State of California. If such be the case, then why was
7 not Imperial County included among the areas affected. Does
8 this mean that Imperial County is not important, valuable,
9 or strategic as the Department is now asserting with
10 reference to my application? Or does it mean that fish
11 and game are already properly conserved and protected by
12 the Imperial National Wildlife Refuge?

13 Another factor for your consideration is the
14 proposed plan of the Department of Interior to convert the
15 Colorado River from Davis Dam to the Mexican Border, a
16 distance of 250 miles, into the "Lower Colorado Interstate
17 Recreation Area" under the National Park Service. This
18 project has already received the approval of W. A. Dexhimer,
19 Commissioner of the Bureau of Reclamation and Conrad L.
20 Wirth, Director of the National Park Service.

21 Under the plan, the Colorado River from its
22 center line to a distance of three hundred feet on both
23 sides are to be included in the recreation area. Thus,
24 the matter of ingress and egress will be provided for
25 by the National Park Service.

26 Diligent search of the United States Land Office

1 and the Assessor's Office of Imperial County has not
2 disclosed that the Department of Fish and Game, State of
3 California is the recorded owner of any real property
4 in Imperial County in this area.

5 What plans does the Department have in the County
6 and how, then, does the acreage in my application become
7 valuable or strategic to the Department of Fish and Game?

8 You as members of the State Lands Commission were
9 not informed by the Department of Fish and Game that the
10 land in my application was in the confines of the National
11 Wildlife Refuge. Neither did they inform you of the
12 proposed creation of the lower Colorado interstate
13 recreation area with its adequate provision for ingress
14 and egress.

15 I thank you for your consideration of the data
16 which I have presented. In view of the answers I have
17 given to the objections to the sale of the land, I
18 respectfully urge your Honorable Commission to authorize
19 your staff to proceed with processing my application now
20 on file.

21 CHAIRMAN PEIRCE: Any questions of Mr. Dills?

22 Mr. Douglas, do you want to comment?

23 MR. DOUGLAS: I would like to comment on the access-
24 ability of the area. Our game wardens in that Imperial
25 County area do patrol up as far as Julian wash with
26 passenger vehicles. I have driven up with them. There is

1 an old mine road that does go up the river that is even
2 useable for passenger vehicles.

3 CHAIRMAN PEIRCE: Here we have a question involving
4 a so-called public interest versus a private interest in
5 some 485 acres of land along the Colorado River. This
6 land is now owned by the State of California, it is school
7 land; the Department of Fish and Game has recommended that
8 this be reserved for public use and be kept available for
9 sportsmen. Mr. Dills, as a citizen, has under the law
10 applied for this land, and if we don't intercede, it will
11 go through the usual process wherein we sell school land
12 to private citizens. The California Wildlife Conservation
13 Board has recommended that we reserve this land for public
14 use. That Board is comprised of nine members, the Director
15 of Fish and Game, the Chairman of the Fish and Game
16 Commission, and the Director of Finance, and six members
17 of the Legislature.

18 Now, gentlemen, the matter is before us. I
19 think we ought to discuss this and make our decision.

20 Mr. Kirkwood, what do you think?

21 MR. KIRKWOOD: If we were to adopt the recommendation,
22 Mr. Hortig, that you have made, what would be the effect
23 on Mr. Dills' application; would it automatically deny
24 that application, or would it mean that it would be post-
25 poned and not acted on until the expiration of the with-
26 drawal which would be June 30, 1958?

1 MR. HORTIG: It could be processed in either manner.
2 Actually the recommendation as stated would have the effect
3 of canceling the application by Mr. Dills and returning
4 the land to the vacant State land list after June 30, 1958
5 if the Fish and Game had not at that time completed purchase
6 of the land. The alternative procedure you suggest could
7 be employed to continue on specific order of the Commission
8 Mr. Dills' application on file as the first application to
9 be processed in the event that the lands were not disposed
10 of to the Fish and Game Commission.

11 MR. KIRKWOOD: I am inclined -- I have been trying to
12 look at this report in a hurry and I am not sure that I
13 understand just where it goes, but there is indication,
14 certainly, that this isn't just dreamed up at the last
15 minute here as a consequence of a filing, and it is part
16 of an over-all plan. My reaction would be to see how this
17 would develop for that length of time, but I would certainly
18 feel that Mr. Dills, if it isn't to be permanently withdrawn,
19 should have whatever preference he is entitled to under this
20 filing. If that could be done, my reaction would be to
21 withdraw the land for that length of time to give us time
22 to be sure the request is a proper one from Fish and Game,
23 and they are going to follow up on it and not just sit and
24 wait.

25 GOV. POWERS: Because, Mr. Chairman, it is a question
26 of public interest, my question is whether it best serves

1 to have this land put on the tax rolls or serves the
2 public better to have it reserved for Fish and Wildlife
3 until the Fish and Wildlife intend to use it. Of course
4 I have a great respect for this board that you refer to,
5 our Fish and Wildlife Board where we have six legislators,
6 but unless the Fish and Wildlife make a definite statement
7 or definite progress that they are going to use this 485
8 acres of land for purposes of Fish and Wildlife, I certainly
9 feel it would serve the public interests better to be on
10 the tax rolls, because it is of public interest to have
11 land on the tax rolls. It is very important, gentlemen.

12 MR. KIRKWOOD: If we withdraw it until next June
13 and still leave Mr. Dills with a first opportunity because
14 of his interest in the property, it seems to me in that
15 length of time they can either demonstrate this readiness
16 to go ahead or we can reconsider.

17 GOV. POWERS: Let me ask Mr. Peirce a question: Is
18 it possible that your efficient Wildlife Board, of which
19 you are a member, would make a further study of this?

20 CHAIRMAN PEIRCE: I believe so. I would certainly
21 recommend that the matter be referred to the California
22 Wildlife Conservation Board for further study, and they
23 no doubt will seek the necessary technical advice of the
24 Department of Fish and Game. This Board, I assure you,
25 goes into these matters very, very carefully, and I will
26 indicate that on the Board is Senator Ed Johnson, Senator

1 Charles Brown, Senator Beard from Imperial County, Assembly-
2 man Frank Belotti, Assemblyman Lloyd Lowrey and Assemblyman
3 Tom Irwin, all of whom are very much interested as members
4 of the Fish and Game Committees of the Houses of the
5 Legislature in projects of this character. I as one member
6 of the Board am not familiar with the details of all
7 projects and have to depend to a certain extent on staff
8 recommendations. I think it would be very proper if we
9 refer to the California Wildlife Conservation Board the
10 question of reserving this land and have them determine
11 more accurately, if that is possible, just how it fits into
12 public interest.

13 GOV. POWERS: I agree. *Lott*

14 CHAIRMAN PEIRCE: Mr. Lott, do you desire to be heard
15 with respect to this matter? *Lott*

16 MR. LOTT: My name is Gordon Lott. I represent the
17 California Wildlife Federation. We wish to go on record
18 as opposing this sale of this property to private individuals
19 We feel that the Department of Fish and Game needs this
20 property as a game management area, which is badly needed
21 in this part of the State. Thank you.

22 CHAIRMAN PEIRCE: Thank you, Mr. Lott.

23 What is your pleasure, gentlemen?

24 GOV. POWERS: I make the motion it be referred to the
25 Fish and Wildlife Board for further study, if that is proper.

26 MR. HORTIG: Subject to the understanding, I presume,

1 which Mr. Kirkwood advised, that Mr. Dills' application
2 would be deferred?

3 GOV. POWERS: That is right.

4 MR. HORTIG: And whatever rights have accrued, as the
5 first applicant, will be deferred until disposition of this
6 matter at a later date certain, not later than June 30,
7 1958?

8 MR. KIRKWOOD: As I understand it, under the law we
9 can withdraw or we can --

10 MR. HORTIG: Restore.

11 MR. KIRKWOOD: -- restore at any time, yes.

12 CHAIRMAN PEIRCE: All right, do you understand, Mr.
13 Hortig, our decision in this regard?

14 MR. HORTIG: Yes.

15 CHAIRMAN PEIRCE: All right, you understand, Mr.
16 Hortig, our decision in this regard and so will be the
17 order.

18 We have one item of business which does not
19 appear on the agenda, and this arises out of a request
20 of the City of San Francisco for certain State lands in
21 the vicinity of Candlestick Point in San Francisco Bay,
22 and it is a highly complicated matter that came to the
23 attention of the individual members of the Commission late
24 last week and was referred to Mr. Hortig for study. So we
25 will now take that up, because representatives of the City
26 of San Francisco are present and desire to be heard on this

1 matter.

2 Mr. Hortig, will you give us briefly the outline
3 with respect to the question before us.

4 MR. HORTIG: The State Lands Commission has under
5 its jurisdiction certain underwater streets within an
6 area of the Hunters Point Reclamation District in the
7 City and County of San Francisco adjoining the San Mateo
8 County line. The City of San Francisco is desirous of
9 proceeding with the construction of a stadium and parking
10 lot, the site of which will require occupancy of certain
11 of the tide and submerged lands, including a portion of
12 the aforesaid underwater streets. In that connection there
13 has been under study the possibilities of either conveyance
14 under the Hunters Point Reclamation District Act as
15 amended by the Legislature in the 1957 session, or alterna-
16 tively, issuance of a long-term lease by the Commission under
17 which a project could go forward pending resolution of
18 the legal questions which have to be determined in
19 connection with a conveyance of the Hunters Point Reclamation
20 Act. Pursuant to inquiry and request to the Chairman of
21 the Lands Commission by the Mayor of San Francisco, as
22 the Chairman indicates, that the Mayor desired to have
23 someone present at the Commission meeting if the Commission
24 would be pleased to receive testimony and any other
25 information desired to be submitted relative to the question,
26 as well as what procedures the Commission might follow in

1 this connection, such representatives are here and desire
2 to be heard. Probably the initial presentation will be
3 made by Mr. Bernard Ward, Deputy City Attorney of the
4 City of San Francisco.

5 CHAIRMAN PEIRCE: Mr. Ward.

6 MR. WARD: Mr. Chairman, we are here on behalf of the
7 City and County of San Francisco, and Mayor Christopher on
8 behalf of the City officials wants to thank you for putting
9 us on at this late date. He was leaving, as you know,
10 for Europe and didn't have a chance to come down, but he
11 was so interested that he told us he would have been here.

12 The map you see in front of you, the blue sections,
13 as are outlined in blue, represent the present street pattern
14 in the Hunters Point Reclamation District area which is in
15 the southeastern part of San Francisco, and is all practically
16 under water, everything from about the shoreline as indicated
17 by that broken point.

18 This particular land area was laid out back in
19 the '50's by the Tidelands Commission, and these lots in
20 between the blue areas were all sold off to private ownership
21 the State reserving to itself the title to all the street
22 areas down there. The present plan calls for the taking
23 of all the land indicated by the blue, including the lots
24 in private ownership and street areas, into one homogenous
25 area or one plot upon which in this area here the baseball
26 park will be erected on presently owned city land -- this

1 park over here is City owned land -- but it will also
2 be necessary to move some of the land that the City owns
3 and move the streets to complete the picture. However,
4 the large area is necessary for the concourses and for
5 the parking area for the stadium. In order to get the
6 proper financing and in order to bring the plan to final
7 culmination -- by the way, this yellow area, Mr. Peirce,
8 here is 250 feet of right of way which was reserved for
9 railroad purposes many years ago, apparently at the same
10 time that this was sold off, however the railroad people
11 failed to live up to the necessary requirements, and as far
12 as the title is concerned it reverted to the State, so the
13 area in these blocks covered within the yellow lines is
14 also under the jurisdiction of the State, to the best the
15 title companies can tell us, title is in the State of
16 California, in the same manner as the street areas, so it
17 would be necessary then to acquire title to everything,
18 the streets and this right of way if we were to have this
19 picture.

20 Now, in 1955 when the Hunters Point Reclamation
21 District Act was first passed, it was broad in scope and it
22 was had in mind to set the district up and reclaim the
23 land out to the bay, and at that time this portion down
24 here was also in the district. However, the Federal
25 Government in the meantime has come in and condemned some
26 twenty-five and a half blocks of this section there and cut

1 off practically all the water that the district would have,
2 in order to enlarge the Hunters Point Shipyards, but the
3 purpose of the Reclamation District, as you gentlemen know,
4 was to set up the procedure where capital improvements
5 could be made, and it was set up for the purposes of
6 establishing an industrial port. As you gentlemen know,
7 in this particular grid pattern the streets here were 200
8 feet in one direction and maybe 600 feet in another direction
9 there is a street, they are 80-foot streets, and so the
10 plan was to redesign this area with maybe two and three
11 major streets running in this direction and probably one
12 or two in this direction, including a water-front street,
13 there being a water-front street to the area so everyone
14 has access to the water front. However, since the Federal
15 Government has taken over the water front the problem which
16 at that time was a problem of the Harbor Commission, has
17 pretty much been eliminated. They are no longer interested
18 in developing the land, there not being any more water front.
19 We are not then confronted with that problem in converting
20 this street area from the present pattern into the new
21 street area. Of course, we are confronted at that time
22 with the trust established for fishing and navigation on
23 that street area. Every time you raise this land up and
24 if you use it for some other purpose than streets, the
25 question arises does it revert back to the State of
26 California. So in the 1957 session of the Legislature a

1 change was made to the Hunters Point Reclamation District
2 wherein the Legislature attempted, we hope successfully,
3 although that is one of the tests we are up against, to
4 take the trust of fishing and navigation off of all these
5 street areas when and if they were filled; in other words,
6 not while they were under water. If someone comes along
7 and fills them and they would be raised above the water
8 level, they would no longer be capable of being fished or
9 capable of being navigated upon, the trusts would be removed
10 at the same time. Recognizing it might be very unfair, and
11 the State realizing the State would have an interest and
12 the City also would have an interest in the street areas,
13 the Act went on to say that this street area could probably
14 be exchanged for other lands of equal value in the district
15 for purposes of streets, which would be the new streets
16 that I described, the broader streets and fewer streets.
17 However, it was thought at that time that to allow the
18 streets to be filled and then to talk about exchanging
19 land would mean that the persons filling the streets would
20 increase the value of the street area, then when it came
21 to the exchange, where now the land is worth about 4 cents
22 a square foot, it could jump as high as a dollar and a
23 half a square foot when filled, no one would want to go in
24 there and do the filling, so that way they would have to
25 pay for their own work, so in the law as it was written
26 it was stated the effective valuation of the land would be

1 as of December 31, 1957.

2 I might say at this time there was no reason
3 for picking that date, it was just picked, no one thought
4 the Giants were coming to San Francisco at that time, or
5 that a baseball stadium was going to be built there, but
6 the contemplation of the district and the trustees was
7 that late in '50 or early '60 this thing would be realized,
8 and December 31, 1957, could be a workable base. Now we
9 come up against the proposition where there has been a
10 request made by Mr. Harney, who Mr. Dooling here represents,
11 to acquire the street areas indicated within this area
12 here, and the plans call for exchange for all street area
13 right of ways here with Mr. Harney deeding to the State
14 this red area; in other words, Jamestown Avenue at the
15 present time doesn't go through. He would deed the area
16 from here over to here, an area -- what is the width --
17 a hundred foot strip to make Jamestown a through street
18 from James Lick Freeway. In addition to that, this strip
19 here, this red strip would be a 250-foot strip which would
20 be on the eastern side, on the side nearest the bay area
21 of Hunters Point Reclamation District, would be deeded by
22 the City and County of San Francisco for the Hunters Point
23 Expressway, which would tie into the James Lick Freeway
24 and would give another alternate north-south route into
25 San Francisco and tie in directly into the Hunters Point
26 section.

1 This street would also be deeded to the State
2 for expressway purposes, and this small strip here. You
3 gentlemen will notice Gilman down here. Gilman is now
4 an 80-foot street, and that would be widened into 100
5 feet by the deeding of 20 feet to the State of California
6 for that purpose. We might say, as Mr. Hortig mentioned
7 earlier, we have had very pleasant negotiations with
8 the Staff on this. We think the Staff is sympathetic
9 with what we are trying to do, however, there are legal
10 difficulties that have arisen, and while the Mayor
11 realizes that ultimately the decision will come from the
12 Attorney General, he felt that we should come to the
13 Policy Making Board of the Lands Commission to present
14 this fact, and answer any questions that the Commission
15 might have or that members of the Commission might have
16 today, rather than have any further delay inasmuch as it
17 is only possible for you gentlemen to get together once a
18 month, unless you call a very special meeting, if there
19 were some problem or if you had some problems, that Mr.
20 Hortig could suggest what we could do to expedite the matter
21 other than the legal difficulty that seems to be confronting
22 us. We have a Mr. Dooling here, who represents the contractor,
23 and we also have Mr. Owens here, who is the City Engineer,
24 who might be able to answer any questions you gentlemen
25 might have concerning the plans of this City to use that
26 street area as well as the reasons for the switching of the

1 land down there.

2 CHAIRMAN PEIRCE: Mr. Ward, normally matters of this
3 character are processed by our technical staff before they
4 are presented to the Commission. Now, this morning before
5 Governor Powers arrived, Mr. Kirkwood and I spend some time
6 with Mr. Hortig and reviewed this matter generally. I
7 knew nothing about it until I received this letter last
8 Thursday, I believe it was. I indicated to Mayor Christopher
9 in a telegram and the letter that followed that the Commission
10 was meeting this morning here in Los Angeles and if he
11 desired to have representatives appear, maybe give us
12 background information, that we would be glad to hear his
13 representatives. You three gentlemen are here in that
14 regard.

15 Now, I am of the impression, since I talked with
16 Mr. Hortig, that there are a great many complicated details
17 involved in this problem, and part of them involve legal
18 complications which will have to be reviewed by the Attorney
19 General's Office and a report from the Attorney General
20 will have to be procured before we can proceed with any
21 formal sale or transfer of the State's interest in this
22 property under discussion.

23 At this time, Mr. Hortig, what is your advice
24 with respect to how this matter should be handled? We
25 are not in any position to take any action today, we are
26 merely receiving background information; is that not true?

1 MR. HORTIG: That is correct, Mr. Peirce. The matter,
2 as Mr. Ward indicated, it is under active consideration
3 by the Staff. I might suggest that Mr. King, Deputy
4 Attorney General King, might give the Commission a very
5 brief outline of the status of the matter insofar as the
6 Attorney General's Office is concerned. I believe that
7 would complete the picture insofar as it can be presented
8 today for the information of the Commission.

9 MR. KING: Mr. Chairman and members of the Commission,
10 this matter is now being considered by the San Francisco
11 Office of the Attorney General and certain proposals were
12 submitted by Mr. Dooling and I assume Mr. Ward also,
13 representing, of course, the contractor -- Mr. Dooling
14 representing the contractor. These were submitted in an
15 informal way to our office, and after a review it was
16 found that there were legal complications that would have to
17 be overcome before our office would be in a position to
18 recommend to the Commission it would be legally feasible.
19 At the present time the Statute, which is the Hunters
20 Point Reclamation Act, is under review by a member of
21 the office, and at the present time, as I have indicated,
22 the proposal which has been submitted, from all appearances,
23 there are certain legal difficulties, and I believe it was
24 suggested to Mr. Dooling that they be resubmitted in a
25 different form. I think that is the status of the case to
26 the present time. Most of the legal difficulties revolve

1 around the construction of the Statute which has been
2 referred to you. The date of the evaluation raises some
3 question; there is also a question with respect to the
4 sheer constitutionality of the transaction. This is
5 presently under review by our office, and I expect there
6 will be an indication from the office within the very near
7 future. I will be happy to answer any questions which you
8 may have.

9 GOV. POWERS: As I understand it, then, this is a
10 contract that is to be entered into between the City of
11 San Francisco and the State of California, and you have
12 also an individual mixed in there, a Mr. Harney; is that
13 right?

14 MR. KING: Maybe I should clarify that, Governor
15 Powers. The proposal submitted to the Attorney General's
16 Office indicated this would be a grant conveyance by the
17 State Lands Commission to a private party, to wit, Mr.
18 Harney. This raises one of the complications, as I stated
19 today, from a legal point of view, as under Article 15,
20 Section 3 of the Constitution, State lands located within
21 2 miles of a city cannot be conveyed. Now, there are
22 certain problems raised there which must be resolved
23 before our office would be in a position to indicate that
24 would be a legal and feasible proposition, but the
25 transaction would take place, as proposed, would be between
26 the State Lands Commission and a Mr. Harney.

1 GOV. POWERS: The City of San Francisco isn't in on
2 this?

3 MR. KING: Isn't in on this transaction at this point,
4 that is my understanding.

5 MR. WARD: I might answer that, if I may.

6 CHAIRMAN PEIRCE: Mr. Ward.

7 MR. WARD: The plan calls for Mr. Harney to combine
8 and amass this piece of property and convey it to an
9 actual nonprofit corporation, and that nonprofit corporation
10 will convey in fee to the City and County of San Francisco
11 the land in question, not only the land represented by
12 the City but all of the privately-owned land on that map,
13 so ultimately the title of everything goes into the City
14 and County of San Francisco, but the land is subjected to
15 paying off the debenture bonds that are necessary to
16 develop it, so that the City does not realize anything in
17 the way of a profit, if there is such a thing as a profit,
18 until all of the obligations of the development of the
19 stadium and parking areas, etc., are paid off, including
20 the \$5,000,000 worth of City bonds which will be used for
21 a good portion of the development of the stadium. The
22 \$5,000,000 debenture bonds for private development must
23 all be paid off, then the matter of profit of the operation
24 is turned over entirely to the City and County of San
25 Francisco. It is a plan which has been followed in San
26 Francisco, you may not be familiar with it, but in the

1 Fifth Division Street Garage Plan, which is presently
2 being operated, the same type of plan. Fortunately there
3 we had no tidelands involved, so we had no tideland problem.
4 But it is the same procedure, transfer of the land to a
5 private owner, then to a nonprofit corporation, and then
6 it will be transferred in fee to the City. The City owns
7 the fee, but has no rights to profits or income from the
8 land until all the obligations and debenture bonds and
9 all other type of bonds are paid off. Ultimately the
10 City gets the fee clear, but they don't get the income
11 from the use of the fee until all the other obligations
12 are paid off.

13 MR. KIRKWOOD: May I ask, Mr. Chairman, is it the
14 opinion of any of the legal brains represented here that
15 some affirmative acts by this Board at this time would be
16 helpful other than just direction to the Staff to expedite
17 this as much as possible? Is there anything?

18 MR. WARD: I think that all we asked was that the
19 matter be expedited, if the Honorable Commission saw fit,
20 although the Commission Staff are expediting it. That was
21 what the Mayor had in mind in taking it up with the
22 Commission, that the Commission direct the Staff to
23 proceed with it, and if there were any reasons for it
24 being held up, that would eliminate that reason. As I
25 say, our dealings with the Staff indicate there is nothing
26 holding it up, except just time and the matter of preparing

1 the necessary opinions by the Attorney General, and working
2 out the details on the proposals that have been made, the
3 informal proposal that has been made by Mr. Harney.

4 MR. KIRKWOOD: No action today can help clear any
5 of the hurdles?

6 MR. WARD: Not that I know of.

7 CHAIRMAN PEIRCE: There can't be anything more than
8 the order of the Commission that the Staff in co-operation
9 with the Attorney General's Office do everything possible
10 to expedite the working out of a plan that is both legal
11 and feasible and to the mutual interests of the State and
12 the City of San Francisco.

13 Is there anything more in connection with this
14 at this time, Mr. Hortig?

15 MR. KING: Mr. Chairman, if I may, I would like to
16 indicate only for the record the matter has come to the
17 attention of the Attorney General's Office for perhaps
18 a period of three weeks, and we have been giving it full
19 attention for that period of time, giving it attention at
20 the present time. Secondly, I just want to emphasize for
21 the purpose of clarity, of course, is whether a grant as
22 distinguished from a lease would assist the matter. This
23 is just one of the complications which have arisen.

24 CHAIRMAN PEIRCE: All right. If there is no objection,
25 so will be the order.

26 MR. WARD: Thank you very much.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CHAIRMAN PEIRCE: Mr. Hortig, anything further to
come before the Commission?

1 MR. LEOVY: Item 23, was that covered?

2 MR. HORTIG: There are two more items.

3 MR. LEOVY: Item 23, was that skipped?

4 MR. HORTIG: That has not yet been considered, Mr.
5 Leovy.

6 CHAIRMAN PEIRCE: Proceed with the agenda, Mr. Hortig.

7 MR. HORTIG: Page 39. The Commission has already
8 taken action today with respect to adoption of the amendment
9 of the Rules and Regulations relating to the conduct of
10 submarine geophysical exploration permits by amending
11 Regulation Section 2300(b), which will require such permits
12 to be obtained for all drilling regardless of depth beneath
13 the ocean floor. This type of geological exploration and
14 submarine geophysical exploration by the seismograph method
15 have been the only exploration techniques which have been
16 authorized under permit issued by the Commission, and these
17 are also the only specific techniques considered by the
18 Legislature during the adoption of the Cunningham-Shell
19 Tidelands Act of 1955, and amendments thereto.

20 The Division of Lands has received applications
21 requesting permits to authorize the obtaining of shallow
22 ocean-floor samples through the operation of an instrument
23 known as a "dart" and for a form of sonic geophysical
24 exploration known as the "sono-probe". The proposed
25 operations are two of a host of geophysical and geological
26 techniques which could be operated for survey and exploration

1 purposes on and over the tide and submerged lands. In
2 addition, there are geophysical instruments which can be
3 operated from aircraft flying over the tide and submerged
4 lands. The impracticability of supervising and controlling
5 such operations under permits from the State Lands Commission
6 resulted in an inquiry to the Office of the Attorney General
7 as to whether the Commission has the authority under the
8 Public Resources Code to specify limited types of geological
9 and geophysical survey techniques for which permit will be
10 required. An opinion on that was affirmative, and there-
11 fore it is suggested that the Commission initiate and
12 consider modification of the Rules and Regulations to
13 provide that exploration permits will be required on
14 tide and submerged lands only for geophysical exploration
15 by the seismograph method and for geological exploration
16 through drilling operations, and it is so recommended.

17 The matter has been discussed by industry. We
18 are not aware of any objection to the proposal.

19 CHAIRMAN PEIRCE: Any objections to this recommendation?

20 Mr. Leovy, do you have any objection?

21 MR. LEOVY: No, we are in favor of it.

22 CHAIRMAN PEIRCE: Allright, gentlemen, your pleasure?

23 GOV. POWERS: I move we accept the recommendation of
24 the Staff.

25 MR. KIRKWOOD: Seconded.

26 CHAIRMAN PEIRCE: It has been moved and seconded, and

1 the recommendation is approved.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 MR. HORTIG: Page 41, gentlemen, and following are
2 the discussion and proposed budget which of course will
3 be submitted to review by the Department of Finance,
4 budget conferences, to be held subsequently. The proposed
5 Support Budget for the 1958-59 fiscal year represents a
6 .6 per cent or \$5,401 increase over the current year's
7 budget, arising primarily from the recommendations for
8 the addition of three positions, which cost is offset
9 by decreased estimates of operating expenses and equipment
10 required. The three positions which are recommended, for
11 which specific approval is desired, are the addition of
12 a Senior Oil and Gas Engineer for the Mineral Resources
13 Section, and Assistant Mining Geologist for the same
14 section to work on the obvious backlog and increased work
15 load in that section, as well as the addition of a senior
16 typist clerk for the Sacramento lands sales and records
17 section in order to assist with the backlog in processing
18 land sales transactions which are accumulated there. It
19 is recommended the Commission approve the proposed budget
20 for the fiscal year of 1958-59 in the total amount of
21 \$879,188, inclusive of contributions to the State Employees
22 Retirement Fund. The approval is to be subject to the final
23 review and approval of the Department of Finance. And in
24 connection with the approval of the budget it is recommended
25 specifically that the Commission approve the establishment
26 of the three positions, additional positions of Senior Oil

1 and Gas Engineer, Assistant Mining Geologist and Senior
2 Typist Clerk, and approve the continuance of the following
3 positions on a permanent basis, Junior Counsel, Executive,
4 and Intermediate Stenographer Clerk in the Administrative
5 Section.

6 CHAIRMAN PEIRCE: Does the recommendation meet with
7 your approval, gentlemen?

8 GOV. POWERS: As far as I know anything about it, it
9 does.

10 MR. KIRKWOOD: It is the first I have seen of it.
11 I think it is amazing that we can continue to operate with
12 no greater expansion of this, John. I do want to take a
13 look at possible reorganization on top-level positions.

14 CHAIRMAN PEIRCE: We have to get this in a motion so
15 that a budget hearing can be held within the Department of
16 Finance. My offhand comment is that the budget appears
17 to be very conservative, in fact, this is the first budget
18 I have seen this year so far with such a small increase
19 over the preceding year. It appears to be in order so
20 far as I am concerned. After all, Mr. Hortig has to live
21 with it; it is his recommendation.

22 GOV. POWERS: It can be changed.

23 CHAIRMAN PEIRCE: Yes, it can be changed.

24 MR. KIRKWOOD: I move it.

25 GOV. POWERS: Seconded.

26 CHAIRMAN PEIRCE: All right, the budget is approved,

1 Mr. Hortig.

2 That concludes the formal agenda. Now, Mr.
3 Hortig, do you desire that we take up at this time the
4 question of your status, or do you desire or do you
5 recommend that we hold this in abeyance until the next
6 meeting of the Commission? What is your recommendation
7 in this regard? Do you have any problems that you would
8 like to discuss with us?

9 MR. HORTIG: I would leave the consideration of that
10 to the judgment of the Commission at this time. I would
11 be eminently satisfied to have the Commission make a
12 determination at this time, or if they wish to have time
13 for further consideration and possible discussion, that
14 would be perfectly all right. If it would be deferred,
15 why, that would be satisfactory with me also.

16 CHAIRMAN PEIRCE: I have discussed this only briefly
17 with Mr. Kirkwood and I haven't had a chance to talk to
18 Governor Powers about it. I know that our rather general
19 thinking has been to give consideration to the possibility --
20 if possible, make certain rearrangements of the Executive
21 Staff of the Lands Division and the Staff of the State
22 Lands Commission, and it may be that we should study this
23 a little more carefully before we make a decision. Now,
24 we have before us the alternative suggestion outlined by
25 Mr. Hortig, and I have discussed these alternatives briefly
26 with him, and what is your feeling, Bob? Do you have any

1 thought with respect to taking action at this time?

2 MR. KIRKWOOD: I don't know that we can take action
3 at this time. I do think that we owe it to ourselves and
4 owe it to Frank to bring this up and come to a decision
5 fairly quickly. I haven't had a chance to look at this
6 suggestion here and to perhaps understand the significance
7 of it, but I do feel that Frank needs some help at the top
8 and that we need to take a look at where we are going. And
9 I think the tidelands situation has become such a major
10 part of the whole process of this Commission that it needs
11 to be considered as to whether that whole Staff relationship
12 should continue as an appointive position, unless there are
13 real reasons or very valid reasons why under our particular
14 circumstances it is desirable to approve a change. I don't
15 think that even any action we can take or even changing
16 the law would prevent a future Commission from coming in
17 and saying that the executive officers should be examined,
18 and as I understand it, if you were moved up into the
19 same position you would still have your Civil Service
20 rights and be able to step back into it at any time even
21 if an attempt were made to change that.

22 MR. HORTIG: That is correct, sir.

23 I might comment in that respect, that these
24 suggestions before you were not with respect to any order
25 of necessity, but rather were simply a summary of the
26 alternatives that had been suggested that were possible.

1 MR. KIRKWOOD: I know in talking to you, I mentioned
2 my feelings and the problems as I saw them, and asked that
3 you bring to the Commission some alternate suggestions and
4 let us think about them.

5 CHAIRMAN PEIRCE: I would suggest that in view of the
6 lateness of the hour and the lack of opportunity we have had
7 to discuss this even informally that no action be taken
8 with respect to Mr. Hortig's status until the next meeting
9 of the Commission. In the meantime we can review this
10 memorandum and we may individually or collectively have
11 an opportunity to discuss this matter with Mr. Hortig
12 in further detail before the matter is formalized at a
13 regular meeting of the Commission.

14 Does that meet with your approval?

15 MR. KIRKWOOD: It does with me.

16 GOV. POWERS: Yes.

17 CHAIRMAN PEIRCE: We will defer action on this until
18 the next meeting, and in the meantime we will explore the
19 details further and work out a proper action.

20 MISS STAHL: What about the next meeting date?

21 MR. KIRKWOOD: We better pick it.

22 CHAIRMAN PEIRCE: How about you picking the next
23 meeting date, going through our respective secretaries
24 and deciding on the date?

25 MR. HORTIG: I will proceed with that immediately.

26 CHAIRMAN PEIRCE: Very well.

1 MR. HORTIG: It will, of course, preferably be in
2 the first two weeks of November?

3 CHAIRMAN PEIRCE: Yes.

4 MR. KIRKWOOD: And will be in Sacramento?


5 MR. HORTIG: Yes, sir.

6 (Whereupon at 1:00 o'clock p.m. the
7 meeting was adjourned.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

C E R T I F I C A T E

I, Carroll S. Blodgett, Hearing Reporter, do hereby certify that the foregoing is a full, true and correct transcript of the stenographic notes taken by me on the date hereinbefore specified, and that the same is a full, true and correct record of the proceedings had before the State Lands Commission of the State of California.

Dated at Los Angeles, California, on the 18th day of October, 1957.


Hearing Reporter