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TRANSCRIPT OF  
MEETING

of

STATE LANDS COMMISSION

SACRAMENTO, CALIFORNIA  
FEBRUARY 24, 1959  
10:00 A. M.

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PARTICIPANTS:

THE COMMISSION:

Messrs. Bert W. Levit, Director of Finance, Chairman  
Glenn M. Anderson, Lieutenant Governor  
Alan Cranston, Controller  
  
F. J. Hortig, Executive Officer

OFFICE OF THE ATTORNEY GENERAL:

Paul M. Joseph, Esq.,  
Deputy Attorney General

APPEARANCES:

Caspar W. Weinberger, Esq., of  
Heller, Ehrmann, White & McAuliffe,  
  
representing:  
Lindsey Spight  
(Calendar Item 31)  
  
Mr. Stanford C. Shaw  
in pro per  
(Calendar Item 24)

Reporter: Louise H. Lillico  
Division of Administrative Procedure

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1 MR. LEVIT: The meeting will please come to order.  
2 This is the meeting of the State Lands Commission. First  
3 item on the agenda is the confirmation of the minutes of  
4 the meeting held in Sacramento on January 29, 1959. Are  
5 there any corrections or additions? (No response) If  
6 not, the minutes will be approved as submitted.

7 MR. HORTIG: At this point, Mr. Chairman, might  
8 I indicate for information of the Commission we should like  
9 to reconfirm that the date of the next Commission meeting  
10 is still Wednesday, March 25, at 9 a. m.

11 MR. LEVIT: That will be here in Sacramento?

12 MR. HORTIG: In Sacramento in this room.

13 MR. LEVIT: If there is no objection to that, then,  
14 that will be the date of the next meeting.

15 MR. CRANSTON: Did you say 9 a. m.?

16 MR. HORTIG: Yes.

17 MR. LEVIT: I might comment that since the last  
18 meeting Mr. Cranston and myself spent a day in Long Beach,  
19 going over some of the territory and the subsidence problems  
20 they are having down there. Governor Anderson has already  
21 been down there. The people from Long Beach very courteously  
22 showed us around and told us what their plans were, and I  
23 think we both have a better understanding of the problem  
24 now in some of the matters that will come before the Com-  
25 mission than we had before. Do you want to continue now  
26 with the calendar, Mr. Hortig? Item 2 is the matter of

1 granting permits, easements and rights of way.

2 MR. HORTIG: Starting with page 1 and following  
3 through page 8, all items in this sequence are permits,  
4 easements and rights of way to be granted to the public  
5 and other agencies at no fee, pursuant to statute. The  
6 consideration is the public use and benefit.

7 Calendar page 1 refers to permit for the City of  
8 Seal Beach for the continued maintenance of a municipal  
9 pier which has been in existence for many years and has  
10 been under a term permit previously issued by the Lands  
11 Commission; and it is recommended that a life-of-structure  
12 permit for 25 years beginning October 4, 1958 be issued.  
13 Mr. Chairman, do you wish to have these matters presented  
14 en bloc, or action on each one?

15 MR. LEVIT: Yes, just go right on down. If anyone  
16 has any questions or wishes to address any remarks to the  
17 Commission as your matter comes up, please do it. Other-  
18 wise, we will assume there is no objection.

19 MR. HORTIG: For the benefit of the Commission, I  
20 would like to call attention to the maps that we have show-  
21 ing the geographical locations of all these matters, so if  
22 any Commissioner wants any further information on a geo-  
23 graphical basis, we have it here this morning.

24 Item 2 - application from the Division of Highways  
25 to permit the placement of an extended section of highway  
26 route immediately along the shore adjoining San Eligo State

1 Park in San Diego County. Issuance of the right-of-way  
2 easement is recommended.

3 Calendar page 3 -- application from the County of  
4 Stanislaus for a bridge right-of-way across the Tuolumne  
5 River, which is recommended.

6 Item 4 -- application Division of Beaches and Parks  
7 for a 49-year life-of-structure permit for the placement  
8 of a pier in Lake Tahoe within Emerald Bay State Park,  
9 which is recommended.

10 Item 5 -- application from the U. S. Department of  
11 Commerce for a 20-year life-of-structure permit for place-  
12 ment of a pier on a Schultz Slough at its confluence with  
13 Petaluma Creek as the site of an air navigation facility  
14 monitor station -- issuance of which is recommended.

15 Calendar page 6 -- application from the U. S. Army  
16 Corps of Engineers for a permit for the placement and main--  
17 tenance of two breakwaters on tide and submerged lands for  
18 the protection of Half Moon Bay, San Mateo County -- which  
19 is recommended particularly with reference to the improve-  
20 ment of navigation in Half Moon Bay.

21 Page 7 -- application by Union Oil Company of Cali-  
22 fornia to dredge sand and silt which has piled up against  
23 their existing wharf, which is in operation under an exist-  
24 ing State lease in Oleum, Contra Costa County, with the  
25 material to be redeposited on State lands in Carquinez  
26 Strait -- merely shifting the position to provide an adequate

1 navigation channel to their existing pier. The Corps of  
2 Engineers has approved this project as a benefit to navi-  
3 gation and it is recommended that the ....

4 GOV. ANDERSON: Just a question on that -- When  
5 they dredge that, does that go only to the previous depth,  
6 that is, only to get the silt and sand off?

7 MR. HORTIG: That's correct. In this case it is  
8 intended to go to the previous depth. However, if the  
9 Corps of Engineers recommended that they have a deeper  
10 channel, authorization would be requested for that.

11 GOV. ANDERSON: In other words, there would be no  
12 apparent danger to any adjacent property?

13 MR. HORTIG: Very definitely not. The maintenance  
14 of a navigation channel, as well as the safety of existing  
15 structures, are both conditions reviewed by the Corps of  
16 Engineers and the State Lands Division.

17 GOV. ANDERSON: But before they go to any deeper  
18 than the previous depth, they would have to come before  
19 the Commission?

20 MR. HORTIG: That is correct. Page 8 is a re-  
21 calendaring of an item on the previous calendar as of  
22 January 29, relating to proposal to issue right-of-way  
23 permit to the Atchison, Topeka and Santa Fe Railway Company  
24 for a crossing over vacant State school land, which has  
25 been in existence since 1911. At the time of the previous  
26 meeting, there was a reference to an Attorney General's



1 opinion in which it was indicated that the Commission  
2 authorize such a permit at no fee. The Chairman asked  
3 that this item be recalendared in order that a copy of the  
4 Attorney General's opinion could be furnished to the Com-  
5 missioners for review.

6 GOV. ANDERSON: Why would there be no fee on this?

7 MR. HORTIG: Primarily because -- this is my engi-  
8 neer's view of the opinion -- the statutes at the time of  
9 the actual occupancy provided for the issuance of a permit  
10 at no fee, but the Santa Fe Railroad failed to take the  
11 advantage, overlooked taking the advantage of making the  
12 application at that time and this is a retroactive operation  
13 in one sense, plus the fact that there have been since  
14 added additional authorities in the Public Utilities Code  
15 that the former Railroad Commissions got, the combination  
16 of which lead the Attorney General's office to feel that  
17 in the public interest in the continued operation of the  
18 railroad that this case comes within the scope of those  
19 operations which the Commission can authorize at no fee.  
20 Deputy Attorney General Paul Joseph is here this morning  
21 from the Attorney General's office and for a deeper legal  
22 analysis I would refer your question to him.

23 GOV. ANDERSON: My only feeling is that if they  
24 were to come in now we would ask them for a rental fee.

25 MR. JOSEPH: No, there is no fee in this type of  
26 thing. These railroads have been getting these for some

1 50 or 60 years -- this type of easement on public lands,  
2 similar to telephone and telegraph lines, although with  
3 telephone and telegraph lines the type of public lands  
4 over which they get the right to place their lines is more  
5 restricted.

6 GOV. ANDERSON: If there were private lands right  
7 alongside this, they would have to pay to go across it;  
8 but when they come to public lands, they get it free.

9 MR. JOSEPH: The law has given that for 50 or 60  
10 years.

11 MR. CRANSTON: Is that under the concept that they  
12 would pass it right back to the public in higher rates?

13 MR. JOSEPH: No. It seems to me the consideration  
14 is that they are giving public service for the use of the  
15 lands.

16 MR. CRANSTON: But they are giving public service  
17 at a profit.

18 MR. JOSEPH: Yes.

19 MR. CRANSTON: But is it the theory they would  
20 pass it back in higher rates?

21 MR. JOSEPH: They get the right of using the  
22 property for the service they give to the public generally.

23 GOV. ANDERSON: Wouldn't this apply to most  
24 businesses under some theory?

25 MR. JOSEPH: Yes, it is not very logical. It is  
26 not very logical, but that's how they spell the thing out.

1 Now, this opinion of Mrs. Wolff with reference to this goes  
2 into it at great length. I have gone over the cases on the  
3 matter, and I don't see personally .....

4 GOV. ANDERSON: Wasn't this put in at the time  
5 they were trying to encourage the railroads? Isn't this a  
6 carryover? When does this end?

7 MR. JOSEPH: When the Legislature in their wisdom  
8 get ready to end it, I suppose.

9 GOV. ANDERSON: Well, is this a legislative policy?

10 MR. HORTIG: It's statutory.

11 GOV. ANDERSON: In other words, we don't have a  
12 right to rent them or charge a fee for the use of this?

13 MR. HORTIG: That is the summary of the Attorney  
14 General's opinion.

15 GOV. ANDERSON: That we wouldn't have a right to  
16 charge them a rental or sell this to them?

17 MR. HORTIG: We could sell it to them.

18 GOV. ANDERSON: We could sell it to them but  
19 couldn't rent?

20 MR. CRANSTON: Obviously they don't want to buy.

21 MR. JOSEPH: They have been there since 1911.

22 MR. LEVIT: Anybody here representing the railroad?

23 MR. HORTIG: No sir.

24 MR. LEVIT: Well, do you prefer to take that up  
25 separately or shall we take them all together?

26 GOV. ANDERSON: I have no personal objection to

1 this but I think it's something we might go into in the  
2 future. I think it is high time we look at this thing  
3 again --- not this particular one.

4 MR. LEVIT: Maybe we ought to figure out a way to  
5 rent the sky to the air lines, too.

6 MR. HORTIG: We have had that question before.

7 MR. LEVIT: Well, a motion to approve items (a)  
8 through (h) of Section 2 would be in order.

9 MR. CRANSTON: I so move.

10 GOV. ANDERSON: Second.

11 MR. LEVIT: That will be the order by unanimous  
12 consent of the Commission. That brings us to Item 3.

13 MR. HORTIG: Item 3 comprises the calendar items  
14 appearing on calendar pages 9 through 30 relative to per-  
15 mits, easements, leases, and rights-of-way to be issued  
16 pursuant to the statutes and established rental policies  
17 of the Commission.

18 Calendar page 9 is an application for right-of-way  
19 easement for an overhead wire line crossing the Mokelumne  
20 River by Pacific Gas and Electric Company. Under estab-  
21 lished policies of the Commission, rental for the 49-year  
22 proposed easement term would be \$50.00. Issuance is  
23 recommended.

24 MR. CRANSTON: I'd like to ask why that one is in  
25 a different category from the previous one.

26 MR. HORTIG: Because the railroads have had specific

1 statutory authorization which other public utilities have  
2 not.

3 MR. CRANSTON: Are only the railroads exempt under  
4 the thing we are talking about?

5 MR. HORTIG: Yes sir.

6 MR. JOSEPH: The telephone and telegraph lines  
7 have similar easements, but only over more restricted lands.

8 MR. CRANSTON: What types of land?

9 MR. JOSEPH: Mainly highways, roads and waterways,  
10 and not public lands generally.

11 MR. CRANSTON: This next one is an easement over  
12 water -- the Mokelumne River.

13 MR. JOSEPH: This isn't a telephone or telegraph  
14 line. One is for a telephone line, the other is a railroad  
15 line.

16 MR. CRANSTON: In connection with these calendar  
17 items, I was talking briefly to Mr. Hortig about this be-  
18 fore the meeting. It seems to me we should give some con-  
19 sideration as to whether we are getting the right amount of  
20 money on these leases. They all appear very low. Frank  
21 tells me I have something I have not yet studied -- a  
22 schedule of rental and royalty rates. I suggest we take  
23 a look at that and discuss it, as to whether we could not  
24 get higher rentals.

25 MR. HORTIG: Yes. It was sent to all Commissioners  
26 last week.

1 MR. LEVIT: Would you calendar that, Mr. Hortig,  
2 so it would be on the calendar next month?

3 MR. HORTIG: Yes sir. As indicated in the memoran-  
4 dum of transmittal to the Commissioners of the existing  
5 schedule, it was pointed out that certainly the fees on  
6 that schedule are under current study to determine their  
7 economic desirability and compatibility in line with cur-  
8 rent land evaluation. I am not certain that by the next  
9 meeting we will have completed and have specific recommen-  
10 dations on changes, although the studies indicate that  
11 changes are probably going to be recommended.

12 MR. LEVIT: Well, it seems to me that we ought to  
13 postpone our discussion of it until the recommendations of  
14 the staff are ready. How do you gentlemen feel about that?

15 MR. CRANSTON: When would that be ready?

16 MR. HORTIG: By not later than the meeting after  
17 next.

18 MR. LEVIT: Well, if it is agreeable we will change  
19 that to the meeting after next and we will assume that you  
20 will have your staff recommendations ready; and I would  
21 suggest that these recommendations direct themselves to  
22 all of the schedules rather than merely the ones that you  
23 are going to change.

24 MR. HORTIG: We will have a complete review and  
25 report, indicating those that we feel are adequate in their  
26 present form and then the recommended changes.....

1 MR. LEVIT: That's right.

2 MR. HORTIG: ... so that it will cover all types  
3 of easements, leases, and permits issued by the Commission  
4 for a fee.

5 MR. CRANSTON: Would you furnish that to us as far  
6 ahead of that meeting as possible so we can study it?

7 MR. HORTIG: As soon as we can.

8 MR. LEVIT: All right. If there is no objection  
9 we will proceed with item (b).

10 MR. HORTIG: Page 10 is an application for lease of  
11 two acres of tide and submerged lands along the bank of the  
12 Sacramento River, immediately north of the City of Sacra-  
13 mento, to be used as a boating facility. Issuance in  
14 accordance with the rental schedule, which is based on a  
15 percentage rental of the appraised value of the land, is  
16 recommended. The annual rental under this proposed lease  
17 would be the minimum of \$100 per year.

18 Page 11 -- application by Santa Catalina Island  
19 Company to amend and extend a lease already in existence  
20 to include a small additional parcel of tide and submerged  
21 lands 100 feet wide and 600 feet long. The purpose of the  
22 basic lease in existence to Santa Catalina Island Company  
23 has been to give them the ability to control the placement  
24 of mooring facilities immediately adjoining the shore of  
25 Catalina Island, fronting on those properties owned in fee  
26 by the Santa Catalina Island Company. Extension of the

1 existing lease and proportionate increase of rental is  
2 recommended.

3 Item on page 12 -- It is requested that action be  
4 deferred for further staff study in view of a legal ques-  
5 tion which has been brought up by our counsel.

6 Page 13 relates to a prospecting permit previously  
7 issued for certain vacant State school lands in San Ber-  
8 nardino County. The permittee has explored the area ini-  
9 tially by core hole drilling, has had nothing but discour-  
10 aging results, and rather than have a document in effect  
11 which requires operating requirements for the next year and  
12 a half or till the expiration of the permit, which would be  
13 December 22, 1960, proposes to quitclaim these lands back  
14 to the State. This is within the authority of the Commis-  
15 sion to accept, as detailed in the copy of Attorney General's  
16 opinion following. Acceptance of this quitclaim is recom-  
17 mended.

18 GOV. ANDERSON: When they make a request for a  
19 permit like this, do they say they are going to do certain  
20 things in the line of prospecting that you see they live up  
21 to before you quitclaim something like this?

22 MR. HORTIG: There are specific operating require-  
23 ments in the form of prospecting permit which is issued  
24 upon application and these are in terms of shifts of work  
25 to be done, depending upon the time that it is to run; so,  
26 having completed these shifts of work and not having gotten



1 to the point of a commercially valuable discovery under  
2 this specific permit which would give the permittee a  
3 preferential right to an extraction lease, and desiring to  
4 abandon the project, this quitclaim is offered.

5 MR. LEVIT: Have they done all the work they  
6 agreed to do? I think that's what the Governor is driving  
7 at.

8 MR. HORTIG: Yes.

9 MR. LEVIT: In other words, they have done what  
10 the permit contemplated?

11 MR. HORTIG: Yes. They have gone in and started  
12 their exploration and to the extent they have explored in  
13 the time they have held the permit, they have had disap-  
14 pointing results. The thing is not a very enforceable con-  
15 tract in the form in which it is authorized by the Legis-  
16 lature, in that if a permittee accepts a permit and pays  
17 the permit fee he can then sit there with it ostensibly on  
18 the records and never do anything. There is no performance  
19 bond permitted and required, and the only thing that happens  
20 then is that the permittee never gets into the position of  
21 being able to get a preferential mineral lease by reason of  
22 having made a discovery if he takes the permit and makes  
23 no discovery. But the records of the Lands Commission are  
24 covered for this particular land all this time. Therefore,  
25 if we have a permittee that is no longer desirous of operat-  
26 ing the land, it is much more desirable to allow the quitclaim

1 and have the title, rather than allow the thing to hang  
2 there until the end of the permit.

3 GOV. ANDERSON: How much would this permit cost  
4 originally?

5 MR. HORTIG: \$1 per acre.

6 GOV. ANDERSON: And if they were to continue on,  
7 there wouldn't be any rental of any kind?

8 MR. HORTIG: No.

9 MR. CRANSTON: Under what circumstances would it  
10 be disadvantageous to the State, would be to our advantage  
11 to refuse a quitclaim?

12 MR. HORTIG: I can't conceive of any circumstances  
13 where it would be disadvantageous. The disadvantageous  
14 part is where we find a permittee is not operating but won't  
15 even cooperate to the extent of requesting a quitclaim.

16 MR. LEVIT: Do we have any way of cancelling these  
17 things if they don't go ahead with their prospecting?

18 MR. HORTIG: Yes, but cancellation is as to a right  
19 to get a preferential mineral lease at the end of the permit  
20 term. Actually, the statutes provide that the permittee  
21 receives the exclusive right to prospect upon payment of  
22 the fee of \$1 per acre, which is the total fee for the full  
23 permit term of two years. So we can tell him at the end of  
24 the two years he hasn't done anything, his permit has ex-  
25 pired, and that's it.

26 MR. LEVIT: Next item is similar, isn't it?

1 MR. HORTIG: Page 14 is a quitclaim of an existing  
2 prospecting permit. However, I wish to call your attention  
3 here this is not by reason of failure to or lack of desire  
4 to proceed, but there were two separate prospecting permits  
5 outstanding for different types of minerals on the same  
6 land and our applicant, Crown Mining Co., is now proposing  
7 that with one prospecting permit expiring, the other one  
8 still in existence, he quitclaim the second prospecting  
9 permit in order that the item appearing on pages 15 and 16  
10 and on 17 and 18 -- three new prospecting permits -- may  
11 be issued covering both the lands currently under the pros-  
12 pecting permit and additional lands. Crown Mining Co. have  
13 been operating and desire to continue. The quitclaim in  
14 this instance simply results in a simplified record, in  
15 that the Lands Commission would have one piece of paper on  
16 all lands specified rather than two as before.

17 MR. LEVIT: I suppose we have to consider all three  
18 of those items together?

19 MR. HORTIG: Any combination will still permit us  
20 to operate one way or the other, although the full package  
21 desired would be approval of all three items appearing on  
22 pages 14, 15 and 17.

23 Page 19 refers to an existing lease at Selby and  
24 Carquinez Strait, whereunder on the filled lands, which are  
25 being filled under the terms of the existing lease, erection  
26 of any additional structures on the land requires an

1 authorization by the Commission. The filled lands are  
2 becoming the property of the State as of the termination of  
3 or expiration of the existing lease. Therefore, there is  
4 no objection to and it is recommended that the present  
5 lessee be authorized to erect an additional single story  
6 wood frame addition to the existing office on the property.

7 Page 20 is another gas line crossing of State lands  
8 in San Bernardino County. The calculated rental under  
9 existing policies of the Commission, rental rates depending  
10 on the length of the right-of-way, results in a total  
11 rental of \$294, all of which would be payable in advance.

12 Item on page 21 -- a similar item on adjoining  
13 lands for the same gas pipe lines, for which total rental  
14 of \$297.15 would be payable in advance.

15 Page 22 -- an application for a lease of six-plus  
16 acres of tide and submerged lands in Corte Madera Creek,  
17 to be dredged to provide a site for a boat harbor. Calcu-  
18 lated annual rental on the established rates of the Commis-  
19 sion as against the appraised value of the land would be  
20 \$1,177.83 and because of structures proposed to be placed  
21 on the land during its period of operation as a small boat  
22 harbor, it is recommended that a performance bond in the  
23 amount of \$2500 be required in conjunction with the issuance  
24 of the lease.

25 Page 23 -- application for a strip of tide and sub-  
26 merged lands containing approximately 1/10 of an acre along

1 the right bank of the San Joaquin River for the construc-  
2 tion, maintenance and use of a small boat wharf and walk-  
3 way. The minimum annual rental would apply in this in-  
4 stance -- minimum rental of \$100 with a surety bond to be  
5 required to assure safe maintenance of the structures as  
6 well as removal at the termination of the lease.

7 Page 24 -- existing leases held by United States  
8 Plywood Corporation, leases covering approximately nine  
9 acres of tide and submerged lands in the beds of Freshwater  
10 and Eureka Sloughs in Humboldt County, are proposed to be  
11 assigned - - excuse me, existing leases held by Mutual  
12 Plywood Corporation are proposed to be assigned to United  
13 States Plywood Corporation; and it is recommended that the  
14 approval be authorized upon receipt of new performance bond  
15 from the assignee.

16 Page 25 relates to proposed operations for estab-  
17 lishing seismograph survey data on areas which are currently  
18 included under State oil and gas leases. Exploration opera-  
19 tions of this type must, under the statutes, be authorized  
20 by the State Lands Commission and where explosives are to  
21 be used, as will be in operations of this type, there must  
22 be a concurrent permit from the Department of Fish and Game;  
23 and, again under the statutes, the results of these types  
24 of operations are available to the Commission as confidential  
25 information. It is recommended that this operation be  
26 authorized.

1 MR. HORTIG (continuing) Pages 27 and 28 ....

2 MR. LEVIT: What about 26?

3 MR. HORTIG: I am sorry -- I am too enthusiastic.

4 MR. LEVIT: Klamath Cedar Company.

5 MR. HORTIG: Yes sir. I think possibly we with-  
6 held action previously on an erroneous item.

7 MR. JOSEPH: Page 12. It was this one, not 12.

8 MR. HORTIG: If the Commission will please re-  
9 refer to page 12, we have an analogous item and I erroneously  
10 reported that action was desired to be withheld on this  
11 item. This is not the case. It is recommended that in the  
12 item on page 12, relating to application for cancellation  
13 of lease and acceptance of a quitclaim deed, that these  
14 items be approved with respect to the item on page 12; and  
15 with respect to page 26, that the Commission withhold con-  
16 sideration of this item until further staff study because  
17 of a legal question which has been raised this morning.

18 Page 27 -- There is an existing lease by State  
19 Lands Commission covering approximately 60 acres of former  
20 vacant State school land on the westerly slope near the top  
21 of Mt. Diablo which has been under lease since February 1,  
22 1942 for the purposes originally of a radio station site,  
23 subsequently expanded to cover any type of radio or tele-  
24 vision station. The present lessee has also subleased to  
25 other organizations with the approval of the State Lands  
26 Commission, the other organizations being Lenkurt Electric

1 Company, American National Red Cross, the United States  
2 Atomic Energy Commission, and the Sandia Corporation, all  
3 of whom are occupying space and operating equipment within  
4 a structure which has been placed by the lessee on the  
5 State's land.

6 There is now pending before the Commission an appli-  
7 cation from Mr. Lindsey Spight for assignment to him of  
8 the basic lease. Mr. Spight has represented that in order  
9 to proceed with effective further development of the area  
10 for the same general purposes as a communication site, that  
11 it would be desirable to have a firm term of 15 years under  
12 a new lease with options to renew, rather than the conditions  
13 that would apply on a simple assignment to him of the exist-  
14 ing lease, whereunder there would be three more years of  
15 firm term under the existing lease with an option to renew  
16 at that time on such terms and conditions as the Commission  
17 might prescribe.

18 As a result of the application for a new lease, a  
19 reappraisal of the area was made and it was determined that  
20 the fair rental value of the site currently for a new lease  
21 would be \$1,098 annually.

22 GOV. ANDERSON: How many acres is that for?

23 MR. HORTIG: Sixty acres.

24 GOV. ANDERSON: for sixty acres?

25 MR. HORTIG: 59.62 acres. This is \$1,098 annually  
26 proposed for a new lease, compared with the last rental rate

1 of \$540 annually, which was arrived at as a result of  
2 appraisal at the time of the last modification of the lease  
3 in 1945.

4 GOV. ANDERSON: How do they determine the evalua-  
5 tion of a hilltop like this? My understanding is these are  
6 becoming rather scarce and they are becoming more and more  
7 valuable. The demand is becoming greater for these for  
8 short wave, for everything. Are we going to continue rent-  
9 ing these out for less than \$20 an acre?

10 MR. HORTIG: A value determination is made by  
11 appraisal and I have the rough appraisal report right here,  
12 Governor -- hasn't even been typed -- complete with photo-  
13 graphs, down to and including cost specifications for  
14 development of various types of transmitting buildings and  
15 so forth. The evaluation in this particular instance --  
16 well, the basic question was what was its value for highest  
17 and best use, which obviously is for a radio and television  
18 site, as you have indicated, both because of comparative  
19 scarcity and in this instance strategic (although not com-  
20 pletely ideal) location -- because this site is not on the  
21 mountain top; it is actually shadowed to the east by the  
22 upper portions of Mt. Diablo, which decreases its value  
23 below what it would have on the area that is currently  
24 under the jurisdiction of Beaches and Parks and is actually  
25 on the mountain top and therefore can be used for communica-  
26 tion purposes for literally all of Northern California.



1 After its devaluation from that type of property because  
2 of its less desirable location, a complete study was made  
3 as to its commercial rental return that could be gotten for  
4 operation of the type of equipment desired to be placed  
5 there and the optimum number of transmitters and facilities  
6 that could be installed giving rental returns, including  
7 everything of the type such as already under subleases to  
8 these various other corporations, which subleases are  
9 already in existence; and it was on that basis that the  
10 final calculated appraisal value of the land was arrived at,  
11 which at the 6.6% per year's average rental rate, which is  
12 the current Commission policy, results in this calculation  
13 of \$1,098 annually.

14 GOV. ANDERSON: Now, if some other competitor wants  
15 to get up there and wants to put a station up there, is  
16 there other ground for them to lease or does this give them  
17 virtually a monopoly?

18 MR. HORTIG: There is no other land from the State  
19 lands currently for lease, but there are other facilities  
20 other than State facilities under arrangements with Beaches  
21 and Parks at the top of Mt. Diablo. What the availability  
22 for additional facilities up there would be, I couldn't say;  
23 but there are other areas available -- the next adjoining  
24 peak, so-called north peak, we have had brought to our atten-  
25 tion is available for lease. As a matter of fact, a gentle-  
26 man wrote in and informed us he owned it and he wanted the

1 State Lands Commission to get out of this business of  
2 leasing any mountain tops... it was interfering with his  
3 ability to lease his privately owned mountain top. He  
4 felt we were in competition and shouldn't be getting any  
5 moneys out of our State lands and we should withhold them  
6 from the market, as we were giving him competition. So  
7 there are other available sites -- however, not available  
8 from State lands.

9 MR. LEVIT: What is the total annual amount of  
10 rentals that we receive from these State lands properties?

11 MR. HORTIG: I couldn't even hazard a guess at the  
12 moment, Mr. Levit. However, I can say this -- this  
13 particular lease is the only one of this class that the State  
14 Lands Commission has in existence for general commercial  
15 radio station and television station sites throughout the  
16 State. Our other existing communication facility sites are  
17 rented to public utilities -- to the telephone company for  
18 repeater stations, and so forth. We have never had an  
19 application for other State lands to be used for this  
20 particular purpose.

21 MR. LEVIT: Is there any disclosure made of the  
22 price paid by the applicant for the lease that is purchased?

23 MR. HORTIG: For the assignment of the lease as  
24 such?

25 MR. LEVIT: Yes.

26 MR. HORTIG: There was not to the Lands Division,

1 sir. However, I might point out that our applicant, Mr.  
2 Lindsey Spight, and his attorney are in the audience with  
3 us this morning and as to those details I am sure they  
4 would be glad to respond as far as they can.

5 MR. LEVIT: I think what the Governor's question  
6 was leading to is something that's been going through my  
7 mind -- not particularly with reference to this transaction --  
8 but, really, when you think of these figures, they sound  
9 like entries from Pepys' Diary.

10 MR. HORTIG: There are, of course, these factors  
11 that might help the Governor in connection with his valua-  
12 tion. Number one, when the land was leased it was raw land.  
13 It is worthless for agricultural purposes, anything else  
14 actually other than as a station site. The existing road  
15 into the area, the water development, the buildings that  
16 have been constructed on the property in order to house  
17 the transmitter equipment, have all been capital investment  
18 by the State's lessee. In other words, the State issued  
19 the lease and has leased only the raw land and it was ex-  
20 tremely difficult of access in the first instance until  
21 road facilities were put into it, as I say, and water supply.

22 MR. LEVIT: Of course, I don't feel particularly  
23 inclined to call on the applicant in view of the fact that  
24 we made our own appraisal of the property and have come up  
25 with this figure that you are talking about.

26 MR. HORTIG: Well, I think this is certainly in the

1 record and I don't think the applicant would object. When  
2 we came back with the appraisal report, we indicated that  
3 the appraisal values had gone to such in the intervening  
4 term of this lease that a proposed rental literally double  
5 would now be applicable as a result of a new lease.

6 GOV. ANDERSON: When was the original lease given?

7 MR. HORTIG: 1942.

8 GOV. ANDERSON: You see, there has been a tremendous  
9 change since 1942 and '59 in sites for TV and things like  
10 this.

11 MR. HORTIG: Well, in 1942 the lease was issued for  
12 a rental of \$120. The lease was modified in 1945 and the  
13 rental was increased to \$540. Now, we are suggesting that  
14 we go to \$1,098 and the applicant presented many (he thought)  
15 cogent reasons why this \$1,098 is actually excessive. How-  
16 ever, our appraisal indicates that it should be this amount.

17 MR. LEVIT: In making the appraisal your men, your  
18 staff, didn't take into consideration the price that was  
19 paid for the assignment of the lease?

20 MR. HORTIG: No sir, because we assume certainly it  
21 must be implicit in the price of the assignment of the  
22 lease that there is consideration for the capital invest-  
23 ment of the lessee -- the transmission tower, which is  
24 removable and represents many thousands of dollars, and is  
25 a tremendous operating expense, incidentally; the placement  
26 of the structure .....

1 MR. LEVIT: That just goes to the analysis of the  
 2 price. It doesn't have anything to do with the relevancy  
 3 of the price.

4 MR. HORTIG: Well, again, if I understand your  
 5 question, with respect to any of the assignments of leases  
 6 as are proposed on this current agenda or have been proposed  
 7 heretofore, the Commission has not normally considered the  
 8 economic aspects of the assignment from assignor to assignee,  
 9 but has proceeded primarily on the basis that as a result  
 10 of the assignment there would be an adequate lessee, capable  
 11 of performing, and that the compensation to the State was  
 12 proper and adequate in terms of the appraised value of the  
 13 land. In most instances, we actually don't get an oppor-  
 14 tunity as a result of a requested assignment to review the  
 15 rental rates. In this particular instance, because of the  
 16 combination of circumstances proposed by our applicant, that  
 17 he would prefer to have a longer firm term than there is  
 18 under the existing lease, we had the opportunity to make a  
 19 reappraisal as to the value as of the current date. Our  
 20 applicant certainly has the option -- and which I don't  
 21 believe he desires to exercise, but he should speak for him-  
 22 self -- to simply request the assignment of this particular  
 23 lease to him at the annual rental of \$540 a year, and this  
 24 right he has by contract and by existing statute; but under  
 25 those circumstances, three years hence he would be back in  
 26 talking to us about a new lease, which he again has the

1 option to request, but the rental rate will by the terms of  
2 the lease again be the rental rate proper in the minds of  
3 the Commission as against the appraised value of the land.

4 GOV. ANDERSON: How are you limited on your appraisal  
5 of this now? How do you determine the rental of this type  
6 of a piece of property?

7 MR. HORTIG: The appraiser who prepared this report  
8 is not with us this morning. However, I have his entire  
9 report and it was found, first, that the commercial use of  
10 this property due to the topography is restricted to an  
11 area of 150 feet by 80 feet, upon which the transmitting  
12 facilities all have been constructed. There is no water  
13 available on the parcel. The water used on the installation  
14 is trucked in and stored in two galvanized truck tanks of  
15 about 750-gallon capacity each. Access to the site is good.  
16 Comparable sites of equal ability and adaptability are very  
17 limited, are not found in the vicinity. The site is lower  
18 than the mountain top, requiring higher and more expensive  
19 towers than desirable. Sales prices of similar type of  
20 land in the area are not an indicator of rental, as lands  
21 sold do not contain sites of equal value; and the value of  
22 the site as a separate portion has been made because of its  
23 lack of conformity and use to the remaining portion of the  
24 parcel.

25 GOV. ANDERSON: The thing I was asking - - I think  
26 you are now limited to 6.6% of the appraised value. Is that

1 a ceiling or a guide?

2 MR. HORTIG: No, that is it.

3 GOV. ANDERSON: That is a ceiling?

4 MR. HORTIG: It is both the ceiling and the floor.

5 MR. LEVIT: In other words, the law lets you make  
6 your appraisal.

7 MR. HORTIG: The law regulates the rules and regu-  
8 lations of the Commission.

9 MR. LEVIT: That's what you are reviewing now.

10 GOV. ANDERSON: Is that a policy the Commission sets?

11 MR. HORTIG: Yes sir.

12 GOV. ANDERSON: 6.6 -- that's not a statute.

13 MR. LEVIT: We have one other item. I didn't  
14 mean to preclude the applicant. Mr. Weinberger, do you  
15 have anything to add?

16 MR. WEINBERGER: Not unless the Commission wants to  
17 hear. I am Caspar W. Weinberger of Heller, Ehrmann, White  
18 and McAuliffe, representing Mr. Lindsey Spight, the applicant.  
19 I think the staff recommendation covers the matter very  
20 fully. I think it should be made very clear to the Commis-  
21 sion that the buildings there are buildings sufficient to  
22 house transmitters; that there is one tower; that there are  
23 footings for a second tower. Actual cost of the footings  
24 alone are \$15,000 and none of these things are the State's  
25 leasehold property. These are things which have been in-  
26 stalled by prior lessees and which the applicant would be



1 taking over as part of his general operation; but, as Mr.  
2 Hortig pointed out, what is being leased is the raw land;  
3 and while the 59 acres have been mentioned, the actual usable  
4 area is a very small space. The rest is practically vertical.  
5 This is merely a transmitting area. By far the greater  
6 value was the buildings presently there. The appraisal was  
7 made by the Commission's staff and the rent seemed to us to  
8 be excessive in view of the fact it was more than twice the  
9 rental set two years ago; and it was a rental factor under  
10 which two previous operators had gone into bankruptcy. So  
11 we did not feel the rental was a minimum -- quite the con-  
12 trary. We have a great deal more information and any ques-  
13 tions the Commission would like to ask, either my client or  
14 I would be glad to answer.

15 MR. LEVIT: Thank you. Any questions? (No response)  
16 We will pass on to the next item.

17 MR. HORTIG: Page 29 is an application for right-  
18 of-way for placement of a submarine pipe line on the ocean  
19 floor to carry petroleum production by Standard Oil of  
20 California, Western Operations, Inc. from an existing State  
21 oil and gas lease, the production site of which is located  
22 two miles offshore at Summerland, Santa Barbara County,  
23 with a proposal to carry the production to an onshore gather-  
24 ing site at Carpenteria in Santa Barbara County; and this  
25 route would traverse tide and submerged lands not included  
26 within the oil and gas lease. Therefore, an additional



1 right-of-way easement must be issued if the line is to be  
2 placed in the location desired. It is recommended that  
3 the easement be issued.

4 MR. CRANSTON: Does this come in from two miles  
5 out to shore?

6 MR. HORTIG: It comes in diagonally. It is not on  
7 the beach until it comes out on the beach and, of course,  
8 coming out into the upland it will be buried. It will be  
9 buried to probably at least 35 feet water depth offshore  
10 and from there on in, after it's in operation, there will  
11 be no way to know that it is there except by reference to  
12 maps.

13 MR. CRANSTON: The language in the first paragraph  
14 says the lines will be placed below the ocean floor. They  
15 don't actually go beneath the rocks?

16 MR. HORTIG: Yes, they are jettied down-- particularly  
17 where there could be trouble with navigation, with boats  
18 dragging anchors and so forth. So the line must be buried -  
19 plus the fact if it is buried you know it is going to be  
20 there. If you laid it out on the ocean floor, with the  
21 specific gravity in the sea water the line would have a  
22 tendency to float, so normally the best engineering solution  
23 is to bury it to anchor it.

24 MR. LEVIT: We have for approval items (a) through  
25 (r) of Agenda Item 3, with the exception of item (p), Klamath  
26 Cedar Company, which has been withdrawn.

1           GOV. ANDERSON: I so move.

2           MR. CRANSTON: Second the motion.

3           MR. LEVIT: By unanimous consent all those items  
4 are approved. Item 4.

5           MR. HORTIG: Item 4 relates to sales of vacant  
6 State school lands appearing on calendar pages 32 through  
7 38. Items detailed on pages 32 through 35 are included in  
8 the summary tabulation on page 31, relating to proposed  
9 sales to high bidders on four parcels of land at amounts  
10 equal to the high bid, which also equals the appraised  
11 value previously established for these lands.

12           Pages 36 through 38 are specified in greater detail  
13 because there are several parcels of land for which applica-  
14 tion had previously been made by our applicant, Mr. Stanford  
15 C. Shaw, who is now in the meeting room, and in the process  
16 of depositing the required funds to consummate the applica-  
17 tions and to meet the bid requirements of the appraised  
18 values for presentation to the Commission, extensions of  
19 time were granted within which the applicant might deposit  
20 these additional required amounts. During this period the  
21 applicant also modified his applications as to the specific  
22 parcels desired to be purchased and it is now recommended  
23 that the Commission confirm the extensions of deposit time  
24 to February 24th, today, heretofore granted to Stanford C.  
25 Shaw for the purchase of vacant State school land under  
26 Application 11096; (2) authorize a further extension of time

1 until 5 p.m. March 6, 1959 within which the applicant must  
2 deposit the sum of \$227,366.48, \$225,011.48 of which is to  
3 meet the appraised value of the remaining land in his  
4 application, \$2,355 of which is to supplement the original  
5 expense deposit; (3) direct cancellation of the application  
6 as to the remaining lands if the additional deposit is not  
7 made by 5 p.m. on March 6, 1959, and authorize refund of  
8 any funds currently on deposit applicable thereto, including  
9 any applicable portion of the expense deposit less costs to  
10 the date of cancellation.

11           The only addition with respect to this operation  
12 over and above what might be termed the average has been  
13 the extensions of time which have been granted and the addi-  
14 tional extension which is being sought here today by the  
15 applicant in order to meet the appraised values of the land.  
16 It is within the authority of the Commission to so grant  
17 and the Commission has heretofore granted them, although  
18 probably cumulatively the sum total of these extensions  
19 which have been granted are probably the maximum that have  
20 been granted in any application or series of applications  
21 heretofore.

22           MR. LEVIT: Well, you are only asking for another  
23 five days or six ...

24           MR. HORTIG: To March 6th.

25           MR. SHAW: Ten days. At an appropriate time I  
26 should like to make a remark or two about this.

1 MR. LEVIT: All right.

2 MR. SHAW: Mr. Chairman, gentlemen of the Commis-  
3 sion, this extension to this March date was part of a two-  
4 step proposal I made to your Public Lands Officer, which  
5 was that in the coming six weeks which will now expire in  
6 March we would select a certain number of parcels and in  
7 making that selection we would not delay any other applicants,  
8 anyone else that asked for some of these parcels. We would  
9 either take them or abandon our application. Then if there  
10 were any parcels left that we did not select, that is,  
11 express a desire to go ahead on, we would have still another  
12 six weeks, which would expire in mid-April, to make our  
13 final and last selection. So the recommendation that's  
14 before you now to March 6th is really the first of two  
15 extensions I really would be requesting, the second exten-  
16 sion to expire -- the second and final extension to expire  
17 April 19, 1959.

18 We submit that this may be in order in view of the  
19 considerable number of parcels involved, in view of the  
20 fact that the appraisal made of these properties resulted  
21 in about a six-fold increase in the prices that we are  
22 going to have to pay if we take these parcels. So it is  
23 rather a close decision to be made on many of these.

24 Just as a matter of history on the matter, there  
25 are enough parcels involved that our initial deposit cover-  
26 ing these parcels was up some nineteen months before we

1 were advised as to what would be necessary to put up before  
2 we can proceed. That was some \$54,000 deposit and even so,  
3 there are a couple or three unresolved easements. I don't  
4 think they are of any great importance, but even to this  
5 date the picture is not entirely clarified as to precisely  
6 what we can buy. By way of summary, in view of these com-  
7 plications and the volume involved, and particularly in  
8 view of the fact that we would not stand in the way of any-  
9 one else wanting to purchase any of these parcels, we would  
10 think it appropriate to extend this to April 19th on these  
11 two statements I have suggested.

12 MR. LEVIT: Would the first extension be conditioned  
13 upon the granting of the second? In other words, if you  
14 couldn't get the second one, would you want the first one?

15 MR. SHAW: OF course -- no question about that.

16 MR. LEVIT: There is no question of legal disability  
17 involved?

18 MR. SHAW: In what connection?

19 MR. LEVIT: As far as you, the purchasers, are  
20 concerned.

21 MR. SHAW: I really haven't checked on it -- I per-  
22 haps should. I got involved in this, as the record shows,  
23 in March of '57 when I didn't even have aspirations and it  
24 never occurred to me to check on it. I will do so.

25 MR. LEVIT: Well, I think you should anyway. I  
26 just don't know offhand but it would occur to me. Well,

1 what we are being asked for as far as this recommendation  
2 is concerned is the extension of time for performance of a  
3 contract to March 6th?

4 MR. HORTIG: Right.

5 MR. LEVIT: That's all that is involved before the  
6 Commission at this time.

7 MR. HORTIG: But the staff would have no objection  
8 to an amplification, to have the Commission consider the  
9 amplified second stage as requested by Mr. Shaw, to April  
10 19th, to finally review, select and dispose of whatever  
11 parcels are included within the scope of the original  
12 request.

13 MR. LEVIT: In other words, you are suggesting now  
14 that if we are going to act on this, we might as well act  
15 on the entire extension perhaps?

16 MR. HORTIG: Yes sir.

17 MR. LEVIT: And you would recommend that we grant  
18 the extension, is that it?

19 MR. HORTIG: Yes sir.

20 MR. LEVIT: And this -- would any change be required  
21 in the way in which you presented the resolutions?

22 MR. HORTIG: To the extent of the amplification and  
23 including an amplification in the same terms as proposed by  
24 Mr. Shaw; that is, as to those lands included within the  
25 original applications for which deposits had not been made  
26 by March 6, 1959, that there would have to be a determination

1 by him to make the balance of the deposits necessary to  
2 meet the appraised prices by April 19th; or then, finally,  
3 on April 19th there would be a cancellation of all remain-  
4 ing applications on which deposits had not been made and  
5 refund of any amounts then outstanding less expense deposit  
6 costs incurred to that later date of cancellation.

7 GOV. ANDERSON: That one thing referred to there --  
8 where some other person comes in and wants to purchase one  
9 of the pieces of property he wants an option on -- then he  
10 has to meet it at that time?

11 MR. HORTIG: Yes sir.

12 GOV. ANDERSON: Is that in all your extensions here?

13 MR. HORTIG: No sir. That is correct and I think  
14 possibly this is the second step, although Mr. Shaw didn't  
15 mention it -- where there are parcels involved within these  
16 large scale applications for which there are second or  
17 even third applications, Mr. Shaw is willing that we proceed  
18 with those parcels for public competitive bidding so deter-  
19 mination can be made as to the sales of those parcels with-  
20 out holding up any applicants. The later determination --  
21 to April 19th -- decision would be required only on those  
22 for which there is no other current applicant. In other  
23 words, Mr. Shaw is in those cases the only applicant.

24 MR. LEVIT: Well, as far as I am concerned, I see  
25 no objection to granting the extension on those terms.  
26 The only point that bothers me is that I think you should

1 make it a point to ascertain whether any legal disability  
2 might exist in connection with this purchase.

3 MR. ANDERSON: I will move we confirm the previous  
4 extensions and then grant the new extension to April 19th.

5 MR. CRANSTON: Second the motion.

6 MR. LEVIT: That will be the order by unanimous  
7 consent of the Commission. We have still a couple of other  
8 items here. How about the other items of No. 4, the (a)  
9 through (d) items. Could we have a motion on those, too?

10 MR. HORTIG: In other words, pages 32 through 35  
11 which preceded Mr. Shaw's item.

12 MR. LEVIT: Those were approval of sales?

13 MR. HORTIG: Standard land sales.

14 GOV. ANDERSON: I'll move it.

15 MR. LEVIT: And you second, Mr. Cranston?

16 MR. CRANSTON: Yes.

17 MR. LEVIT: That will also be ordered by unanimous  
18 consent of the Commission. That brings us to Item 5.

19 MR. HORTIG: Item 5 -- page 39, wherein we had an  
20 applicant who desired to have certain Federal lands selected  
21 on his behalf. The selection was made, the applicant with-  
22 drew, and it is recommended that the Commission determine  
23 that it is to the advantage of the State to proceed with  
24 this selection, to receive the lands from the Federal Govern-  
25 ment, and to place it on the vacant school land list to be  
26 sold pursuant to the rules and regulations governing the



1 sale of vacant State school lands. This is one means by  
2 which the Commission can help minimize the loss, prior  
3 loss, to the State school land grant.

4 MR. CRANSTON: Would you explain what this indemnity  
5 selection is?

6 MR. HORTIG: Yes sir. Very briefly, under early  
7 acts of Congress back in 1853 California became entitled,  
8 for school purposes, to the 16th and 36th sections of each  
9 township and range throughout the State. In other words,  
10 California as a condition to becoming a state of the Union  
11 surrendered all title to the lands and Congress gave back  
12 the 16th and 36th sections. Where these 16th and 36th  
13 sections either fell on the Nevada border -- a touchy subject --  
14 or out in the ocean, or would have fallen in areas that had  
15 been previously conveyed by Mexican or Spanish land grants,  
16 the State became entitled to other lands in lieu thereof  
17 by way of indemnification to the State School Land Grant.  
18 These losses have been a source of some bookkeeping through  
19 the years and the land to which the State is still entitled --  
20 crudely, 500,000 acres we are still entitled to receive.  
21 When we have an opportunity to select this land, this land  
22 is subtracted from the amount of land that the United States  
23 still owes the State. When we get it, we put it on the  
24 vacant school land list and it goes on the tax rolls.

25 MR. LEVIT: We will go on to 6.

26 MR. HORTIG: May we have a motion on 5?

1 MR. CRANSTON: Move ...

2 GOV. ANDERSON: Second.

3 MR. HORTIG: Item 6 starts on page 40 and -- much  
4 more briefly than outlined here in detail in writing for  
5 the Commission -- a timber operator operating on private  
6 land, in an area where the survey lines are very uncertain  
7 as between the private land and the State land, cut what  
8 we found to be and feel to be some timber off State land,  
9 as a result of having appraised the State land recently;  
10 and under these circumstances, proceeding the full legal  
11 route and contending for damages in court, if they are held  
12 liable there is a double indemnity feature under the Civil  
13 Code which would be applicable. If everything that we can  
14 conceive could be collected, under the greatest or best  
15 combination of circumstances, it is estimated we could col-  
16 lect \$7,971.60. This, however, is not net. There would  
17 be a very expensive field survey required. There would  
18 also be litigation costs.

19 To settle the entire problem, our unwitting tres-  
20 passer -- and we do feel this is an error in good conscience  
21 and not deliberate trespass -- has offered to compromise  
22 and settle the entire matter by paying the State \$5,000 as  
23 full payment for damages which occurred by reason of the  
24 timber trespass.

25 Mr. Joseph, of the Attorney General's office, worked  
26 on this matter from the beginning. If there are any of the

1 legal facets you would like the background of, he is cer-  
2 tainly the man to give them to us.

3 MR. LEVIT: It is clear to me that the compromise  
4 is a very reasonable one under the circumstances.

5 MR. CRANSTON: I move its approval.

6 GOV. ANDERSON: Second.

7 MR. LEVIT: The compromise will be approved for  
8 \$5,000. Now, that ends our formal calendar, does it not?  
9 You have some items of information.

10 MR. HORTIG: No sir. Calendar Item 7 - pages 43 to  
11 46 -- I would like to call the attention of the Commission  
12 to the fact that not only is the legislation which the  
13 Commission authorized in general terms at the last meeting,  
14 which has been introduced and the bills are set forth; but  
15 there are also numercus other bills and more daily that  
16 could affect the administrative cognizance or operations of  
17 the Commission and, therefore, it is recommended that the  
18 Commission authorize the Executive Officer to discuss these  
19 measures with the authors and to attend the respective  
20 legislative committee meetings for the purpose of reporting  
21 facts and existing Commission administrative procedure and  
22 regulations relative thereto.

23 MR. LEVIT: You are not suggesting that we either  
24 support or not support any of this legislation?

25 MR. HORTIG: No sir.

26 MR. LEVIT: Well, in other words, all you are

1 suggesting is that you make known to the author that the  
2 facilities of the Commission are available for factual  
3 information?

4 MR. HORTIG: Both to him and to the committees  
5 hearing the bills.

6 MR. LEVIT: I can't conceive that there would be  
7 any objection to that. If there is no objection, why, you  
8 are authorized to do that. I assume that if any bills  
9 affecting the Commission's operations come to your attention  
10 that you think are of sufficient importance that the Commis-  
11 sion should take a stand either for or against the legis-  
12 lation, you will so inform us.

13 MR. HORTIG: They will be a matter of special  
14 report to the Commission.

15 MR. LEVIT: Now, that brings us to the litigation  
16 report .....

17 MR. HORTIG: ... which is an informative summary.

18 MR. LEVIT: Nothing new?

19 MR. HORTIG: Nothing new -- but to let the Commis-  
20 sion know what the status of it is.

21 MR. LEVIT: The status is quo.

22 MR. HORTIG: I might point out that tomorrow I  
23 could report a little more. Today is the day for filing  
24 the affidavits and related documents in the case U.S. vs.  
25 Anchor, our major suit.

26 GOV. ANDERSON: Could I bring one thing up? There

1 was this investigation that's being made by the law firm  
 2 in San Francisco -- I know Bill Orrick is one of them there --  
 3 with respect to the question of boundary lines between  
 4 Long Beach and the Union Pacific and Edison Company.

5 That's roughly a year ago. What is the status of that?

6 MR. HORTIG: No report to the Attorney General's  
 7 office from the consulting firm. As I have informed Mr.  
 8 Zweiback, we are preparing a report on the status and  
 9 history of that entire operation for presentation to the  
 10 Commissioners and actually this generated from Mr. Zweiback's  
 11 inquiry in your behalf; and we have not submitted the  
 12 report because we did not have anything affirmative as to  
 13 a specific date for actual receipt of this consulting re-  
 14 port from the San Francisco firm you made reference to.

15 I think I have answered your question at the moment  
 16 and there are obviously more answers to come. To set the  
 17 thing in context, Chapter 2000, Statutes of 1957, directed  
 18 the State Lands Commission to undertake an investigation  
 19 and determination of the location of the boundary lines of  
 20 those areas granted by the Legislature to the City of Long  
 21 Beach starting in 1911. There was an appropriation to the  
 22 Commission. The Commission was authorized to employ inde-  
 23 pendent counsel -- which was, we felt, a redundancy in that  
 24 the Commission already has authority and has in the past  
 25 utilized it -- and upon proceeding with the initial investi-  
 26 gation under the particular statute and having completed the

1 historical review, it became very obvious that it was not  
 2 an engineering problem. The engineering was all done and  
 3 we had it completed and we had maps, but we had too many  
 4 of them -- four, to be exact -- and the question was which  
 5 one of the boundary lines on which one of the four was the  
 6 legal boundary line. It was a legal question, so the  
 7 Attorney General's office was asked to participate.

8 In the process of that review by the Attorney  
 9 General's office, several theories were developed as to how  
 10 to proceed legally and in order to be certain that there  
 11 was a consensus on how to proceed, the Attorney General's  
 12 office employed a San Francisco law firm as consultants to  
 13 review and report and recommend, or produce counter pro-  
 14 posals on these legal theories; and that last report has  
 15 not yet, as we are informed, been received by the Attorney  
 16 General's office.

17 GOV. ANDERSON: I am concerned actually with the  
 18 statute of limitations, also on whatever royalties may be  
 19 coming out of there. When Long Beach compromised this case  
 20 over to the Edison Company, to the oil company there, they  
 21 were promising something that they actually didn't have be-  
 22 cause they were our trustee at that time. So we should be  
 23 getting some of these royalties, but the farther it is  
 24 extended, the more we lose due to the statute of limitations.  
 25 How far does that go?

26 MR. HORTIG: That, of course, goes back to the legal

1 question -- whether those compromises were effective; whether  
 2 they are susceptible of being overturned at this time; or  
 3 whether, again, some other statute of limitations has run;  
 4 or whether the City wasn't in the position as the trustee  
 5 to effectively make those compromises and if they are still  
 6 binding on the State of California. All of this is in the  
 7 vast series of questions which have been researched and  
 8 which, as I say, are strictly legal questions.

9 I might point out there is one other factor I failed  
 10 to mention in connection with this Chapter 2000. There was  
 11 one requirement for a report to the Legislature as to  
 12 progress and that was to be by February 15, 1958. The  
 13 Lands Commission did report as of February 13, 1958, so the  
 14 requirements of the statute for reporting to the Legislature  
 15 have been met. There was no subsequent requirement in there  
 16 for a report or action by the Lands Commission.

17 As far as the staff are concerned, we, along with  
 18 the Commissioners, are concerned. We feel we must get an  
 19 answer and we must have progress. As a result of our most  
 20 recent inquiries, I think it's reasonable to assume that  
 21 the Attorney General's office is in contact with their con-  
 22 sultants with a view to giving us either a report or a very  
 23 firm date in the very immediate future for that report.

24 MR. LEVIT: Is there anything to add to that, Mr.  
 25 Joseph?

26 MR. JOSEPH: I don't know anything about all this.

1 I am sorry.

2 MR. LEVIT: That's all right. It seems to me we  
3 have to rely on the Attorney General to see that we get  
4 this report -- that they get the report.

5 MR. HORTIG: Well, it's our mutual indoor sport.  
6 They build fires under us for some things and we do the  
7 same.

8 GOV. ANDERSON: My feeling is this should be  
9 brought to a head as soon as possible. We are losing  
10 rights every month they are drilling if we don't bring it  
11 to a head there. One other point if I can just .....

12 MR. LEVIT: Have we gone as far as we can with this  
13 one? Now, would you care, Governor, to put this in the  
14 form of a motion as to the intent of the Commission, the  
15 consensus of the Commission, that steps should be taken to  
16 give us a definitive report on the State's rights there in  
17 the very near future?

18 GOV. ANDERSON: I would be very much in favor of  
19 that. I so move.

20 MR. CRANSTON: Second.

21 MR. LEVIT: That will be the order, then. Will you  
22 see that that is transmitted to the proper party in the  
23 Attorney General's office and give them a date by which we  
24 would like a specific report?

25 MR. HORTIG: Yes sir.

26 GOV. ANDERSON: Just one question. This is on



1 policy because I have had two or three people make some  
2 complaints about when they make application to purchase  
3 land and then they have to put up a deposit for the full  
4 amount apparently in order to hold it, and it sits there  
5 for some length of time; and apparently the policy is not  
6 to take a bond or any kind of surety, but cash. Is this  
7 the procedure?

8 MR. HORTIG: It is the procedure. It is difficult  
9 and it is possibly more difficult on applicants than the  
10 Commission realizes until I put some brief facts into the  
11 record here right now; and it is also the subject of staff  
12 study as to alternative procedures which might be recommended,  
13 which might ease the burden on our applicants -- as you  
14 have indicated.

15 Actually, the situation resolves itself into two  
16 principal categories -- applications for vacant State  
17 school land or the other pending applications to receive  
18 Federal lands, for which no new applications are being  
19 taken at the present time.

20 With respect to the vacant State school land, the  
21 difficulty arises primarily -- difficulties arise primarily  
22 when you have a large scale application such as the Commis-  
23 sion considered this morning, on which Mr. Shaw is the  
24 applicant, where there are large amounts of land and there-  
25 fore large amounts of money involved; and the Commission's  
26 policy of requiring deposit of 100% of the appraised price

1 as evidence of good faith is a standard policy which isn't  
2 too rough if someone is really of a mind to buy the parcel  
3 of land and is talking of something in the order of 40  
4 acres. But when you get into thousands of acres, then  
5 this thing starts to be extremely difficult and the addi-  
6 tional difficulty arises from the fact that with such large  
7 amounts of land it means that there is additional appraisal  
8 work necessary on a large amount of it.

9 GOV. ANDERSON: This runs out to almost a year  
10 sometimes?

11 MR. HORTIG: This extends the time, and with our  
12 economy problems we have had with respect to staffing, we  
13 have accumulated a considerable backlog because we have not  
14 been permitted under the ordinary staffing procedures to  
15 add additional appraisers comparable with the actual work  
16 load we have accumulated. We have this in part, I think,  
17 headed toward a solution in that some appraisal work is  
18 currently being done and will be done under appraisal con-  
19 tracts with outside appraisers under service contracts.  
20 Where the appraisal costs under the service contract are  
21 borne by the applicant, we can expedite getting these parcels  
22 out of the way. This isn't a total solution but it is a  
23 considerable step forward from where we have been in the  
24 last year and this outside appraisal by contract was just  
25 recently approved by the various agencies involved in those  
26 parcels. So we can be talking about funds on deposit for

1 a year or even somewhat longer in connection with vacant  
2 State school land and which is certainly an excessive time,  
3 and for which reason there is a staff study on as to  
4 methods both to minimize the time and amount of money re-  
5 quired in order for the Commission to be sure they have  
6 a bonafide application and bonafide purchaser. This policy  
7 resulted from where previously all it took was a letter  
8 and we wound up time after time down through publication  
9 costs in newspapers and all, and had no purchaser; and we  
10 were out of pocket in having tried to sell some land that  
11 no one was genuinely interested in, so this current policy  
12 was established in order to preclude that, to get some  
13 efficiency into these operations, and to be speaking only  
14 to the bonafide applicants and not to shoppers.

15 The critical part as far as the deposits of funds  
16 are concerned results from matters not under the control of  
17 the State Lands Commission, that is, under the indemnity  
18 selections whereunder the applicant applies to have certain  
19 lands transferred on his behalf and they are sold to the  
20 applicant at the appraised price, and there the applicant  
21 makes an initial deposit of not less than \$5 per acre; and  
22 the sum total of the processing of applications and so forth  
23 on behalf of the State of California going to the Federal  
24 agency probably consumes a matter of thirty days on the  
25 average, and then we sit and wait until we hear from the  
26 Bureau of Land Management in Washington, D.C. -- and we may

1 wait six and seven years before we acquire title to those  
2 lands. This is despite regular inquiries as to status and  
3 so forth. We are just told "Well, it's so many feet down  
4 from the top of the pile and when we get to it we will get  
5 to it."

6 GOV. ANDERSON: The reason I brought this out, a  
7 party brought to my attention -- I forget the actual amounts --  
8 but almost a year and a half ago, better than a year, he  
9 put up close to a hundred thousand dollars, which he had  
10 to raise with some difficulty, as a total deposit for  
11 school lands and at the then appraised price. I think  
12 every six months you have to have a new appraisal made.  
13 It has been sitting there close to a year and a half; he  
14 doesn't know when it is reappraised whether someone is  
15 going to go over top of him. This seems to me a hardship  
16 on people and might in the end discourage purchasers. I  
17 was thinking if there couldn't be a lower amount of deposit  
18 and a surety bond of some kind to make sure they go through  
19 with the deal, so people don't have to have their money  
20 sitting there, and they can use it.

21 MR. HORTIG: As I mentioned, Governor, there is a  
22 study as to alternatives, and as a matter of fact that study  
23 was initiated particularly because of the contentions and  
24 the results in a similar situation to that you are referring  
25 to -- same deposit, \$100,000, on some particular lands, some  
26 of which are not appraised today.

1 GOV. ANDERSON: Maybe it's the same case.

2 MR. HORTIG: We agree the problem is there and we  
3 are chewing on the problem.

4 GOV. ANDERSON: When will the study be completed?

5 MR. HORTIG: We can approach this, of course, in  
6 one of two ways. We could continue to an ultimate, or we  
7 could do the other and probably arrive at a practical solu-  
8 tion and set ourselves a target date and tell you that we  
9 will be back in with recommendations in not less than sixty  
10 days.

11 MR. LEVIT: Will this require legislation?

12 MR. HORTIG: No sir.

13 MR. LEVIT: I am not quite able to see the purpose  
14 of extended studies on it. It seems to me that it's a  
15 rather simple question and it's just a matter of policy as  
16 to what will protect the State for its costs and will not  
17 furnish an undue hardship on the purchaser.

18 GOV. ANDERSON: I wouldn't go out and raise money  
19 on a piece of property when I didn't know what the purchase  
20 price would be and have it sit in the bank in escrow for  
21 a year and get it back.

22 MR. CRANSTON: You'd find it hard to get it, too.

23 GOV. ANDERSON: I think it will discourage the  
24 purchasers.

25 MR. HORTIG: I think we will be back in with recom-  
26 mendations as to policy of the Commission at the March

1 meeting of the State Lands Commission.

2 MR. LEVIT: It seems to me that all you have to do  
3 is to set a percentage of value to be put into escrow, with  
4 a minimum figure.

5 MR. HORTIG: That is one of the alternatives. It  
6 is amazing how many ramifications the thing can have.

7 MR. LEVIT: Well, I probably don't realize them all.

8 MR. HORTIG: As I say, we will make it a definite  
9 point to have recommendations for the Commission at the  
10 March meeting.

11 MR. LEVIT: Is there anything further to come before  
12 the Commission? (No response) Anyone wish to address the  
13 Commission on any subject? (No response) If not, the  
14 meeting is adjourned.

15  
16 ADJOURNED 11:40 A.M.

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CERTIFICATE OF REPORTER

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I, LOUISE H. LILLICO, reporter for the Division of Administrative Procedure, hereby certify that the foregoing fifty pages contain a full, true and correct transcript of the shorthand notes taken by me at the meeting of the STATE LANDS COMMISSION at Sacramento, California, on February 24, 1959.

Dated: Sacramento, California, February 26, 1959.

Louise H. Lillico