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TRANSCRIPT OF  
MEETING  
of  
STATE LANDS COMMISSION  
SACRAMENTO, CALIFORNIA  
DECEMBER 17, 1959  
10:00 A. M.

PARTICIPANTS:

THE COMMISSION:

Messrs. Glenn M. Anderson, Lieutenant Governor, Chairman  
Alan Cranston, Controller  
John E. Carr, Director of Finance  
Fred Zweiback, Executive Secretary to  
Lieutenant Governor  
F. J. Hortig, Executive Officer

STATE LANDS DIVISION:

Mr. Kenneth C. Smith, Public Lands Officer

OFFICE OF THE ATTORNEY GENERAL:

Messrs. Jay L. Shavelson, Deputy Attorney General  
Paul M. Joseph, Deputy Attorney General

APPEARANCES:

Mr. Joseph A. Ball  
Special Counsel for the City of Long Beach  
Mr. H. E. Ridings, Jr.  
President, Board of Harbor Commissioners  
of Long Beach

Reporter: Louise H. Lilloco  
Division of Administrative Procedure

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1           GOV. ANDERSON: The meeting of the State Lands  
 2 Commission will come to order. The first item on the agenda  
 3 will be the confirmation of the minutes of the October 29  
 4 meeting. Is there a motion we accept these?

5           MR. CRANSTON: So move.

6           GOV. ANDERSON: It has been moved . . .

7           MR. CARR: Second.

8           GOV. ANDERSON: . . . and seconded we accept these with-  
 9 out reading. No objection -- so ordered.

10           Item 2 -- special order of business -- Long Beach  
 11 tide and submerged lands boundary determination, pursuant to  
 12 Chapter 2000/57. Mr. Hortig.

13           MR. HORTIG: In accordance with the conclusions of the  
 14 Commission on November 18 and in supplemental sessions had  
 15 by Commissioners Carr and Cranston, together with representa-  
 16 tives of the City of Long Beach (not as meetings of the Lands  
 17 Commission, but for purposes of information as to progress  
 18 in Long Beach in connection with the total subsidence problem  
 19 of which, or at least the geographical limits of which this  
 20 matter of boundary determination is an element) it has been  
 21 proposed that this morning there be a report of status with  
 22 respect to the negotiations as directed by the Commission at  
 23 the last meeting.

24           Again, in deference to our visitors who are here from  
 25 the City of Long Beach, the Commission may wish to call upon  
 26 those representatives at this time for the initial report.

3 GOV. ANDERSON: Who is reporting from the Attorney  
4 General's office?

5 MR. HORTIG: Attorney General's office - Mr. Shavelson  
6 Mr. Ball, Mr. Roberts, and Chairman Ridings of the Harbor  
7 Board are here; and Deputy City Attorney Dingle from Long  
8 Beach. Mr. Ball appears to be closest to the Commission, so  
9 we might call upon him.

10 GOV. ANDERSON: Mr. Shavelson, do you wish to make the  
11 Attorney General's report first?

12 MR. SHAVELSON: I think the Long Beach report should  
13 be first.

14 GOV. ANDERSON: Mr. Ball, would you like to make a  
15 report for Long Beach?

16 MR. BALL: I don't have anything to report that's any  
17 more favorable or less favorable than last time. I met with  
18 the City Council yesterday afternoon -- or yesterday morning,  
19 rather. We had a scheduled meeting for Tuesday and the  
20 Council was in session until five to five-thirty, so we had  
21 it yesterday morning at ten o'clock; and we spent most of the  
22 morning discussing this same problem.

23 As I reported to the Commission a month ago, I wasn't  
24 certain -- I am not certain now that the matter will be  
25 settled to everybody's satisfaction, but I do know that the  
26 Council of Long Beach have several propositions before them  
27 that we have submitted to them, suggestions to them, and which  
28 they are considering. There's quite a difference of opinion

1 among the nine men that compose that Council, although they  
2 all are of the opinion that we should try together to avoid  
3 litigation if possible. I can say this -- that we are not in  
4 a position at this time to, with the consent of a majority of  
5 the Council, make a counter proposal -- or make another offer  
6 of settlement supplementing the one which we made in October.

7 Now, the hopeful thing about it is that the different  
8 members of the Council are talking about it and working on it  
9 and thinking about different ways in which we could try to  
10 get this settled. That's about all I can say. That's all I  
11 can say without probably betraying a confidence and telling  
12 you exactly what was discussed at the Council meeting.

13 However, I was advised to tell the State Lands Commis-  
14 sion that negotiations were definitely still on, and that the  
15 Council was still interested in considering a way to try to  
16 avoid litigation. They did tell me I could say that to you.

17 GOV. ANDERSON: Any questions of Mr. Ball?

18 MR. CARR: Well, the only question, Mr. Chairman --  
19 we are still lacking that very important element of timetable  
20 as to -- we discussed this with reference to some future  
21 time when we might say "Well, it's useless to negotiate."  
22 What does Mr. Ball suggest on that? Does he ever remember that  
23 the City Council of Long Beach ever agreed on anything? Out  
24 of that background, when do you think they might agree on  
25 this, Mr. Ball?  
26



1 MR. BALL: I don't expect to get a unanimous agreement  
2 of nine men on this subject. I think I have said before  
3 that there are several members of the Council that are dead  
4 against any kind of settlement.

5 GOV. ANDERSON: How many would that be ....

6 MR. BALL: Oh, I would say ....

7 GOV. ANDERSON: Three?

8 MR. BALL: I'd say two.

9 GOV. ANDERSON: Two?

10 MR. CARR: Well, as you know, we have discussed this  
11 thing so many times in so many different ways and have specu-  
12 lated on what the real feelings of the minority of the Council  
13 are -- whether they intend to never come to any agreement and  
14 will insist eventually on having a law suit, not because they  
15 are not agreeable to a settlement but because they are afraid  
16 to make one because they don't want to take the responsibility  
17 on this thing. That seems to be lurking in the background.....

18 MR. BALL: That's one serious problem .....

19 MR. CARR: .... that even if the City Council and the  
20 Commission agree that they still would not put their names to  
21 it for fear they would be criticized for doing less than hav-  
22 ing a court settlement.

23 MR. BALL: Of course, that's one ....

24 MR. CARR: What do you think about that?

25 MR. BALL: You have to always consider the fact that  
26 these men are elected officials and this is an election year,

1 I think. However, five members of the Council can vote  
 2 for an agreement and I am not sure that a majority of the  
 3 Council at this time wouldn't put their personal considera-  
 4 tions aside and try to vote for the best thing for Long Beach.  
 5 That's the way I feel about it, and that's the general tenor  
 6 of our discussions. Of course, in the discussions there is  
 7 bound to be some consideration of the political effect of some  
 8 decision of this sort; but in the main, as I say, the majority  
 9 of those Councilmen put that aside and don't consider it --  
 10 at least they say that.

11 GOV. ANDERSON: Are the other seven members of the  
 12 Council that might work toward a decision -- are they seven  
 13 different points of view or divided into groups?

14 MR. BALL: They are divided into groups.

15 GOV. ANDERSON: Which is the larger of the groups?

16 MR. BALL: Well, the neutral. That's the reason I  
 17 think there's a good chance we may work something out, because  
 18 the majority of the Council in numbers has expressed a desire  
 19 to see a settlement accomplished and haven't been able to  
 20 agree upon the terms to which they would agree.

21 MR. CARR: We deferred -- the Commission did -- the  
 22 making of an offer to the City of Long Beach on a "take it  
 23 or leave it" basis because of the expressions that came from  
 24 down there that something could be worked out. Would you sug-  
 25 gest that a deadline be established, say, as of the next  
 26 meeting in January or February or August -- or next December,

6  
1 after the elections are over? When do you suggest we get  
2 down to business and say "Here is a proposition from the  
3 State of California and if you take it, fine; if you don't,  
4 the law suit begins." Eventually it seems to me we are going  
5 to get to that, Joe.

6 MR. BALL: You probably will and I am going to be  
7 frank with you. I come to you as a double pleader here. I  
8 am anxious to settle this if we can and avoid litigation.  
9 Primarily, as special counsel for Long Beach, I want to make  
10 sure that Units II and III, Fault Blocks II and III are uni-  
11 tized without difficulty and that we can finally unitize  
12 Fault Block IV, which will come much later; and I am not the  
13 one to suggest to you a deadline because I don't want any  
14 deadline to ever happen if it is going to interfere with the  
15 work we are doing down there to unitize those fault blocks.  
16 That's exactly the way I feel about it and, therefore, I want  
17 to avoid a deadline as long as possible.

18 I want to continue to attempt to negotiate this law  
19 suit -- I mean this argument, and not come to a deadline. I  
20 know that's not very practical. Some time people have to get  
21 together and say "We will either settle or won't" and that  
22 will be your decision.

23 You probably are advised that we are very close to  
24 signing the agreements at least on II and III. We have been  
25 negotiating with the owners of -- well, the contractors, let's  
26 say, in Fault Block IV for extensions in the last month and

1 we are pretty close with them, too, on terms.

2 MR. CARR: I think it would be in order at least, Mr.  
3 Chairman, for us to reiterate our feelings that as far as the  
4 City Council of Long Beach is concerned we respect the fact  
5 that they have a responsibility to the public to see that they  
6 do a good job; but I think it ought to be in the record that  
7 we do too, and we could be accused of dilatory tactics on  
8 this Commission if we don't do something about it. So we  
9 have these opposite ends -- they don't want to do anything  
10 because they don't want to be criticized and we don't want  
11 to be criticized either. Somewhere along the line we have  
12 got to make a decision, that's my opinion; we can't go on  
13 forever. We can leave it up to the next administration if we  
14 ever get the Republicans back in again. They dumped a lot of  
15 things on this administration -- maybe we could dump something  
16 on them. (This is not political; this is just business tac-  
17 tics.)

18 GOV. ANDERSON: Any comments?

19 MR. CARR: I am through commenting. I'd like to hear  
20 from Mr. Shavelson.

21 MR. SHAVELSON: I have very little to add. I think,  
22 from Mr. Ball's remarks, it's obvious where the negotiations  
23 are at this point. The City has made one proposal which we  
24 feel is entirely unsatisfactory and of which the Commission  
25 knows; and the representatives of the City cannot make any  
26 other proposal or let us know what their position is until

1 they consult with their City Council. We met with representa-  
2 tives from the City Attorney's office and with Mr. Ball on  
3 November 12 and at that time I think we all agreed that the  
4 negotiations could go no further until there had been something  
5 heard from the Long Beach City Council; and we haven't heard  
6 from any representative of the City on this matter since that  
7 date.

8 We are prepared at any time the Commission directs us  
9 to file this proceeding. We are unable to say what the pros-  
10 pects of success are in these negotiations. We think it is  
11 entirely up to the City at this point.

12 MR. CARR: Does any other representative from Long  
13 Beach have any speculations on this ....

14 GOV. ANDERSON: Mr. Carr would like to know ....

15 MR. CARR: It's purely speculative.

16 GOV. ANDERSON: ... whether any other representative  
17 of the City of Long Beach might have anything else to add --  
18 any other observation?

19 MR. RIDINGS: I might say, so it's clearly understood. ....

20 GOV. ANDERSON: Could we have the name for the record?

21 MR. RIDINGS: H. E. Ridings from the Port of Long Beach.  
22 This is a matter wholly within the purview of the City Council;  
23 and others of us who are directly working with the program of  
24 subsidence correction and injection are not in a position to  
25 speak for the City as a whole. We have our views as individual  
26 citizens but it is only the City Council and their special

1 counsel, Mr. Ball, that can speak for the Council.

2 MR. ZWEIBACK: I have one question of Mr. Shavelson  
3 relating to this litigation of the State versus the City of  
4 Long Beach -- in his opinion would this litigation have any  
5 adverse effect on the achieving of unitization in Fault Blocks  
6 II, III and IV; that is, would it be an upsetting factor in  
7 your opinion?

8 MR. SHAVELSON: That's an extremely difficult question  
9 to answer for a number of reasons, Mr. Zweiback. I would  
10 certainly say at the minimal level it would involve severe  
11 manpower problems, since the people -- the lawyers and the  
12 engineers -- would be largely concerned with both problems.  
13 It's my understanding that the unitization agreements of Fault  
14 Blocks II and III are about to be consummated and that, there-  
15 fore, there is little or no relationship there.

16 As to Fault Block IV, I think that at least there could  
17 be a psychological effect on the members that is immeasurable  
18 at this time. From a practical standpoint, I don't know that  
19 there should be any effects, but I am not prepared to say  
20 that there won't be. I think the relationship between the  
21 two problems is so highly complex and involves so many factors  
22 other than the purely rational, I think we just can't say for  
23 sure at this time.

24 MR. CARR: Mr. Chairman, in view of the fact that the  
25 situation with regard to the Naval shipyard will be cleared  
26 up sometime this month, when Admiral James makes his report

1 to the Secretary of the Navy. I am willing to leave it for  
2 action until the next meeting.

3 MR. CRANSTON: Second.

4 GOV. ANDERSON: Moved and seconded. No further  
5 objection, so ordered.

6 Item 3 on the agenda is permits, easements, and rights-  
7 of-way to be granted to public and other agencies at no fee,  
8 pursuant to statute, and the first applicant (item (a)) is  
9 Union Lumber Company. Mr. Hortig, any comment on that?

10 MR. HORTIG: This is a standard application for a  
11 standard usage in accordance with the rules and regulations  
12 of the Commission.

13 GOV. ANDERSON: Is there a motion on Item 3?

14 MR. CRANSTON: Move approval.

15 MR. CARR: Second.

16 GOV. ANDERSON: Moved and seconded -- no objection,  
17 so ordered.

18 Item 4 -- Permits, easements, leases, and rights-of-way  
19 issued pursuant to statutes and established rental policies  
20 of the Commission; and the first applicant (a) Argus Develop-  
21 ment Company; (b) G. R. Armann and Wendell Rennpage; (c)  
22 the Eureka Shipbuilders. If you want me to stop on any of  
23 these, Mr. Hortig, I will; otherwise, I will go straight  
24 through. Item (d) - Louis Ralph Morris; item (e) Patrick J.  
25 O'Hornett; item (f) Patrick J. O'Hornett; and item (g) is  
26 Patrick J. O'Hornett.

1 MR. HORTIG: I might comment for the information of  
 2 the Commission, the subdivision of Mr. Hornett in three parts  
 3 is because of the fact that he held permits in San Bernardino,  
 4 Inyo and Kern Counties and the recommendations are in accord-  
 5 ance with those county designations. That's why he has been  
 6 divided into three parts.

7 GOV. ANDERSON: Item (h) - Riverview Investment Company.

8 MR. CARR: What is that fifteen-year lease?

9 GOV. ANDERSON: Mr. Hortig?

10 MR. HORTIG: For a boat marina, sir. The application  
 11 of the Riverview Investment Company is to lease 2.243 acres of  
 12 tide and submerged lands along the right or west bank of the  
 13 Sacramento River, one and one-half miles upstream from  
 14 Broderick, Yolo County, for a boat marina. The applicant is  
 15 the owner of the adjoining upland and proposes to lease at the  
 16 appraised value the State's adjoining lands necessary to oper-  
 17 ate the boat marina. On the basis of the appraisal and the  
 18 established Commission leasing policy, the annual rental would  
 19 be \$296 and it is, therefore, recommended that authorization  
 20 be given to issue a fifteen-year lease to Riverview Investment  
 21 Company for the above described purpose at the annual rental  
 22 of \$296, with a surety bond in the amount of \$1,000 required  
 23 to cover performance under the lease; and the lease to provide  
 24 for two optional renewal periods of ten years each upon such  
 25 terms and conditions as the Commission may impose at the time  
 26 of renewal.



1 MR. CARR: Mr. Chairman, I wonder if with the increas-  
2 ing popularity and importance of boating, and in the light  
3 of the program now being developed on small boat harbors  
4 and things like that, that maybe we might not review these  
5 possible sites with the idea of formulating a policy. Now,  
6 it seems to me that these two and 24/100 acres - - Mr. Hortig,  
7 how much river bank, how much littoral is that? How long  
8 does that run along the river?

9 MR. HORTIG: Let me do some rapid addition here.  
10 There is one course here that's 422 feet long along the mean  
11 high tide line.

12 MR. CARR: Mr. Chairman, looking back fifty or so odd  
13 years more or less to the development of the automobile and  
14 traffic and the importance of sites for service stations and  
15 things like that, and the fact that the increasing popularity  
16 of boating is going to accelerate very rapidly, a site like  
17 this may be worth - - instead of \$296 a year, may be worth  
18 \$10,000 a year. I wonder if we know what these sites are  
19 really worth.

20 MR. HORTIG: Mr. Chairman, may I comment in that  
21 connection?

22 MR. CARR: I am not offering ten thousand for it, you  
23 understand. I am just wondering what it's worth.

24 MR. HORTIG: I am disappointed -- I thought we had a  
25 new lessee. Actually, our problem resolves from getting State  
26 lands into usage for this purpose under private development

1 because if not leased in accordance with what appears to be  
 2 the reasonable appraised values of these lands, and under the  
 3 current Small Craft Harbors Commission program for develop-  
 4 ment of boat marinas, harbors, and so forth, if there isn't  
 5 a private development in the area -- which incidentally are  
 6 looked upon with favor by the Small Craft Harbors Commission  
 7 as long as facilities are provided, if the private develop-  
 8 ment is not neglected -- we have for consideration, as of  
 9 previous calendars of the Commission, application by the  
 10 county for utilization and operation of these lands for a  
 11 concessionaire to the county, with a permit issued to the  
 12 county at no fee. Actually, therefore, under these circum-  
 13 stances and looking simply at the economic balance, a private  
 14 development and leaseage of such an area is of advantage to  
 15 the State. In either event, in the Small Craft Harbors  
 16 program it is of benefit to the State, but as far as deriving  
 17 moneys from the leasing of these lands this is the only way  
 18 we can achieve tributes to the State Lands fund.

19 MR. CARR: Has there ever been a study of this in  
 20 conjunction with Beaches and Parks or any of the other public  
 21 and/or private agencies as to the availability in numbers?  
 22 I have been up and down the levee quite a little bit. Is it  
 23 accurate to assume that the whole riverbank from one end to  
 24 the other might be subject to lease to someone who has the  
 25 adjacent land?

26 MR. HORTIG: That is correct, sir, there being one

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limitation -- that such operations in turn are also controlled from the standpoint of impingement on navigation and conflict with navigation by the United States Corps of Engineers. There are many places where an upland owner might desire to develop a marina, but because of a particularly narrow turn or otherwise they couldn't get clearance from the United States Army Corps of Engineers, so from this standpoint it would never permit leasing all of the river for this particular type of purpose.

However, as long as there are recreational permits and the applications are submitted in accordance with the rules of the Commission, which provide only for leasing of tide and submerged lands to the adjoining owner or his lessee, and the lessee proposes to pay the established rental rate for the land, these have heretofore been approved consistently by the Lands Commission where they were fully qualified; and this application, incidentally, may be -- if I have to hazard a guess -- somewhere between number 50 and 100 of this type of operation which the Commission has already authorized heretofore.

MR. CARR: What restrictions are placed on the structures? What qualifications does he have to meet by the Engineers or whoever controls the bank with regard to its protection against erosion, flood, and all that stuff?

MR. HORTIG: Actually, there in general and particularly along the Sacramento and San Joaquin Rivers and so close

1 to Sacramento, any operator is also faced with compliance,  
2 with requirements of the Reclamation Board with respect to  
3 levee penetration, levee maintenance; the requirements of  
4 the California Debris Commission to keep the stream clear;  
5 the requirement of the United States Corps of Engineers to  
6 insure no infringement on the main channel; and the require-  
7 ments of the Lands Commission that all these things be kept  
8 in good repair and to prevent floating away, which is covered  
9 by his thousand dollar performance bond. So it is pretty  
10 well covered in comparison with the minor magnitude of opera-  
11 tions of this type.

12 MR. ZWEIBACK: I would like to expand for just a  
13 moment on what Mr. Hortig has touched on and that is the need  
14 for developing these properties by private parties, as I  
15 think there is a growing tendency by the counties to step in  
16 and try to get title to these lands; and unless we have a peg  
17 to hang our hat on, that is to show we are deriving income  
18 from these lands, the county steps in and says "You are not  
19 doing anything with it -- why not turn it over to us?"  
20 Whereas, if we show we have income from it, we have something  
21 to resist this.

22 MR. CARR: I am not so sure it is in the public interest  
23 to resist them.

24 MR. ZWEIBACK: You may be correct, but I am only  
25 thinking in terms of the State's interests as against the  
26 counties'.

1 MR. GARR: Of course, there is no obligation on the  
2 Lands Commission to control overdevelopment of these opera-  
3 tions, but they might become a nuisance. In the other  
4 direction, if everybody wants to put in a marina and they go  
5 broke and everything goes to pot, I doubt if a thousand dol-  
6 lar bond would clear up the mess they walk away from.

7 I am just interested in the early stages of these  
8 developments -- this is going on very rapidly now -- in the  
9 early stages it might be very well to have a policy looking  
10 forward to what might happen in the next ten or fifteen years.

11 GOV. ANDERSON: Are the counties advised? For  
12 example, in this case, Yolo County -- have they been informed  
13 of this application?

14 MR. HORTIG: Through their legislators pursuant to a  
15 resolution of the State Senate at the last session, requiring  
16 notification of affected legislators as to any proposals of  
17 operations of any magnitude apparently to be conducted within  
18 their respective districts. The respective legislators within  
19 whose district this operation is contemplated would be  
20 notified. If you will turn to page 13, you will note the  
21 code symbols A 3, S 11.. This is to show the Assemblyman and  
22 the Senator within which these proposed operations would be  
23 have been notified of this calendar item and sent a notifica-  
24 tion of this Commission meeting.

25 GOV. ANDERSON: And presumably they would take it up  
26 with the county?

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MR. CRANSTON: What about the local planning commissions?

MR. HORTIG: There does not appear to be a direct legal chain and request of a planning commission would not, per se, be mandatory upon the State Lands Commission. I can only cite as precedent I have yet to see a planning commission lose a battle before this Commission.

MR. CRANSTON: But they might not necessarily be aware of this before this was under way. Would these people have to get permission from the county planning commission?

MR. HORTIG: If the operation were located within the scope of zoning that had been designated by the planning commission they would also have to have such approval.

GOV. ANDERSON: How would they know? We notify the local Senator or Assemblyman and he notifies the planning commission, they know it; but if he doesn't, they would have no way of knowing about it.

MR. HORTIG: This is possible. We also have the converse about operations of counties on State lands, which we find out posthumously. This is the age-old problem with sixteen million people. However, we know that everyone is notified of what is going on in all lines of government that might affect them and we felt the level to which notice should be sent was resolved by the Senate resolution, which we have accepted as mandatory to notify all legislators with respect to such operations.

1 MR. CARR: Are there any fresh water sailors around  
 2 here that can tell me what the restrictions are as to speed  
 3 and things like that around here? In salt water areas where  
 4 you have boats tied up in slips, speed boats in rapidly  
 5 moving traffic cause a lot of damage because of the rocking  
 6 and chafing in the moorings. What is the rule on the river?

7 MR. HORTIG: The answer, I think, is one word -  
 8 quote "confused" unquote, actually, within the navigable  
 9 inland waters and this goes for Lake Tahoe and all out in the  
 10 ocean -- not the ocean, but in the salt water harbors. The  
 11 first and foremost authorities for setting speed limits within  
 12 the harbor are usually the local port district or harbor board  
 13 having jurisdiction. You, of course, are referring to Newport  
 14 Bay and this was set by the harbor commissioners for Newport  
 15 Bay and it is so posted.

16 There are speed limits in both El Dorado and Placer  
 17 County sections at Lake Tahoe, as well as clearance areas  
 18 demarked for bathers, and so forth, pursuant to county ordin-  
 19 ance. There are some segments of the Sacramento River that  
 20 are similarly controlled and in those areas where there isn't  
 21 a statute controlling it, most marinas of the type considered  
 22 here post their own signs and at least say "Please go slow  
 23 here; please don't exceed five miles an hour," and so forth.  
 24 On the average, the boater sees those and recognizes if he  
 25 were to be arbitrary his boat may be the one to get it next  
 26 and may well slow down.

1 But the short form of answer to your question is:  
2 there are no uniform set of criteria nor are there a uniform  
3 set of controls for all navigable waters of the State of  
4 California at the present time. This is another problem  
5 that the Small Craft Harbors Commission is working on as a  
6 corollary to their development of small craft harbors, both  
7 in terms of licensing funds and in conjunction with the  
8 Coast Guard, formulating a uniform code of operations.

9 MR. CARR: Did you say there were fifty such leases  
10 on the Sacramento River?

11 MR. HORTIG: Sacramento River, San Francisco Bay, some  
12 sloughs in southern California, Noyo River, other northern  
13 California rivers, plus all of the commercial boat harbor  
14 marina type and ship repair type of operations at Lake Tahoe.

15 MR. CARR: Mr. Chairman, I am satisfied as far as this  
16 question is concerned it seems to be apparent that there  
17 should be some study given this from the standpoint of insur-  
18 ing the fact that these things will ultimately be a pleasure  
19 instead of a nuisance -- which they could very well be if  
20 they aren't properly regulated and leases are granted more  
21 or less indiscriminately.

22 I am perfectly willing to move the approval of this  
23 but I think we ought to take a look at this situation and see  
24 what is involved. We are always getting into crises because  
25 we don't take a long look at things and plan ahead; then all  
26 of a sudden we find out we have created some kind of a



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monstrosity and somebody gets hurt.

MR. HORTIG: There are counter parts, Mr. Carr. If we continue to seek and be certain we have the ultimate for the greatest number of people, by that time our applicant may well have died of old age.

MR. CARR: He should be so lucky.

MR. HORTIG: However, on the affirmative side in connection with your suggestion, I would like to state to the Chairman that the staff will first take an evaluation of what type of study might be profitable in this area; and the first area that occurs to me, and one we will review with that agency, is a basis for liaison and coordination in the planning with the Small Craft Harbors Commission as to where these harbors, marinas, and so forth should go in the Statewide interest.

GOV. ANDERSON: Then we will move on to item (1) of the agenda -- the Santa Catalina Island Company.

MR. CRANSTON: I would like to suggest in whatever further look we take at this we do consider whether the rental rates do take into account what might be derived in the way of better income to the State.

MR. HORTIG: Basically, of course, in consideration of the fact that all our appraisals of State land, for whatever purpose, are appraised for their highest and best use, we should be making a reasonable approach to that answer.

MR. CRANSTON: Are we taking full account of the rapid

1 development of this type of usage of land adjacent to wharves?

2 MR. CARR: I don't think we are when we look at what  
3 land is worth where population is dense.

4 MR. CRANSTON: It seems to me we are not.

5 MR. CARR: It seems to me almost a nominal rental.

6 MR. HORTIG: On the other hand, in terms of considera-  
7 tion of the amount of land involved, the privately owned  
8 land that backs up this operation, and the comparatively  
9 large capital investment as soon as you get into a marina  
10 operation, the bare tide and submerged lands ordinarily  
11 unfortunately don't carry the same appraised value as the  
12 solid upland.

13 MR. CRANSTON: Of course they are in conjunction  
14 with the operation and without that the operation is zero.

15 MR. HORTIG: Certainly without water the operation is  
16 zero.

17 MR. ZWEIBACK: Would that cut two ways? The upland  
18 owner is in the same position. They can't do anything without  
19 us.

20 MR. CRANSTON: Yes, but the upland owner is the one  
21 making the profit.

22 MR. HORTIG: The final answer in a very few instances --  
23 without even attempting to secure a State lands lease, upland  
24 owners have made their own evaluation and decided to stay out  
25 of any kind of governmental control whatsoever and simply  
26 have their boat harbor within the confines of their adjoining

1 privately owned lands and from then on only go out on the  
2 river for a navigation easement, which leaves us with the  
3 adjoining State lands that they might have used and leased  
4 for their operation unleaseable.

5 MR. CARR: In view of the budget we just turned over  
6 to the Governor, I don't think this 296 bucks is going to  
7 balance it, but we still need to take a look at this situation.

8 GOV. ANDERSON: Then we will pass on to the next item --  
9 item (i) -- The Santa Catalina Island Company. Any question  
10 on that? (No response)

11 Item (j) -- Shell Oil Company; item (k) -- Signal Oil  
12 and Gas Company, and I'd like to have that one reviewed.

13 MR. HORTIG: If I may refer to the preceding item,  
14 Mr. Chairman -- I didn't get into gear fast enough. I would  
15 like to explain with respect to the Shell Oil Company geo-  
16 physical exploration permits. Shell Oil Company has existing  
17 permits, all validly issued by the State Lands Commission, as  
18 have some other operators. Since 1950 it has been a require-  
19 ment of the permits of the State Lands Commission that the  
20 only explosives that may be used for such operations -- the  
21 only explosive is black powder of a specified grade, this  
22 having been determined as being least detrimental to the  
23 marine life.

24 Then, from findings which have been accepted and  
25 adopted by the State Fish and Game Commission, the proposed  
26 amendments as they appear on page 15 relate to a revision in

1 the type of explosive which may be used, which is acceptable  
 2 and has been authorized by the State Fish and Game Commission  
 3 but not authorized heretofore by the State Lands Commission,  
 4 to also permit using Hercules EP 198-B powder in lieu of  
 5 black powder as previously specified -- field control experi-  
 6 ments having been conducted under the supervision of the  
 7 Fish and Game Department to assure them that such alternative  
 8 explosive would be acceptable.

9 The Lands Commission control in its earlier permits  
 10 was based solely on the findings of the Fish and Game Commis-  
 11 sion in the interests of preserving the marine life. In view  
 12 of the fact the Fish and Game Commission feels it would be  
 13 appropriate to permit this rather recently developed explosive  
 14 to be used, there does not appear to be any reason why the  
 15 Lands Commission should not so specify in its permits -- and  
 16 this is the recommended amendment.

17 MR. CARR: Mr. Chairman, as a matter of curiosity --  
 18 what are the advantages of this other powder?

19 MR. HORTON: Lesser cost, greater handling safety,  
 20 easier acquisition; (Black powder is hard to buy, believe it  
 21 or not, because the mills don't like to make it because it is  
 22 unsafe) lesser storage problems; and, finally, a better seismic  
 23 record as a result of the detonation with Hercules powder  
 24 instead of black powder.

25 MR. CARR: I don't want to take up the time of the  
 26 Commission, but to make black powder you take charcoal, salt-

1 peter... (few words here unintelligible) -- and get out of  
2 the way.

3 MR. HORTIG: That's the trouble. They don't always  
4 get out of the way. We'd like something to give them a little  
5 more time.

6 GOV. ANDERSON: Next item, item (k), and I'd like to  
7 have an explanation of this one.

8 MR. HORTIG: Yes, Mr. Chairman. As stated on page 16  
9 of the Commission's copy of the calendar, the oil and gas  
10 lease under consideration here was issued pursuant to com-  
11 petitive public bidding on August 16, 1955. The lease, as  
12 issued at that time, provided for a cash bonus bid. This  
13 was -- the exact figures escapes me -- it was in excess of  
14 \$500,000 for an area of 650 acres. This was the high bid.  
15 The lease also provides for a sliding royalty scale on produc-  
16 tion as, if and when developed. Concurrently with the issu-  
17 ance of this lease, there were also leased some 3,000-plus  
18 acres to the east, all of the area at that time having been  
19 felt to be productive.

20 The 3000-plus acres were valued by the highest bidder  
21 in the cash bid in excess of \$5,000,000. Five million  
22 dollars' bonus and three million dollars' exploration costs  
23 later, the lessees surrendered this lease to the State, not  
24 having been able to develop commercial production.

25 Exploration has been conducted on Lease P.R.C. 1551.  
26 No production has been developed. The lease terms require

1 drilling of additional wells unless such drilling is deferred  
 2 by action of the State Lands Commission. The present lessee  
 3 does not feel that further drilling at this time is justified  
 4 economically. On the other hand, there is always the hope  
 5 that with development of new technology, development of  
 6 additional data from drilling which is continuing spasmodically  
 7 westerly of the present lease, might lead to some clue which  
 8 might permit them to discover production in the distant future.

9 Therefore, the lessee has requested simply that they  
 10 be granted a deferment of drilling and operating requirements  
 11 for one year to January 1, 1961, to decide whether at that  
 12 time they quitclaim the lease or hopefully have started opera-  
 13 tions within the period, or may have bases for consideration  
 14 as to any further deferment of drilling and operating require-  
 15 ments.

16 The entire problem reduces itself to the simple element  
 17 that 650 acres are here under lease at an annual rental of  
 18 a dollar an acre per year. This is 650 in round numbers.  
 19 There are no other potential lessees in the current market  
 20 for this area. If the State chose not to grant the deferment,  
 21 and, rather, cancelled the lease for failure to perform, we  
 22 would have 650 acres of unused tide and submerged lands and  
 23 unleased tide and submerged lands added to the 3,000-plus  
 24 which the Commission accepted the quitclaim on at the option  
 25 of the lessee earlier this fall.

26 There do not appear to be any advantages at this time

1 to cancelling the lease; and there do not appear to be any  
 2 disadvantages in letting the lessee have another year's  
 3 opportunity to evaluate his position on whether or not this  
 4 lease can ultimately be developed or cancelled.

5 Along with Mr. Carr's comment about helping the  
 6 contributions to the treasury to balance the budget, the only  
 7 thing that cancellation of the lease would accomplish would  
 8 be the non-collection of \$650.

9 GOV. ANDERSON: I see in their argument or their  
 10 reason, they say "In view of such factors as.... the present  
 11 economic condition of the oil industry, no .... operations  
 12 are ... being conducted." In other words, the market value  
 13 of the oil is down and they are not interested in continuing  
 14 exploration; and I would fear if we were to grant deferments  
 15 like this that you would find the oil companies tying up  
 16 land, wanting to defer it year after year -- just continue it  
 17 until the market would be better for them to develop oil.  
 18 And I would kind of think maybe the other way around -- that  
 19 you are not going to get any potential lessee on a piece of  
 20 property that's held under lease by a present company. No  
 21 one is going to come in and make an offer for something some-  
 22 one already has -- at least, I don't think they would -- and  
 23 if you give them a deferment for another year, it is going to  
 24 discourage any other bidder from coming in and bidding. If  
 25 you put this back on the market wouldn't you have a better  
 26 chance to have someone come in and make a bid?

1 MR. HORTIG: A short form answer on that, Mr. Chairman,  
 2 is "no" and for the following reasons: Currently, leases  
 3 are not being sought avidly -- even what might be termed  
 4 better quality lands in California -- primarily because of  
 5 the unfavorable economic position in which the industry finds  
 6 itself. I concur with your thought that a statement of  
 7 economic conditions should not be a basis for granting of  
 8 deferment by this State Lands Commission.

9 GOV. ANDERSON: Have we ever done this before?

10 MR. HORTIG: Not based on economic conditions, and I'd  
 11 like to elaborate on that. This is a recitation, in effect.  
 12 The statement with respect to economic conditions is not, as  
 13 you noted, a condition or suggested as a reason for the defer-  
 14 ment. It was intended to recite the conditions which have  
 15 been reported by the lessee.

16 I am certain that the lessee would not object and the  
 17 staff would now recommend that if the Commission considered  
 18 this grant of deferment that we be specific and eliminate by  
 19 definite language from the grant of deferment any basis for  
 20 consideration in the future that economic conditions are a  
 21 precedent for granting a deferment; that it be specifically  
 22 pointed out that the economic conditions were not the basis  
 23 upon which this deferment was granted, if it was to be granted.

24 Further, on whether we could reoffer the lease at this  
 25 time and possibly do better and have some activity, the fact  
 26 remains that when this lease was originally issued in 1955



1 the area had a much higher potential value in the minds of  
 2 the industry -- as witness, as I said, the area immediately  
 3 adjoining which brought a five million dollar cash basis, but  
 4 three million dollars of development on the adjoining land  
 5 and eight or nine dry holes has put this neighboring property  
 6 now in a much less favorable light than it was felt to be in  
 7 in 1955.

8 So it's even beyond a reasonable assumption -- it just  
 9 must be that if we were to reoffer this area for lease today,  
 10 even if the petroleum industry wasn't in the economic straits  
 11 they are, we wouldn't expect to get a comparably favorable  
 12 bid for this lease and a comparably favorable royalty rate,  
 13 which would be the condition applicable under the lease if  
 14 production is discovered under the existing lease. In other  
 15 words, it's a good lease; if we only had oil on it, we wouldn't  
 16 have any problems.

17 MR. CARR: Mr. Hortig, I am a little bit confused.  
 18 Has this been drilled at all?

19 MR. HORTIG: Yes sir.

20 MR. CARR: How many dry holes have they produced on  
 21 this lease?

22 MR. HORTIG: Two, if I recall -- yes, two wells under  
 23 the lease from which there have been sidetrackings which were  
 24 logged very extensively; electric logs, cores were taken,  
 25 everything that could be done to evaluate the geology was done.

26 MR. CARR: How far down did they go?

1 MR. HORTIG: The exact depth? I do not have the data  
2 with me, but sufficient to penetrate beyond the depth of all  
3 known horizons on adjoining Huntington Beach, plus the area  
4 which was quite claimed I know was drilled to 9,000 feet.

5 MR. CARR: Mr. Chairman, I don't see any great loss  
6 in granting this for one year.

7 GOV. ANDERSON: How about the precedent of using this  
8 "for economic conditions"?

9 MR. CARR: That's the reason I asked the question.  
10 Apparently the economic reason was that they drilled some  
11 holes and didn't find anything and until they can find some  
12 way to go deeper .....

13 GOV. ANDERSON: I think the economic conditions are the  
14 oil market, not the fact that they sunk two wells. I think the  
15 price is so low today that they just don't want to find any  
16 more oil.

17 MR. HORTIG: No, I would say "no" -- of course, it  
18 would be hard to demonstrate ....

19 MR. CARR: Apparently they looked if it has gone down  
20 to the depth of any known production.

21 MR. HORTIG: If there were any clue known to the operator  
22 or to the State Lands Division that offered any hope oil could  
23 be found, the lessee would be drilling today. We just wouldn't  
24 know where to dig the next hole with the hope at the present  
25 time of finding oil.

26 GOV. ANDERSON: Is two holes on 650 acres sufficient?

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MR. HORTIG: Not always, but also since this is adjoined on the west by an operating lease and completely surrounded on the east by the 3,000-plus acres which have been explored, and the lessee has correlated this information to give by extension a good cross-section over the entire section, coming from the east and the west in addition to the two wells that were drilled on this lease. If we had an isolated 650-acre parcel of land, where we had no information at all, two wells would not be an adequate base, but where we had two wells and had 3,000 acres on the east immediately adjoining and have marginal producing areas on the west and we also know what is inside the fence, we have at least as good a picture as can be economically sought to date.

MR. CRANSTON: I am prepared to proceed.

GOV. ANDERSON: My only limitation would be that I would hate to have this economic condition played back to us in the future by other oil companies citing this to us as an example why they would like their lease deferred for a year. Can the agreement be drawn up as to why we are granting this?

MR. HORTIG: I would propose, Mr. Chairman, that the deferment specifically exempt this.

GOV. ANDERSON: And shouldn't we in the future, as a calendar item ....

MR. HORTIG: Simply report, as you note, an application has been received and we have therefore summarized what the application of our applicant stated.

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1 GOV. ANDERSON: with the understanding that when  
2 you draw up this agreement, that that is included in there.

3 MR. CRANSTON: I move the approval of all items in  
4 that classification.

5 MR. CARR: Second.

6 GOV. ANDERSON: Item 4, (a) through (j) moved and  
7 seconded. No objection, so ordered.

8 MR. CRANSTON: (a) through (k).

9 GOV. ANDERSON: (a) through (k). Item 5 -- Long Beach  
10 projects -- approvals required pursuant to Chapter 29, 1956.

11 Item (a) - General maintenance due to high tides,  
12 dike fills, sandbagging, water pumping and utility costs.  
13 Mr. Hortig.

14 MR. HORTIG: The Commission has previously approved a  
15 subsidence maintenance area project for the fiscal year 1959-  
16 1960 and subsequent to this approval it developed that addi-  
17 tional unforeseen costs (that is, unforeseen at the time of  
18 approval) will be incurred by the Harbor Department for an  
19 increase of work over that originally contemplated project.

20 Therefore, it is recommended that the Commission allow  
21 upward approval for additional subsidence remedial work, sub-  
22 ject to the standard reservations which the Commission has  
23 utilized in all such approvals -- that the amounts ultimately  
24 allowed as subsidence deductions will be determined upon an  
25 engineering review and final audit subsequent to the time  
26 when the work under the items is completed.

1 GOV. ANDERSON: Any discussion on it?

2 MR. CARR: I move the approval.

3 GOV. ANDERSON: Moved and seconded. Any objection?

4 (No response) Item 5 so ordered approved.

5 Next is Item 6 -- the sale of vacant State school  
6 lands. First applicant (a) Robert H. Atkinson and Donald D.  
7 Doyle; item (b) Robert Atkinson and Donald Doyle; (c) Olga  
8 Berend and George Berend; item (d) Martin Ellerman; (e)  
9 Robert A. Ellsworth and Harold E. Ensley; (f) Harry A.  
10 Loebenstein - - I wanted to ask a question on that. Yes ...  
11 I notice here you are rejecting their application. I wanted  
12 to primarily ask why are they taking title to this under  
13 their original application in several different names. Is  
14 this to get around the subdivision law and are we a party  
15 to something when we allow them to get around the subdivision  
16 law?

17 MR. HORTIG: We are not aware of the purpose, although  
18 the law provides and has always provided for multiple applicants  
19 and most generally the situation is that they are a group or  
20 coalition who are jointly financing the operation; and under  
21 the State land laws, patent if issued must issue in the name  
22 of the original applicant or applicants. The affidavit and  
23 the application for the purchase of such lands does not re-  
24 quire a disclosure as to why there are multiple applicants  
25 in connection with any application.

26 GOV. ANDERSON: When someone makes a bid, if they make

1 it in their own name and we accept their bid, then are they  
2 able to take title in other names?

3 MR. HORTIG: No sir.

4 GOV. ANDERSON: Or does it have to be in the name of  
5 the person we granted it to here?

6 MR. HORTIG: That is correct. There can be subsequent  
7 transfers but the original patent from the State to the  
8 applicant is in the name of the applicant. Even though the  
9 applicant may have died in the interim, the patent is still  
10 issued in his name and it is then up to any successor in  
11 interest to prove his interest in that particular patent.

12 GOV. ANDERSON: In this application, the reason we are  
13 rejecting it we were unable to reach Mr. Seery to find out if  
14 he was willing to comply with the rules and regulations?

15 MR. HORTIG: Not exactly, sir. He is one of the four  
16 applicants, who apparently did not agree with the other three  
17 applicants as to what they started out to do and - - -  
18 excuse me, just a moment, Mr. Chairman - - we have Deputy  
19 Attorney General Paul Joseph here, who reviewed for our  
20 office the legal technicalities with respect to this applica-  
21 tion, so if you wish he is here now to report to you if you  
22 want the details of this application.

23 MR. JOSEPH: My name is Paul Joseph, Deputy Attorney  
24 General, Sacramento. Under Rule 2302 of the State Lands  
25 Commission providing for the sale of unoccupied lands not  
26 suitable for cultivation, school lands, the procedure for

1 initially applying and paying a deposit, appraisal, and then  
2 allowing the initial applicant to meet the appraised value --  
3 all that was done here. Then, on the advertisement for bids  
4 at or above the appraised value, these four gentlemen made  
5 their application and it was in a rather peculiar form as  
6 they wanted it all -- I say peculiar because they wanted to  
7 split up the interests into one-fourth interests; but that's  
8 never become important because they then got into a squabble,  
9 apparently, as to whether they wanted to go on with the propo-  
10 sition and they made a condition of their bid that their  
11 money be returned if their bid was not accepted at the time  
12 when the bids were opened, but the Commission rules provide  
13 for reference of these bids to the Commission and a resolution  
14 of the Commission designating whether the highest bidder  
15 should get the land or, if the public interest dictates, that  
16 some other disposition be made of the land.

17 So the staff couldn't find out what the meaning of  
18 this bid was and some correspondence went on, and finally the  
19 four gentlemen withdrew their bid; and since they had bid  
20 higher than the original applicant, then the situation arose --  
21 the question was whether this bid could be withdrawn. And  
22 I don't believe here the original applicant had met that  
23 bid. Is that the case, Mr. Smith?

24 MR. SMITH: The original applicant had met the bid.

25 MR. JOSEPH: Yes, the original applicant had met the  
26 bid of these people who are now trying to withdraw, but

1 inasmuch as that original applicant had only increased his  
 2 bid over the appraised value for the reason there was this  
 3 bid in there, if the Commission sees fit to allow these joint  
 4 bidders to withdraw their bid then the price of the land be-  
 5 comes the appraised value and not the higher amount of the  
 6 joint bid.

7 Now, I was asked -- or we were asked, rather, of the  
 8 right of a bidder on an advertisement to withdraw his bid and  
 9 I very reluctantly came to the conclusion that such a bidder  
 10 may withdraw his bid because the original applicant at all  
 11 stages of the transaction, under the rules, is permitted to  
 12 withdraw his application and have a return of his money less  
 13 the expenses involved; and it seems the same thing applies  
 14 or should apply to a subsequent bidder who raises the appraised  
 15 value because until the offer of the bid is accepted by the  
 16 Commission, nothing has happened.

17 So, therefore, in my opinion this bid here may be  
 18 withdrawn -- the bid of these four gentlemen -- and in spite  
 19 of the fact that they offered more than the appraised value,  
 20 the only available offer to purchase is at the appraised value  
 21 because the original applicant had merely increased the  
 22 amount because of this bid which is now withdrawn.

23 MR. CARR: Is he so contending now, or did you bring  
 24 that up? Is that his contention or is that your analysis?

25 MR. JOSEPH: That's my analysis. I don't know what the  
 26 original applicant has been informed or whether he knows of



1 this withdrawal or not.

2 GOV. ANDERSON: In other words, we are in the position  
3 of possibly losing the sale even of the original applicant  
4 now as a result of the withdrawal of the subsequent bidders?

5 MR. JOSEPH: No, the original applicant has already  
6 placed the money to meet the higher bid; but the price will  
7 be, as I see it, the appraised value and this additional money  
8 will be returned to this original applicant.

9 Now, that's an unsatisfactory situation and I was very  
10 reluctant to come to any conclusion like that, but it seems  
11 to be the situation.

12 GOV. ANDERSON: Mr. Hortig, will then the original  
13 applicant pick up this property at the eighty-six forty bid?

14 MR. HORTIG: At the appraised value.

15 GOV. ANDERSON: Which would that be -- \$8,000?

16 MR. HORTIG: \$8,000.

17 GOV. ANDERSON: I thought you said the original  
18 applicant was willing to meet the new increased bid of eighty-  
19 six forty?

20 MR. HORTIG: That was correct as long as there was a  
21 new increased bid, but if the new increased bid is withdrawn,  
22 there is no increased bid and, therefore, it is the conclusion  
23 of counsel that the original bid price of the original applicant  
24 of \$8,000 should be the sale price of the land.

25 MR. JOSEPH: The original applicant has posted the  
26 additional \$640 and that is the amount I am saying should be

1 returned to him because the only reason that the original  
 2 applicant deposited more money was because of the existence of  
 3 a bonafide bid at the time, but that bonafide bid has since  
 4 been withdrawn. Of course, the rules say that the Commission  
 5 shall consider which is the bonafide bid before the Commission;  
 6 the Commission shall review the recommendations of the staff  
 7 and make final award or take such other action in the public  
 8 interest. Now, it seems to me Commission action has to take  
 9 place on the attempt to revoke this bid, but under the law I  
 10 believe there is a right to withdraw this bid.

11 GOV. ANDERSON: Well, the way it reads here to me --  
 12 we are not letting them withdraw it. We are rejecting their  
 13 bid on the grounds that it is not a bona fide bid. It doesn't  
 14 say anything about withdrawing. It says we reject the joint  
 15 bid of eighty-six hundred as not qualified; and up ahead of  
 16 that in the summarization it says it appears this bid from  
 17 these four people is not a bonafide bid and that's the reason  
 18 we are rejecting; doesn't say it was withdrawn.

19 MR. HORTIG: Actually, three of the applicants asked  
 20 that it be withdrawn and the fourth one didn't. This also  
 21 led to the irregularity of the bid, on which basis counsel  
 22 informed the bid had to be rejected as unqualified. Three  
 23 quarters of them are withdrawing, the fourth is not. This  
 24 creates a reason for rejection.

25 MR. JOSEPH: The bid itself was not proper because they  
 26 wanted the award at the time the bid was opened instead of in

1 accordance with the rules when Commission action had been had.  
2 There was some doubt about it and the staff communicated with  
3 them and they said "Yes" this was a condition of the bid and  
4 they finally withdrew this bid in this letter in the calendar  
5 here and apparently the four gentlemen signed it.

6 MR. CARR: Did Mr. Loebenstein raise his bid to \$8640  
7 to meet these joint bidders? I move we accept the bid of  
8 eighty-six forty.

9 MR. HORTIG: There is no such bid.

10 MR. CARR: Did he raise it or didn't he?

11 MR. HORTIG: Yes, but only pursuant to the thought  
12 he had a higher bid to meet and now there is no longer a  
13 higher bid.

14 MR. CARR: I move we reject all bids and put it out  
15 for bid again.

16 MR. HORTIG: This is within the purview of the Commission.

17 GOV. ANDERSON: I don't see we are allowing them to  
18 withdraw it. It looks to me like you are rejecting it. They  
19 might say "Why are you rejecting a higher bid?"

20 MR. HORTIG: May I answer that? I have since been  
21 informed that since the preparation of this calendar item we  
22 are also in receipt of a four-party letter asking for withdrawal  
23 of the bid.

24 MR. JOSEPH: Oh, yes. That's in my calendar item. I  
25 have a copy of this letter.

26 MR. CARR: I move we reject all the bids and put it out

1 again.

2 MR. CRANSTON: Second the motion.

3 MR. ZWEIBACK: Mr. Loebenstein is apparently an  
4 innocent victim in this. If these bids are rejected and there  
5 is re-advertising, would Mr. Loebenstein have to bear the  
6 cost of the original advertising as well as the next adver-  
7 tising? In other words, who is going to stand the burden of  
8 that advertising? Also, I am assuming no new appraisal has  
9 to be made.

10 MR. HORTIG: That is correct and essentially it reduces  
11 to the fact that the successful applicant at the time of the  
12 next advertising would bear all appraisal costs and advertis-  
13 ing costs. If Mr. Loebenstein is it, why he is not in a dis-  
14 advantageous position; if he isn't the high bidder the next  
15 time around, he will at least have been assessed the prior  
16 advertising costs on which, as you say, on a rejection at  
17 this time he would be the innocent victim.

18 GOV. ANDERSON: This hardly seems fair.

19 MR. ZWEIBACK: If he is the successful bidder the  
20 second time around, would he have to bear the cost of the  
21 original advertising and appraisal as well as the advertising  
22 and appraisal if a secondary appraisal is needed?

23 MR. SMITH: The initial costs would be borne by the  
24 State, I believe. In cases we have had in the past where the  
25 bid was rejected, the State bore all the costs for advertising;  
26 but in the second time around, we have this problem, in the

1 case of rejection, in the preference right accorded the  
2 first applicant: Will Mr. Loebenstein file a first applica-  
3 tion and be a first applicant?

4 MR. ZWEIBACK: If I interpret what you say correctly,  
5 if at this point we reject all bids the State is going to  
6 stand the cost of advertising and appraisal to date and there  
7 will be no way of recovering that amount.

8 MR. SMITH: That's correct.

9 MR. ZWEIBACK: What is that amount?

10 MR. SMITH: I don't have the amount. It would be  
11 around \$150 including appraisal and advertising.

12 MR. HORTIG: That brings up an element, Mr. Chairman,  
13 The Commission might wish in connection with the rejection  
14 resolution to state that in the event that Mr. Loebenstein  
15 does apply the next time around, that he has been granted the  
16 status of first applicant as he was in this first application  
17 from which he was rejected through no fault of his own. This  
18 also has been done by previous Commissions in connection with  
19 rejections -- in other words, preserve the first applicant's  
20 status and give him the opportunity to meet the higher bids  
21 if there are any, if he desires to bid the next time around  
22 at all.

23 GOV. ANDERSON: So this way he wouldn't be losing this  
24 \$150 if he is not the successful bidder because then another  
25 bidder would be paying the entire cost, the successful bidder.

26 MR. HORTIG: That's correct. The only way he could be

1 hurt is to lose his status as first applicant and thereby  
2 lose the land.

3 MR. CRANSTON: Should we amend the motion to include  
4 that?

5 GOV. ANDERSON: Do you want to restate that?

6 MR. CARR: We are rejecting the bids here but reserve  
7 the position of first bidder for Mr. Loebenstein if he cares  
8 to bid in the next subsequent bidding. When we reject the  
9 bids, we reject them all.

10 MR. CRANSTON: Second.

11 GOV. ANDERSON: You have heard the motion -- moved and  
12 seconded. No objection, so ordered. That pertained, then,  
13 to Calendar Item 32.

14 MR. HORTIG: Pages 28 and 29, item (f) under subdivision  
15 6 of the calendar summary.

16 GOV. ANDERSON: Item (f) under Item 6.

17 MR. HORTIG: Right.

18 GOV. ANDERSON: Now, we are still on the other ones of  
19 Item 6. (a), (b), (c), (d) and (e) we have passed over.  
20 Item (g) -- Eugene Smith. Any question on that?

21 MR. HORTIG: Mr. Chairman, if the Commission please,  
22 I would like to refer back to item (d) on page 22 before you  
23 feel the staff has completely gone off their rocker; but the  
24 land being sold is under thirty feet of water and we just want  
25 you to know that we know it. It is cut approximately in the  
26 center of Salton Sea -- this having been vacant State school

1 owned by the State prior to the time Salton Sea became  
2 flooded about 1909-1910. The only use we can realize for  
3 the thing -- possibly someone can have a 640-acre private duck  
4 refuge if he can only coax the ducks to sit on 640 acres of  
5 water.

6 MR. CARR: He can have an exclusive skin diving con-  
7 cession out there, too.

8 MR. HORTIG: Yes.

9 GOV. ANDERSON: Motion is in order to approve Item 6,  
10 (a) through (g), except (f) which we took care of.

11 MR. CARR: So move.

12 MR. CRANSTON: Second.

13 MR. JOSEPH: There is another revocation.

14 MR. HORTIG: Page 30 -- which is actually another  
15 rejection.

16 MR. JOSEPH: Page 30 is another revocation of a bid.  
17 There is nothing wrong -- there was no irregularity with the  
18 highest bidder's bid, but after the first applicant met the  
19 higher bid price the bidder withdrew his bid -- which was  
20 considerably higher than the original appraised value. So  
21 it is essentially the same situation as the former one which  
22 you have moved to reject all bids.

23 MR. HORTIG: However, in this instance there is such a  
24 disparity between bids as to raise the question of serious  
25 error and, therefore, the error as a reason for the withdrawal  
26 of the higher bid because the average appraisal was at an

1 average value of \$6.25 an acre and the high bidders submitted  
 2 a bid, subsequently withdrawn, of \$10.95 an acre; so, there-  
 3 fore, the first applicant who offered the \$6.25 an acre in-  
 4 creased his offer to meet the high offer, which was withdrawn  
 5 and therefore becomes extinct and we are back, as Mr. Joseph  
 6 says, to the identical situation -- almost completely parallel  
 7 to the preceding situation -- in that the bid was increased  
 8 but as against a non-qualified or withdrawn bid. Therefore,  
 9 is it equitable to hold the first applicant or reject his  
 10 application under these circumstances, particularly because of  
 11 the great disparity between the bids and the clear cut sub-  
 12 mittal of the bid and the clear cut request on the part of  
 13 the high bidder that the bid be withdrawn?

14 The equitable position, it would seem, to be considered  
 15 here would be that the high bid was in error.

16 MR. ZWEIBACK: May I say I recall on the second bidder --  
 17 his bid was in error because he thought he was getting a  
 18 different piece of land.

19 MR. HORTIG: We theorize this could have been. In  
 20 other words, we can see the reason for the disparity in the  
 21 extremely increased amount -- the spread between \$3,995 and  
 22 \$7,000 for the same parcel of land. The potentialities are  
 23 there that the high bidder, after he went out and looked at it,  
 24 realized what he had done and decided to undo it.

25 MR. CARR: This is a speculation?

26 MR. HORTIG: This has to be a speculation.



1 MR. JOSEPH: This situation can be avoided by an amend-  
2 ment to the rules of the Commission to consider these bids  
3 are irrevocable -- that bidders on this land should know what  
4 they are doing. Once they come in, there is a danger of  
5 collusion in having these bids revoked because the higher bidder  
6 can go around to the other bidder and give him a little profit  
7 and then there is great danger in collusion.

8 MR. CARR: That is the reason I believe in rejecting  
9 them. Maybe a third or fourth person may come in. One of  
10 our failings, for some time there has not been enough publicity  
11 given to these bids. Some come in to pick up a sleeper, because  
12 I have knowledge of a person who is doing this now. I hope I  
13 remember his name when it comes up. I know there are people  
14 going around doing this. I don't blame them.

15 This doesn't look good to me, where somebody bids so  
16 much more and withdraws it. That's not so good. What do you  
17 recommend? What would the A. G.'s office recommend -- change  
18 the rules, holding them to these bids once they make them or  
19 throwing them out and giving them a little more publicity and  
20 getting more what the land is worth?

21 MR. JOSEPH: Something should be settled as to whether  
22 the bids can be revoked or not. Of course, you may want to be  
23 in a position that you can reject these things when complica-  
24 tions arise -- but, of course, you have the right to do that  
25 anyway. It's just a personal suggestion of mine. The rules  
26 don't give any indication as to whether this type of bid is

1 revocable or may be withdrawn; but on general rules of  
 2 contract law and because the original applicant can withdraw  
 3 at any stage of the game, it seems such interpretation should  
 4 be given to allow subsequent bidders to withdraw -- but the  
 5 results of that are not good.

6 MR. HORTIG: In the light of that and Mr. Carr's ques-  
 7 tions and the study of land procedures which is under way,  
 8 I should like to suggest to the Commission as a matter of  
 9 standardization that this item be treated as the preceding  
 10 one -- bearing in mind insofar as the equities of the first  
 11 applicant may be protected, this will be protected by reserv-  
 12 ing to the first applicant the status of a first applicant on  
 13 any subsequent offer if he chooses to avail himself of that  
 14 status.

15 GOV. ANDERSON: Supposing he comes back in and makes  
 16 an offer of less than his original opening bid here?

17 MR. HORTIG: He can't.

18 MR. CRANSTON: I move we reject it and readvertise.

19 GOV. ANDERSON: It has been moved and seconded that  
 20 we do the same in item (g) that we did in item (f). No  
 21 objection -- so ordered.

22 For the secretary's benefit, then, the one motion that  
 23 Mr. Carr made was (a) through (e) instead of (a) through (g);  
 24 (a) through (e), that was approved as recommended, and (f)  
 25 through (g) we had the two separate motions on.

26 MR. HORTIG: Mr. Chairman, also for the secretary's

1 benefit, may we have a very brief recess for retreading of  
2 the fountain pen, etcetera?

3 GOV. ANDERSON: We will have a three to five minute  
4 recess.

5 (Recess 11:35-11:45 a.m.)

6  
7 GOV. ANDERSON: The meeting will reconvene. It has  
8 been suggested that we have the staff draw up some resolution  
9 for the next meeting relative to these rejections of bids, so  
10 that we have, actually, a procedure in the future -- feeling  
11 that it should be made much more difficult to get a bid with-  
12 drawn or rejected and unless there can be some clerical error  
13 or some misunderstanding definitely in the bid. Can you do  
14 that and have that by our next meeting?

15 MR. HORTIG: Mr. Chairman, do I understand your request  
16 to be for a review as to alternative solutions to the problem  
17 or precluding the problem arising in future with draft of  
18 amendments to rules and regulations or whatever it is felt  
19 it is necessary to do to accomplish this?

20 GOV. ANDERSON: Yes, I think I favor the latter part  
21 of what you mention there -- that it be made difficult for  
22 any bid to be withdrawn or to get any rejection like this  
23 unless there are rules the people know about in advance.

24 MR. HORTIG: May I suggest in view of a study which the  
25 Commission knows is under way and which is yet to be reported  
26 to the Commission with alternatives with respect to policy

1 for the sale of lands in the future, that these requirements  
2 to rectify the problem you were faced with today might well  
3 be included as part of that study and will be reported on to  
4 you.

5 GOV. ANDERSON: At this time we will proceed with  
6 classification 7 on the agenda -- selection and sale of  
7 vacant Federal lands -- first for Howard O. Simmerley and  
8 Josephine Simmerley; item (b) James K. Storer.

9 If there is no comment on either of these, then, a  
10 motion to approve them will be in order.

11 MR. CRANSTON: So move.

12 MR. CARR: Second.

13 GOV. ANDERSON: So moved and seconded. No objection  
14 so ordered.

15 Item 8 -- approval of maps.

16 MR. HORTIG: Mr. Chairman, item (a) -- approval of  
17 maps on State lands in South Humboldt Bay -- I desire to  
18 revise at this moment to be informative and in the nature of  
19 a progress report to the Commission that we have an initial  
20 survey and maps of Humboldt Bay as required by the Statutes  
21 of '59, which directed the Commission to prepare such maps  
22 and report to the Legislature at the next session.

23 However, I desire to withhold any recommendation for  
24 Commission approval of these maps at this time until we have  
25 completed a further field check and reconciliation of some  
26 recent indications of desirability of completing a check of

1 the record title status in Humboldt County. So, if the  
2 Commission will please pass this item without action ...

3 GOV. ANDERSON: That's both (a) and (b)?

4 MR. HORTIG: No sir -- just (a).

5 GOV. ANDERSON: In other words, it's the recommendation  
6 of the Executive Officer that item (a) be passed on today  
7 without action -- passed over?

8 MR. HORTIG: Right.

9 GOV. ANDERSON: No objection, that will be so ordered;  
10 and then you wish to recommend that you be authorized to  
11 approve item (b)?

12 MR. HORTIG: That's correct -- representing maps of  
13 the grant to the City of Redwood City pursuant to Statutes of  
14 1945.

15 MR. CRANSTON: Move approval.

16 MR. CARR: Second.

17 GOV. ANDERSON: Moved and seconded. No objection --  
18 so ordered.

19 MR. HORTIG: Excuse me -- 1954 -- typographical error  
20 in your index.

21 GOV. ANDERSON: The next item on the agenda is 9 --  
22 approval of plan to establish a representative of the Western  
23 States Lands Commissioners Association in Washington, D. C.;  
24 authority for the Executive Officer to notify the association  
25 of the desire of California to participate in such a program;  
26 authorization for inclusion in the annual budget of the

1 Commission of a sum not to exceed \$7,500 to cover costs of  
2 California's participation. Mr. Hortig.

3 MR. HORTIG: As the Commissioners are aware, the State  
4 Lands Commission of the State of California is a member of  
5 the association of Western States Land Commissioners compris-  
6 ing Land Commission representatives of all the western public  
7 land states.

8 GOV. ANDERSON: What do you mean by that? What  
9 states are those?

10 MR. HORTIG: Essentially, everything west of the  
11 Mississippi.

12 GOV. ANDERSON: This takes in Texas, Oklahoma -- which  
13 other southern states?

14 MR. HORTIG: Yes sir, up to -- as far as southern, it  
15 only goes as far east as Texas and Oklahoma. North Dakota is  
16 included, the State of Kansas ....

17 MR. SMITH: Nebraska and South Dakota; that's as far  
18 east as they go.

19 MR. HORTIG: Everything west of those states, including  
20 Alaska and Hawaii, with no gaps.

21 GOV. ANDERSON: We have the eleven western states are  
22 included and there should be seven more states -- Texas,  
23 Oklahoma, North Dakota, South Dakota, Kansas, Nebraska ...

24 MR. CRANSTON: Would Alaska be included?

25 MR. HORTIG: Alaska and Hawaii -- Colorado.

26 GOV. ANDERSON: Is Missouri in it?

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MR. HORTIG: No sir.

GOV. ANDERSON: Arkansas?

MR. SMITH: No.

GOV. ANDERSON: We are one short there.

MR. HORTIG: New Mexico.

GOV. ANDERSON: That's one of the eleven?

MR. HORTIG: Right.

MR. CARR: This is a \$7,500 ticket on this, multiplied that many times?

MR. HORTIG: This has been the proposal of the Western States Land Commissioners Association by resolution.

MR. CARR: What does that add up to, or am I little bit hazy this morning?

MR. ZWEIBACK: About a hundred fifty thousand, including Alaska and Hawaii.

MR. CARR: A million dollars for a lobby?

MR. ZWEIBACK: One hundred fifty thousand.

MR. SMITH: That is the maximum in the conference. I think the estimate he gives there was four to five thousand dollars, which was a rough estimate, and the maximum that could come up reasonably would be seventy-five hundred.

MR. CRANSTON: Mr. Chairman, I have some hesitation on this, which I would like to resolve in my own mind and I would like to have it passed over.

MR. CARR: Is that a motion?

MR. HORTIG: I should like to amplify, Mr. Chairman,

1 and particularly for Mr. Cranston's benefit, in a re-review  
 2 we were also informed by counsel of the possible desirability,  
 3 if the program were to be acceptable to the State Lands Com-  
 4 mission, of modifying the recommendation for approval by the  
 5 Commission to cover (1) a review and opinion by the office of  
 6 the Attorney General as to the legality of this procedure;  
 7 and, in the event of the demonstration of no specific statutory  
 8 authority for this, that the budgetary request also include  
 9 a request for legislative authorization to participate in  
 10 this type of activity -- specifically, authority to the Lands  
 11 Commission to so do.

12 MR. CRANSTON: In addition -- not only to the financial  
 13 aspect of it, budgetary matters -- but in addition to that,  
 14 the policy matters. I'd like to know what the policy of this  
 15 commission is. I note they want to ask for land legislation  
 16 beneficial to the western states and work against any legis-  
 17 lation inimical to their welfare. Who decides that, and  
 18 what kind of blank check do they want from us?

19 I notice the document by Mr. Morgan of New Mexico  
 20 that apparently led to this is a big attack on the Interior  
 21 Department and the Bureau of Land Management and accuses it  
 22 of bureaucratic ways and "eastern" thinking and it has been  
 23 my impression that that department under both Democratic and  
 24 Republican administration has been a watchdog over public  
 25 lands in an effort to protect it in the public interest.

26 This Mr. Morgan says: "We are accused of seeking land



1 grabs and that we are after the national forests and national  
2 parks." I'd like to know whether they are or aren't.

3 MR. HORTIG: We feel we have the answers to your ques-  
4 tions. This is simply an opportunity to review and report.

5 MR. CRANSTON: Yes, I think we should solicit the view  
6 of Senator Engle on this matter.

7 MR. CARR: Yes, I think so too.

8 GOV. ANDERSON: And in addition to that, these agencies  
9 start on the financial side with a reasonably small budget  
10 and then they say California is so much bigger and we will  
11 find our cost is higher; and if our cost is higher, especially  
12 with our anticipated population increase, what is going to be  
13 our voice in the organization? Are we going to have only one  
14 vote like all the other states or more than one vote if we  
15 are going to pay our portion of the bill?

16 MR. HORTIG: Very preliminarily, California has had  
17 only one vote. However, I think the other hazard, which could  
18 be a very real one under ordinary circumstances, of alleging  
19 the size of California in proportion to the balance of the  
20 organization, is fortunately not particularly applicable in  
21 this instance. Oddly enough, many of the other public land  
22 states have much more public land interest and New Mexico today  
23 is administering something on the order of four times as much  
24 state land as the State of California is. They are probably  
25 the ones with the most state land interest, actually, regard-  
26 less of population; so that allegation of increased costs for

1 California -- if anything, I think we could probably make  
2 a very strong representation that if costs are to be borne  
3 in proportion to interest instead of uniformly, California's  
4 proportion would be a minority portion.

5 GOV. ANDERSON: Yes, but they do it on the basis of  
6 population. What did they increase our National Council of  
7 State Government portion?

8 MR. ZWEIBACK: Approximately fifty per cent. We and  
9 New York pay the highest figure in the country, as, for  
10 example, we pay forty-nine thousand and there are some areas  
11 like Alaska that pay \$500 a year.

12 MR. HORTIG: I appreciate that. There, of course,  
13 our proportion is alleged to be in our State problems, whereas  
14 this is where they are focusing their attention on only one  
15 thing -- public lands; and public lands-wise we are a minority  
16 interest.

17 MR. CARR: Mr. Chairman, I'd like to add the further  
18 comment I am not sure it is in California's interest to be in  
19 common with Texas and New Mexico. We are participating in  
20 other matters. I think policywise we ought to be interested  
21 whether we should join in with these states on these things.  
22 That's more important than the cost or distribution of cost --  
23 particularly with Texas.

24 MR. CRANSTON: I fully concur.

25 GOV. ANDERSON: You have the thinking, I think, of the  
26 members of the Commission. You would like a motion, then,

1 that we defer action upon this subsequent to having the  
2 Attorney General making a survey or study as to the legality  
3 of it.

4 MR. HORTIG: I think we certainly should know this  
5 before we discuss it with the Commission further.

6 MR. CRANSTON: I would also like to ask that it be  
7 discussed with Senator Engle.

8 GOV. ANDERSON: Do you make the motion?

9 MR. CRANSTON: So move.

10 MR. CARR: Second.

11 GOV. ANDERSON: You have heard the motion. No objec-  
12 tion, so ordered.

13 Next is Item 10 -- authority for the Executive Officer  
14 to advise the Board of Supervisors of the County of Santa Cruz  
15 that proper and sufficient notification of its intention to  
16 convey tide and submerged lands in Monterey Bay to the City  
17 of Capitola has been received. Mr. Hortig.

18 MR. HORTIG: The Legislature, by Statutes of 1935,  
19 granted certain tidelands in Monterey Bay fronting the village  
20 of Capitola, but granted them in trust to the County of Santa  
21 Cruz. This grant was amended by 1959 statutes to provide that  
22 the County of Santa Cruz may convey to another public agency  
23 these granted lands, subject to the trust conditions and sub-  
24 ject to notifying the State Lands Commission of the proposed  
25 conveyance; also the conveyance is subject to an acknowledg-  
26 ment by the State Lands Commission that notification of the

1 proposed conveyance has been received. Such notification of  
2 proposed conveyance has been received. It has been found by  
3 counsel to be in the form and to comply with the requirement  
4 of the statute.

5 We are at a loss to understand what is complete advice  
6 of the receipt of notification and acknowledgment, but are  
7 recommending that receipt be acknowledged because it has been  
8 received in fact; and hasten to point out to the Commission  
9 that there is another element of control which is yet to come  
10 and that this transfer is far from complete because by addi-  
11 tional statutes of 1959, all tide and submerged lands which  
12 are authorized to be conveyed or transferred in any manner  
13 starting in 1959 and going forward -- title does not pass until  
14 such lands have been surveyed, monumented and recorded on a  
15 plat by the State Lands Commission at the cost of the grantee.

16 We are now in the process of negotiating with the City  
17 of Capitola to enter into a service agreement to accomplish  
18 this. Some time in the future we will be back to the Lands  
19 Commission with the survey plats for approval for recordation  
20 and only at that time, after completion of the recordation,  
21 will the City of Capitola in fact have title to these tide-  
22 lands which are being transferred to them by the County of  
23 Santa Cruz.

24 GOV. ANDERSON: Is there a motion?

25 MR. HORTIG: Simply to acknowledge the notification  
26 required by the Statutes of 1959.

1 MR. CARR: So move.

2 MR. CRANSTON: Second.

3 GOV. ANDERSON: So moved. No objection, so ordered.

4 Item 11 -- authority for Kenneth C. Smith to execute  
5 indemnity selection and exchange applications filed by the  
6 State with the U. S. Bureau of Land Management.

7 MR. HORTIG: Mr. Smith, would you please outline that  
8 inasmuch as you are the victim?

9 MR. SMITH: Yes. The calendar item refers to a change  
10 in the Federal statutes requiring considerable amendments to  
11 existing indemnity selection applications; and this request  
12 is to speed up the refiling of amended applications selecting  
13 other Federal lands in lieu of Sections 16 and 36, which have  
14 not passed to the State.

15 GOV. ANDERSON: What is your pleasure?

16 MR. CRANSTON: Move approval.

17 MR. CARR: I don't exactly understand what it means.

18 GOV. ANDERSON: Would you explain further?

19 MR. HORTIG: Simply there are now required by the  
20 procedure specified by the Bureau of Land Management of the  
21 Department of the Interior certifications as to the title  
22 status and certification as to the records within the State  
23 Lands Division office as of the time of processing applications  
24 for selection of these indemnity lands; and as there has been  
25 no need for it, there has never been a specific delegation of  
26 authority in the State Lands Division to "X" individual to so

1 certify. Mr. Smith, as our Public Lands Officer and as the  
2 custodian of the land title records of State lands, is the  
3 logical individual to be so authorized.

4 MR. CARR: This simply grants him the authority in  
5 the situation providing for this indemnity selection and  
6 application that's already part of the statute?

7 MR. HORTIG: That's been on the statutes since the  
8 1860's.

9 MR. CARR: Second the motion.

10 GOV. ANDERSON: No objection, so ordered.

11 Item 12 -- authority for Executive Officer to execute  
12 interagency agreement with Colorado River Board Commission to  
13 provide services, at a cost not to exceed \$3,000. Mr. Hortig.

14 MR. HORTIG: Minor correction, sir. That is Colorado  
15 River Boundary Commission. There is a Colorado River Board  
16 with whom we are always being confused, and as the Commission  
17 may or may not be aware there is an interstate boundary com-  
18 mission in California and Arizona attempting to fix the  
19 location of the boundary line between California and Arizona.  
20 The Executive Officer of the Lands Commission happens to be  
21 one of the three designated members on that Commission.

22 Under those circumstances, over the years that the  
23 study has been going on, rather than having the Boundary  
24 Commission have to acquire piecemeal and for short periods of  
25 time various technical staff and accountants and personnel  
26 people and so forth, the Commission has always heretofore --

1 the Boundary Commission has always entered into a service  
 2 agreement with the State Lands Commission for the Lands Com-  
 3 mission staff to furnish a limited amount of service --  
 4 housekeeping functions primarily and some engineering -- to  
 5 the Boundary Commission at cost; and it is here recommended  
 6 that the Executive Officer be authorized to execute on behalf  
 7 of the State Lands Commission this interagency service agree-  
 8 ment for which the Lands Commission will be reimbursed in an  
 9 amount not to exceed \$3,000 for not more than \$3,000 worth of  
 10 services in the next year.

11 MR. CARR: So move.

12 GOV. ANDERSON: That we authorize the agreement --  
 13 seconded, no objection so ordered.

14 Item 13 -- authorization for the Executive Officer to  
 15 advise the United States of America that the State of Cali-  
 16 fornia does not desire to purchase the improvements located  
 17 on State sovereign lands in New York Slough at Pittsburg,  
 18 Contra Costa County.

19 MR. HORTIG: As the Commission will recall, at the  
 20 last meeting this same recommendation was before the Commis-  
 21 sion but upon motion of Mr. Carr it was suggested that an  
 22 inventory be taken of the desires of any other conceivable  
 23 State agency who might be interested in acquiring these  
 24 facilities -- this wharf and storage shed extending into  
 25 Carquinez Straits -- that their interest should be sought.

26 All State agencies who could possibly have an interest

1 and they were numerous -- were circularized. All replied in  
2 the negative, the last reply having been received actually  
3 after this calendar was prepared from Fish and Game, who  
4 state it does not appear that the Department of Fish and Game  
5 will be interested in purchasing the Camp Stoneman wharf area:  
6 "Many thanks for calling this to our attention."

7 Under the circumstances of no one having the money and  
8 no one having an interest, it is again recommended that the  
9 Executive Officer be authorized to advise the United States of  
10 America that the State of California does not choose to exer-  
11 cise its right of first refusal to purchase these particular  
12 improvements specified in New York Slough at Camp Stoneman.

13 MR. CARR: I so move.

14 MR. CRANSTON: Second the motion.

15 GOV. ANDERSON: You have heard the motion made and  
16 seconded -- no objection, so ordered.

17 Item 14 -- Certification that procedures required by  
18 the Administrative Procedure Act re amendment of Commission's  
19 rules and regulations have been followed, and authority for  
20 Executive Officer to file copy of this certification with  
21 Division of Administrative Procedure..

22 MR. HORTIG: By Statutes of 1959, the statutory provi-  
23 sions relative to collection of fees by the Lands Commission  
24 were eliminated and authority was given to the Commission to  
25 include specification of fees in rules and regulations. The  
26 statute became effective September 18th and as of September 18



1 the only way we could have a rule and regulation to cover  
 2 the subject so that there wouldn't be a hiatus was to have  
 3 the Commission adopt the rules on an emergency basis, which  
 4 the Commission did, according to the California Administra-  
 5 tive Procedure Code.

6 To make the rules and regulations which we adopted on  
 7 the emergency basis permanent, there are additional procedures  
 8 specified which must be certified -- that the procedures re-  
 9 quired have been followed, and authority is needed for the  
 10 Executive Officer to file a copy of this certification with  
 11 the Division of Administrative Procedure -- which means that  
 12 after we transmit the bale of required paper, the Commission's  
 13 rule will be permanent until amended by the Commission.

14 GOV. ANDERSON: Is there a motion ...

15 MR. CARR: Move approval.

16 MR. CRANSTON: Second.

17 GOV. ANDERSON: Moved and seconded -- no objection, so  
 18 ordered.

19 Item 15 -- Confirmation of transactions consummated by  
 20 the Executive Officer, pursuant to authority confirmed by the  
 21 Commission at its meeting on October 5, 1959. Mr. Hortig.

22 MR. HORTIG: This is the first meeting of this Commis-  
 23 sion at which we have been able to present such an item. As  
 24 the Commission will recall, and as outlined in the calendar  
 25 item, certain authorities were delegated to the Executive  
 26 Officer to proceed with transactions that are completely

1 standard within the framework of the rules and regulations of  
 2 the Commission, with limitations as to monetary values which  
 3 may be included, and which procedures must conform to pre-  
 4 viously established lease forms, permit forms, and any scheduled  
 5 rates on rentals, etcetera established by the Commission.

6 The items appearing on pages 50 through 53 represent  
 7 a tabulation of either routine assignments, renewals of exist-  
 8 ing permits, or minor easements which have been issued by  
 9 the Executive Officer under this delegation of authority --  
 10 which, to complete the record and conform with the opinion  
 11 of the Office of the Attorney General, it is recommended that  
 12 the Commission confirm the actions of the Executive Officer  
 13 as herein reported. This procedure was devised to expedite  
 14 operations . . . .

15 MR. CARR: So move.

16 MR. HORTIG: All of the items reported here, but for  
 17 this delegation of authority, instead of being approved en  
 18 bloc as they are here would be one or two-page calendar items  
 19 the Commission would have to consider.

20 MR. CRANSTON: So move.

21 MR. CARR: Second.

22 GOV. ANDERSON: Moved and seconded -- so ordered.

23 Item 16 -- Notification that McGillivray Construction  
 24 Co. has withdrawn its application for a mineral extraction  
 25 lease in the bed of the American River in the vicinity of  
 26 Sacramento. No Commission action required.

1 MR. HORTIG: No sir. This is simply informative and is  
 2 reported to complete the sequence of events. The Commission  
 3 will recall that Assemblyman MacBride reported it was his  
 4 understanding McGillivray Construction was no longer inter-  
 5 ested as an applicant for a sand and gravel extraction lease.  
 6 However, it took some thirty days to get this confirmed by  
 7 McGillivray Construction.

8 GOV. ANDERSON: Item 17 -- report on status of major  
 9 litigation.

10 MR. HORTIG: There has been no change in status from  
 11 the last report to the Commission in the U. S. vs. Anchor  
 12 in the litigation filed by the United States in Long Beach.

13 In the case of the quiet title action relating to a  
 14 quitclaimed park strip in which minerals are claimed both by  
 15 the State of California and the City of Long Beach, trial  
 16 commenced November 24 and, as stated, trial briefs have been  
 17 filed, evidence offered and received. The court continued the  
 18 trial to January 18, 1960 to permit the filing of reply  
 19 briefs.

20 As reported also to the Commission at the last meeting,  
 21 American Marine Exploration Company, the county's contractor  
 22 in connection with possible development of Orange County tide-  
 23 lands claimed by Orange County counter to the State of Cali-  
 24 fornia's title -- the primary contractor withdrew support  
 25 from the litigation that he had been supporting on behalf of  
 26 the county. There has been no formal action by the Board of

1 Supervisors of Orange County, indicating whether, as recom-  
2 mended by their prior contractor, the County should proceed  
3 independently to pursue the litigation or should drop it.  
4 We are hopeful that the latter will be the ultimate result.

5 The final case, Abbot Kinney vs. City of Long Beach,  
6 is noted again in the report because the decision in the  
7 Appellate Court could have had far-reaching effect on the  
8 State's title with respect to accreted tide and submerged lands;  
9 and the decisions were counter to all California case law, or  
10 essentially most of California case law in this situation.  
11 The Attorney General's office intervened in the case --  
12 "intervened" is probably not the correct legal terminology,  
13 but managed to get into the case with argument before the  
14 Supreme Court and fortunately, we feel, the Supreme Court  
15 upheld the Attorney General's contentions and has remanded  
16 the entire question back to the Los Angeles Superior Court  
17 to be heard on a basis where all facts can be included.

18 GOV. ANDERSON: There is one item I'd like to ask a  
19 question of before we conclude the meeting, and that is the  
20 discussion we had some meetings back about the pilot plan for  
21 the sale of State lands, where we would pick out a particular  
22 county and open it up to competitive bidding.

23 MR. HORTON: That plan, sir, and the draft thereof  
24 and the material for discussion with the Commission is what I  
25 had reference to, and I am sorry I didn't identify it in a  
26 manner in which you could recognize it readily, Governor.

1 The plan to be reviewed with the Commission, which  
2 would also include possible remedies of the rejection situa-  
3 tion which we discussed this morning -- but for three or four  
4 days of legislative committee hearings this month, we had  
5 hoped to have discussed this item with the Commissioners pre-  
6 ceding this meeting. Also, we were informed that geographi-  
7 cally it would be a little bit difficult to discuss this  
8 situation with you prior to today, so we are planning to have  
9 a modified plan ....

10 GOV. ANDERSON: At the January meeting?

11 MR. HORTIG: ... to discuss sufficiently early, so it  
12 can be an agenda item for the January meeting.

13 MR. CARR: Mr. Chairman, I have one question. Are  
14 you through?

15 GOV. ANDERSON: I am all through.

16 MR. CARR: Wasn't it one or two meetings ago that a  
17 gentleman appeared objecting to the fact that there were a  
18 couple flat cars stepping up the river here and we promised him  
19 we would get them out of the way before the floods came down  
20 and washed him away?

21 MR. HORTIG: Mr. J. Short.

22 MR. CARR: Yes, that's right.

23 MR. HORTIG: Field inspection has been made. The  
24 bridge that is in place in fact does not technically appear  
25 to be an unsatisfactory structure or possibly to present all  
26 of the flood hazards that were envisioned for it. It is

1 serving a useful, economic purpose. All of this was reported  
2 to Mr. Short, with the request that if he had any factual  
3 bases that should be considered that he had not previously  
4 presented to the Commission, that they should be forwarded  
5 because we have reviewed it with the local flood control  
6 districts, with all the authorities that might be concerned  
7 with the situation with the exception of the Reclamation Board  
8 of the State of California -- which, incidentally are meeting  
9 or have met this morning concurrently with this Commission and  
10 who will have the question with respect to their jurisdiction  
11 and desires up for consideration, and we have a representative  
12 at that meeting.

13 After we have a report from the Reclamation Board as  
14 to desirability for continuation or removal of the bridge,  
15 then we will report to Mr. Short and we expect to be back to  
16 you gentlemen again in the January meeting for a final con-  
17 clusion either as to issuance of a right-of-way whereby the  
18 present trespassing occupier of the river can continue the  
19 bridge, or it will have been ordered removed.

20 In the interim, the local flood and irrigation districts  
21 have given us assurance that in the event of any necessity of  
22 adversely large releases of water, that adequate notice can  
23 be given which will permit removal of even any of the minor  
24 operations of the structure which might conceivably cause a  
25 flood hazard. Such notice is available and can be given,  
26 and the occupant operating the bridge is aware of this and is

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willing to remove on notice in the interim while this problem is studied. So there not appearing to be any flood hazard being created at the present time, all of this has been reported to Mr. Short.

MR. GARR: I got a letter from him the other day, which I turned over to you. Is that taken care of?

MR. HORTIG: Yes sir.

MR. CARR: May I ask another question? What about Basin (?) Creek up at Sonora, where the fish hatchery is? Fish and Game had given up the property and they were going to turn it over to the recreation district. Meantime, they have a bridge over the river and having seen that personally, I think that is a hazard. What is our liability in connection with that?

MR. HORTIG: As far as the Lands Commission, happily this is not one of the navigable waters of the State of California under the jurisdiction of the Lands Commission. Your liability there, if any, would stand as the custodian of State property, as the Director of Finance.

MR. CARR: I wish it would rain. I would go up and set fire to it. I don't want to start a forest fire. Somebody has to take the responsibility for getting that thing out of the way. I talked to Kirk Vincent about that. Whose baby is that?

MR. HORTIG: The stream is privately owned by the adjoining landowners on both sides of the stream.

1 MR. CARR: Well, the State is owner on one side. As  
2 a matter of fact, I think the State is owner on both sides of  
3 that stream.

4 MR. HORTIG: Then the State is the property owner of  
5 the total stream bed and if anything happens there that causes  
6 detriment downstream artificially, there would be a liability  
7 against and a problem for which people could sue the State.

8 MR. CARR: Maybe that would be a place where some of  
9 these high school students could mix up some of this black  
10 powder.

11 GOV. ANDERSON: Mr. Cranston is moving that we for  
12 our next meeting try the third Thursday rather than the  
13 fourth, because he has a complication for the fourth. I don't  
14 have my calendar to clear the third, but I think it's all  
15 right. Is that all right with you?

16 MR. CARR: January -- third Thursday.

17 MR. ZWEIBACK: Mr. Chairman, I also suggest at this  
18 time that since we are past the holidays you might want to  
19 give consideration to returning back to what we term the  
20 normal schedule.

21 GOV. ANDERSON: Mr. Cranston has complications.

22 MR. ZWEIBACK: After January.

23 GOV. ANDERSON: Is the third Thursday all right with  
24 you?

25 MR. HORTIG: That's satisfactory.

26 GOV. ANDERSON: In the south?



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MR. HORTIG: It has almost become the normal sequence to alternate meetings, and there not being a Legislative session yet at that time, it would appear possibly preferable to have it in Los Angeles.

GOV. ANDERSON: Then the motion would be the third Thursday in Los Angeles.

MR. CRANSTON: I run into a complication if you go to Los Angeles -- I guess that would be all right.

GOV. ANDERSON: You have heard the motion. It has been moved and seconded -- no objection, so ordered.

MR. HORTIG: What time, may I ask?

GOV. ANDERSON: Nine o'clock.

MR. HORTIG: Nine o'clock.

ADJOURNED 12:25 P.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 sixty-eight pages contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the State Lands Commission of the State of California at Sacramento, California on December 17, 1959.

*Louise H. Lillico*

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