

1 TRANSCRIPT OF
2 MEETING
3 of
4 STATE LANDS COMMISSION

5 LOS ANGELES, CALIFORNIA
6 OCTOBER 27, 1960

7 PARTICIPANTS:

8 THE COMMISSION:

9 Messrs. Alan Cranston, Controller, Chairman
10 Glenn M. Anderson, Lieutenant Governor
11 John E. Carr, Director of Finance
12 F. J. Hortig, Executive Officer

13 OFFICE OF THE ATTORNEY GENERAL:

14 Mr. Jay L. Shavelson, Deputy Attorney General

15 APPEARANCES:

16 (In the order of their appearance)

17 Mr. E. J. Guidotti
18 Member, Sonoma County Board of Supervisors

19 Mr. F. B. Sarles
20 Consulting Engineer, Sonoma County

21 Senator Richard Richards

22 Mr. J. Barton Hutchins, representing
23 Edwin W. Pauley

24 Reporter:

25 Louise H. Lillico
26 Division of Administrative Procedure

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(In accordance with calendar summary)

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1 MR. CRANSTON: The meeting will please come to
2 order.

3 In lieu of the raise for the Executive Officer that
4 has sometimes been discussed, we have a twenty-five year award
5 for twenty-five years of distinguished services for Frank
6 Hortig. I'd like to just briefly summarize what his quite
7 remarkable career has been with the State Lands Commission:

8 He first took temporary employment with the State
9 in the Division of Highways way back in 1930 and was there
10 again in '35 and '36. On July 25, 1935, he was appointed
11 engineering aid in the State Lands Division and was soon
12 assigned as a trouble shooter at the Huntington Beach Tide-
13 lands Oil Field, thus his continuous service has been linked
14 with that vital and important field.

15 On July 16, 1940, he was assigned by the State Lands
16 Commission to the supervision of all field operations for the
17 State Lands Division. In November 1950 he was appointed in
18 the just-then-established classification of Mineral Resources
19 Engineer, as head of the Mineral Resources Section. He
20 served from the period January 8, 1954 to April 3, 1956 as
21 the head of the Mineral Resources and Civil Engineering Sec-
22 tions of the Division.

23 On March 11, 1957, he was appointed Assistant
24 Executive Officer of the whole Lands Division and on July 15,
25 1957 he was appointed as Executive Officer of the State Lands
26 Commission and Chief Administrative Officer of the State Lands

1 Division.

2 He achieved his twenty-five years of service on
3 March 10, 1960, and in keeping with the slowness with which
4 the government moves, it took us until this date to get
5 around to give him the award.

6 He served in the armed services, U. S. Navy, during
7 the period '43 to '46, and was released to inactive duty with
8 the rank of Lieutenant, subsequently promoted to Lieutenant
9 Commander.

10 The growth of the activities of the Lands Division
11 during the time that Frank has served has been truly remarkable.
12 In the period from '34 to '35 to the present, the staff has
13 grown from nine employees, with a budget of \$31,000 and with
14 revenues remitted to the treasury of \$292,000 in that first
15 year (only \$292,000 coming to the State); at the present time
16 we have 104 employees, budget of \$924,000, and, most importantly,
17 revenues accruing to the State of over \$16,000,000 in the last
18 year, which is sort of an average figure, I believe. During
19 the time when he was serving as Executive Officer, the posi-
20 tion he presently holds, the income record for all time was
21 realized in '58-'59, when \$75,000,000 was remitted to the State
22 of California.

23 At this time it is a pleasure to me to award Frank
24 this pin and also this certificate honoring him for his
25 distinguished service to the State of California over many
26 years. This is signed by Governor Brown, by Lieutenant Governor

1 Anderson, by John Carr and myself, and by Frank Jordan.
2 Frank, it's a pleasure to give this to you and more to work
3 with you. Thank you very, very much.

4 By a sheer coincidence, which I can't quite believe,
5 Frank's wife Helene is in the audience. Helene, would you
6 stand up? (Applause) I think she does honestly believe it
7 is a coincidence, but somebody must have guided her to this
8 room on this occasion since it is the first time she has
9 attended a State Lands Commission meeting.

10 Thank you very much, Frank.

11 MR. HORTIG: Thank you. If I may, Mr. Chairman - -
12 from the development statistics which you have cited it must
13 be apparent that there have been many challenging opportunities
14 during those years, which have formed the basis of a very
15 interesting career for me. However, I hasten to assure the
16 Commission that the quantity and complexity of technology and
17 administrative problems of the Commission remaining unsolved
18 are increasing rather than decreasing, so there is still an
19 abundant supply for the future. Particularly, I wish to thank
20 the Chairman for his very kind comments and the members of
21 the Commission individually and collectively for their guid-
22 ance and cooperation.

23 MR. CRANSTON: Thank you very much, Frank. We will
24 now proceed with the regular calendar.

25 The first item to come before us is Item Classifi-
26 cation 1 for permits, easements, and rights-of-way to be

1 granted to public and other agencies at no fee, pursuant to
 2 statute. The first is to J. O. Archibald -- dredging permit
 3 in Redwood Creek, San Mateo County. Is there any discussion
 4 of that item? (No response) If not, we move to (b) -
 5 Applicant Imperial Beach, the City of -- structure permit for
 6 a rock-mound groin, T & S lands of Pacific Ocean, San Diego
 7 County; then item (c) - Sacramento County Department of
 8 Public Works - a dredging permit.

9 If there is no discussion on any of those items
 10 a motion for approval is in order.

11 GOV. ANDERSON: I'll move it.

12 MR. CARR: Second.

13 MR. CRANSTON: It has been moved and seconded to
 14 approve them and it is unanimously so ordered.

15 Item Classification 2 -- Permits, easements, leases,
 16 and rights-of-way issued pursuant to statutes and established
 17 rental and fee policies of the Commission: Number (a) -
 18 Leo J. Nolan -- a ten-year ark site lease in Petaluma Creek,
 19 Slack Point, Marin County. If there is no comment, we will
 20 move on.

21 MR. CARR: I'd like to ask a question about this,
 22 Mr. Chairman. How many of these ark sites are there, Mr.
 23 Hortig?

24 MR. HORTIG: In round numbers, Mr. Carr, probably
 25 fifty. There will be more in the near future because a
 26 series of similar leases are being completed for areas that

1 constitute trespasses on State lands in Mare Island Straits,
2 where people built cottages and recreational sites in error
3 because of lack of certainty of the subdivision boundaries --
4 which were only settled finally by the Superior Court in the
5 county after the structures had been built and it was found
6 that at least a portion of the structures were on State lands.
7 For those occupancies, a series of leases are being negotiated
8 some ten or twelve at the last meeting -- and there will prob-
9 ably be more presented to the Commission for approval in the
10 next and other meetings of the Commission.

11 MR. CARR: Mr. Chairman, there is a great deal of
12 activity in Marin County on the development of these shore
13 lines and I am wondering if the Planning Commission of Marin
14 County has said anything about these things or knows about
15 them, because they are thinking of development as in Newport
16 Beach. I am wondering if this series of leases might be
17 important.

18 MR. HORTIG: Mr. Carr, the staff agrees this is not
19 the way to plan. In all of the instances where ark sites
20 have been brought to the Commission for approval, these have
21 constituted a lease for a structure that has been on the
22 property for many years. In the original series of ark sites
23 leases which were on Corte Madera Creek, which the Planning
24 Commission hasn't quarreled with, these were completed in 1942
25 to cover some ark sites which had been occupied for thirty
26 years before, without any revenue to the State.

1 MR. CARR: Mr. Chairman, I am familiar with that
 2 area there and I have no personal interest in it except from
 3 the standpoint of the development of the area. If this ark
 4 or other arks have been there fifteen years (and I can remem-
 5 ber some of them are there for thirty years), why should we
 6 extend this for ten years? Why don't we extend them for one
 7 year and let the Planning Commission of Marin County get into
 8 this, find out what the termination dates of these leases
 9 are, because they might have a much better development in
 10 that area. I think ten years is too much of an extension.
 11 This one ark site lease (and we are only talking about one)
 12 might upset an orderly development of a mile of shore line.
 13 I wouldn't vote in favor of extending this lease ten years.
 14 I would vote in favor of extending it one year, until the
 15 county can get into it.

16 MR. CRANSTON: Do you wish to make an amendment to
 17 that effect?

18 MR. CARR: Yes.

19 GOV. ANDERSON: I'll second it.

20 MR. CRANSTON: It has been moved and seconded to
 21 change it m (a), to change the lease extension from ten years
 22 to one year, and the change is approved unanimously.

23 MR. CARR: And I would suggest this be referred to
 24 the Planning Commission of Marin County and see what they
 25 have to say.

26 MR. HORTIG: Mr. Chairman, may I ask Director Carr

1 would it be appropriate for the staff to consider this in
2 effect a policy in connection with all renewals for ark site
3 purposes?

4 MR. CARR: I would say so. That land is too valuable
5 to put it out for \$80 a year for one site which might impede
6 an orderly and proper development, might upset the development --
7 and the State needs the money.

8 GOV. ANDERSON: The policy is not this -- but the
9 policy is that the local planning commission have a chance to
10 study it first.

11 MR. CARR: We might furnish them with the termination
12 dates of these leases, so they may consider it. Charge them a
13 suitable fee

14 MR. CRANSTON: Are there any comments on this?
15 (No response).

16 We move, then, to item (b) Pacific Gas and Electric
17 Company - 49-year gas pipe line easement, Whiskey Slough,
18 San Joaquin County. Any comments on that? (No response) If
19 not, item (c) - Shell Oil Company -- modification of submarine
20 geophysical exploration permit in Santa Barbara, Ventura, Los
21 Angeles, Orange and San Diego Counties to provide for use of
22 additional types of explosives.

23 MR. CARR: I'd like to hear the staff comment on
24 that, Mr. Chairman.

25 MR. HORTIG: Mr. Carr, Shell Oil Company currently
26 holds two valid geophysical exploration permits issued by the

1 State Lands Commission. The one issued later in point of
 2 time arrived when the technology, the approval of Fish and
 3 Game Commission for using alternate types of explosives
 4 (alternate to black powder) had been agreed upon; so the
 5 earlier permit is restricted currently to the use of black
 6 powder, and inasmuch as the time has arrived for renewal of
 7 application of the permit term, it was felt desirable that the
 8 older permit be modified to update it to coincide with the
 9 latest type of permit issued by the State Lands Commission.

10 MR. CARR: Does this latest type of explosive offer
 11 any additional hazard, any different hazard, to the marine
 12 life than what has been used -- black powder?

13 MR. HORTIG: Not in the opinion of the State Fish
 14 and Game Commission, within the limits prescribed by the
 15 State Fish and Game Commission.

16 MR. CRANSTON: Moving to item (d) -- L. B. Spaulding
 17 et al - termination of mineral extraction lease, San Diego
 18 County; operation no longer economically feasible. If there
 19 is no comment, we will move on to item (e) - Spight, Lindsey,
 20 d.b.a. Diablo Communication Center -- Sublease to Central
 21 California Educational Television of portion of a lease of
 22 school lands, Contra Costa County, to install two-way micro-
 23 wave relay station. Hearing no comment, we move to item (f) --
 24 California Electric Power Company -- 49-year easement for
 25 overhead electric power transmission line, school lands Inyo
 26 County; item (g) California Interstate Telephone Company --

1 49-year pole line easement.

2 MR. HORTIG: Mr. Chairman, if I may interrupt at
3 this point, items (f), (g) and (h) represent the completion
4 of work on applications for right-of-way easements across a
5 section of vacant State school land which the Commission in
6 April of this year withheld from sale until such right-of-way
7 easements were completed and a portion of the land had been
8 arranged to be sold to the Division of Highways, Department
9 of Public Works, as will be detailed in the next following
10 item.

11 These, therefore, constitute a package elimination
12 of the title conflict problems which were to be resolved as a
13 result of the Commission's having withheld the sale of these
14 specific lands. However, as to item (h), which is part of
15 the sequence -- easements required by the trustees of Deep
16 Springs College -- counsel for the client is reported to be
17 on vacation and, therefore, his law firm has requested on
18 behalf of the client that action on item (h) be deferred until
19 the next meeting of the Commission.

20 MR. GRANSTON: May I ask in regard to item (h) --
21 the easements are for 49 years. Is this being done in such a
22 way that the State at the end of the 49 years would be in a
23 position to further extend those easements?

24 MR. HORTIG: No sir. The present statutes provide
25 that in anticipation of the sale of the balance of the land,
26 on which there is still an application pending, such land

1 would be sold subject to existing easements and at the end
2 of the 49 years, the control over the easement area would be
3 in the then holder of the surface.

4 MR. CRANSTON: Is the school being given all the
5 protection it could be given?

6 MR. HORTIG: Yes sir, and has accepted and is agree-
7 able to, and the counsel for Deep Springs School has expressed
8 complete satisfaction with the procedure here recommended;
9 and the deferment is requested only because he is, as I
10 stated, on vacation.

11 GOV. ANDERSON: Why would he want a deferment if
12 they are satisfied?

13 MR. HORTIG: The counsel who is satisfied is the one
14 on vacation. His law firm are unfamiliar with the problem,
15 therefore in an abundance of caution have asked for the defer-
16 ment.

17 MR. CRANSTON: A motion is in order for item (a)
18 as amended and through item (g).

19 GOV. ANDERSON: Is there any overlapping if we find
20 out the school was not satisfied with their portion of it,
21 with the grants of the 49-year leases to the California Electric
22 Power Company and Interstate Telephone Company? Would they
23 in any way conflict?

24 MR. HORTIG: No sir, and we have in addition com-
25 plete agreements from all parties that these sales are in
26 fact satisfactory to both the estate and the trustees of the

1 Deep Springs School.

2 MR. CARR: Mr. Chairman, I am just wondering ---
3 does this withholding of action on item (h) mean that any of
4 this work is being deferred another month? What is the effect
5 of withholding approval?

6 MR. HORTIG: Only the State Lands Commission approval
7 of the easements is being deferred. No work is being stopped.

8 GOV. ANDERSON: I will move it.

9 MR. CARR: Second.

10 MR. CRANSTON: Moved and seconded that item (a) as
11 amended through (g) be approved; so ordered.

12 Sales of vacant State school lands. All land sale
13 items here presented have been reviewed by all State agencies
14 having a land acquisition program and, unless otherwise indi-
15 cated, no interest has been reported by these agencies in
16 the lands proposed for sale. (a) Department of Public Works,
17 Division of Highways

18 MR. HORTIG: Mr. Chairman, this is the land sale
19 item referred to previously, representing a portion of the
20 land required by Division of Highways because they are already
21 occupying and have for years occupied the area for a highway
22 maintenance station. The procedure here recommended is satis-
23 factory to the Division of Highways. The Division is repre-
24 sented here this morning by their attorney, Mr. Pegram, and
25 the only non-standard feature with respect to the recommenda-
26 tion here is that these lands be sold in accordance with

1 standard Commission practice for a sale to a public agency at
2 the appraised value without the necessity of engaging in
3 competitive public bidding.

4 MR. CRANSTON: If there is no comment on (a),
5 item (b) - Grace M. Day.....

6 MR. CARR: Should we take these separately? I move
7 the approval of (a).

8 GOV. ANDERSON: Second.

9 MR. CRANSTON: Item (a) is approved unanimously.
10 Item (b) - Grace M. Day, bid for \$14,000.

11 MR. CARR: There are three parts to this, aren't
12 there, Mr. Hortig?

13 MR. HORTIG: (a), (b) and (c).

14 MR. CARR: 1, 2 and 3 on item (b). Does that call
15 for three separate actions because we have to confirm two
16 extensions, or all in one action? I move approval of (b)
17 with the three actions on page 16.

18 MR. HORTIG: With the resolution as stated, all
19 Commission action required will have been taken.

20 GOV. ANDERSON: Second.

21 MR. CRANSTON: Approved unanimously. Item (c) -
22 Anthony E. Gallo, bid of \$1,577.40.

23 GOV. ANDERSON: I'll move it.

24 MR. CARR: Second.

25 MR. CRANSTON: Moved, seconded and unanimously
26 approved. Then, Item Classification 4 -- Selection and sales

1 of vacant Federal lands: Item (a) State Park Commission,
2 Division of Beaches and Parks -- selection of 120 acres in
3 Santa Clara County; item (b) Curtis Mitchell Rocca -- selec-
4 tion of 640 acres in Shasta County, including sale to applicant
5 at appraised price of \$64,480. Motion is in order on those
6 two items.

7 GOV. ANDERSON: Move it.

8 MR. CARR: Second.

9 MR. CRANSTON: Moved, seconded and unanimously
10 approved.

11 Item 5 -- Recission of resolution in Minute Item 21
12 of 1/21/60; approval of negotiated sales price of \$75 per acre;
13 finding land not suitable for agriculture without artificial
14 irrigation; authorization for Executive Officer to issue patent
15 to Elinor H. Black for cash amount of \$238.50, covering three
16 plus acres of swamp and overflow survey, Tulare County.
17 Motion is in order on that item.

18 GOV. ANDERSON: Will you explain that?

19 MR. HORTIG: Mr. Chairman, the Commission will re-
20 call this particular sales item because it received particu-
21 larly large press notice, which represented that the Lands
22 Commission was selling valuable land for \$2.80 at the time
23 the action was authorized to be completed, whereas the 2.80,
24 or whatever the specific amount is, represented a calculated
25 difference of unpaid interest which might or might not have
26 resulted in a forfeiture of title to the lands. The prior

1 recommendation to the Commission for consummation of this
 2 transaction was based on an opinion from the Office of the
 3 Attorney General. Subsequent to this completion and prior to
 4 delivery of the patent to the land, further research in the
 5 Office of the Attorney General revealed a contra opinion as
 6 to authorization to proceed in the manner which had been pre-
 7 viously recommended. So, therefore, we are here today recom-
 8 mending that the prior authorization to sell for simply the
 9 amount of unpaid interest be rescinded, which payment does
 10 not constitute sufficient grounds for conveyance of the lands
 11 according to the latest opinion of the Office of the Attorney
 12 General, and instead it is being recommended that the lands
 13 be sold, authorized to be sold, to the same successors to the
 14 party in interest at a negotiated price -- to be sold to
 15 these parties in interest because the statutes authorize sale
 16 of lands of this type to actual settlers or their successors,
 17 and the parties in interest are the actual settlers and it is
 18 recommended that the land be sold at the negotiated price of
 19 \$238.50, thereby clearing title on lands on which the parties
 20 in interest and their predecessors had always held and for
 21 more than fifty years they paid taxes to the county in which
 22 they are located.

23 MR. CARR: I'll move approval.
 24 GOV. ANDERSON: Second.
 25 MR. CRANSTON: Moved, seconded and unanimously
 26 approved.

1 GOV. ANDERSON: Before we go to other items, on the
2 sale of lands what is the status, Mr. Hortig, of your program
3 of cross-checking all the sales with the other State agencies?

4 MR. HORTIG: As reported at the last meeting,
5 Governor Anderson, all land sales which are now brought to
6 the Lands Commission are brought only after all other State
7 agencies having land acquisition programs have screened the
8 proposed sales and indicated that they have no specific public
9 use which would be higher than the private sale for which
10 these lands are recommended.

11 GOV. ANDERSON: So we hold up the sales on most of
12 these lands during the period of checking. Now, would we
13 expect these lands to be put on the market as they are checked
14 in about the same speed as we had before?

15 MR. HORTIG: When the ultimate program which was
16 heretofore directed by the Commission for a full indexing,
17 classification and evaluation is feasible, then we will go
18 ahead with the full policy.

19 GOV. ANDERSON: When will that be?

20 MR. HORTIG: This is predicated on the study program
21 as to the availability and feasibility of using electronic
22 processing equipment in order to process tremendous volumes
23 of data. The program of study on the feasibility of this is
24 being conducted currently by the Organization and Cost Control
25 Division of the Department of Finance under Director Carr.

26 MR. CARR: May I comment on that? I share your

1 impatience. I think it is taking altogether too long to get
 2 this together and I will have a little consultation to see if
 3 we can't speed this up, because I think we need it. I hope
 4 to have something more encouraging to report prior to next
 5 meeting.

6 MR. CRANSTON: May I ask if you can all hear what
 7 is being said? Will each of you please move your mikes over
 8 closer?

9 We now go to the usual subject of Long Beach --
 10 Classification 6: Item (a) Pier "A", Fire Station, second
 11 phase; estimated subproject expenditure from 10/27/60 to
 12 termination, \$129,800, with \$27,258 estimated as subsidence
 13 cost. Any discussion on that item?

14 MR. HORTIG: By definition of "second phase" this
 15 immediately classifies the project as one in which the Com-
 16 mission has heretofore approved in principle, and estimates
 17 have now been developed so that a realistic estimate can be
 18 presented to the Commission as to the potential costs and
 19 they have been reported as a total of \$129,800, qualified to
 20 be expended from tidelands funds pursuant to Chapter 29, of
 21 which, as indicated, 21% approximately is estimated ultimately
 22 may be subsidence costs -- which will ultimately be allowed
 23 if and when final engineering review and audit by the State
 24 Lands Commission indicates that the expenditures are so
 25 qualified.

26 MR. CRANSTON: Item (b) is Back Areas, Piers A to

1 D; raise back area, berth 19; remove Harbor Department Admini-
 2 stration Office Building and Garage (second phase); existing
 3 approvals under first phase are sufficient to cover first and
 4 second phase costs.

5 MR. HORTIG: This is an informative item to report
 6 progress to the Commission and unique in the sense that in
 7 the first approval sufficient amount was approved to permit
 8 apparent completion, or at least estimated completion, of the
 9 operation; but to complete the Commission's records and to
 10 indicate that the Commission has been made aware of steps in
 11 the process, this item was included for information.

12 MR. CRANSTON: Item (c) - Town Lot subproject -
 13 Pump Station No. 1, First Street at Pico Avenue, second phase;
 14 estimated subproject expenditure from 10/27/60 to termination
 15 of \$35,000 with \$22,050 estimated as subsidence costs.

16 A motion is in order to approve those three Long
 17 Beach items.

18 GOV. ANDERSON: I'll move it.

19 MR. CARR: Second.

20 MR. CRANSTON: Moved, seconded and unanimously
 21 approved.

22 Item 7 -- Authorization for Executive Officer to
 23 issue grant deed at established fee of \$10 to Robert O. and
 24 Kathleen D. Acuff for mineral reservation made by State Con-
 25 troller on 11/29/46 in sale of escheated lands in Sacramento
 26 County. I'd like to ask, Frank, where that \$10 fee is

1 established -- by whom?

2 MR. HORTIG: By policy directive of the State Lands
3 Commission, which provides that on a determination in the sale
4 of escheated lands sold heretofore with mineral reservation --
5 if it is determined that the lands do not have, in fact, any
6 current known mineral value (and particularly with reference
7 to parcels of this type, which is a single building lot in
8 the City of Sacramento) that under those circumstances the
9 Commission will issue a deed, as authorized by law, for an
10 arbitrary fee of \$10.

11 MR. CRANSTON: Does that cover our administrative
12 costs?

13 MR. HORTIG: In these days of inflation, post the
14 time of determination of the policy by the Commission, the
15 answer is probably "barely."

16 MR. CRANSTON: Motion is in order.

17 GOV. ANDERSON: So moved.

18 MR. CARR: Second.

19 MR. CRANSTON: Moved, seconded and unanimously
20 approved.

21 Item 8 -- Approval of compromise settlement of
22 \$3,037 with Earl Snider as full payment to State for damages
23 occurring by reason of timber trespass on 40 acres of land,
24 Mendocino County.

25 MR. HORTIG: In timbering operations -- in timber
26 operators working on parcels which they believe legitimately

1 they have title to, and in areas where survey lines have be-
2 come obscured over the years or may never have been actually
3 run heretofore, it is extremely difficult to log precisely
4 and, even when everyone is doing it with good intention, not
5 to sometimes accidentally include someone else's trees.

6 This is what occurred in this particular instance
7 in the operation of a timber operator who skimmed a row of
8 trees, or rows -- how many we can't tell precisely without a
9 survey which would cost more at this time than the total value
10 of the problem -- and the timber operator has since had finan-
11 cial reverses. He has no independent means. It has been
12 determined independently that his financial insolvency is
13 factual and yet his son and brother have volunteered, for the
14 sake of the family, to enter into a compromise settlement with
15 the State to pay the State an amount of \$3,037 in settlement
16 of any damages which might be claimed by the State -- which
17 the Attorney General's office feels we could undoubtedly
18 secure a judgment for, but that the judgment would be meaning-
19 less in the sense that there could be no way to enforce col-
20 lection.

21 Therefore, it is recommended that as a compromise
22 this appears to be the most favorable recommendation we can
23 bring to the Commission because it is also the maximum amount
24 that the son and brother feel that they are willing to offer
25 the State in settlement.

26 GOV. ANDERSON: How often does this happen? Is

1 this a practice that is quite common?

2 MR. HORTIG: It is not too common. It happens quite
3 frequently with small, independent operators, as this gentle-
4 man was at the time that this trespass occurred.

5 G/V. ANDERSON: Is it the feeling that they do this
6 knowingly or unknowingly?

7 MR. HORTIG: No, the investigation indicated that
8 the trespass was accidental and that the gentleman in all good
9 faith at the time thought he was on his own land, otherwise
10 the staff would not here be recommending settlement rather
11 than litigation. With the major timber operators, this is not
12 a problem generally because out of an abundance of caution
13 they re-establish or establish survey lines, if they have not
14 been established, before they cut; and so, consequently, there
15 are relatively few occasions where there are trespasses by
16 major timber operators. An individual operation probably
17 nominally couldn't justify a survey line and the operator
18 proceeds and hopes he knows where the lines are.

19 There is still an area of doubt over this dividing
20 line over which this operator cut and, as I said, we have
21 survey estimate costs possibly running as high as \$20,000 to
22 determine precisely where this line was -- which might either
23 indicate that we should get less money or possibly a little
24 more money, but certainly not enough to justify a \$20,000
25 survey cost. The most economical and expeditious method of
26 clearing the record would appear to be to accept the settlement.

1 GOV. ANDERSON: I'll so move.

2 MR. CARR: Second.

3 MR. GRANSTON: Moved and seconded, unanimously
4 approved.

5 Item 9 -- Determination that plan and improvements
6 contemplated for certain granted T&S lands in Bodega Bay
7 would, if completed, constitute substantial improvement with-
8 in the meaning of the grant, and conditional approval of plan.

9 MR. HORTIG: Mr. Chairman, starting with 1959 legis-
10 lative grants of tide and submerged lands, the Legislature
11 uniformly added a condition that after ten years after the
12 grant the Lands Commission is required to make a study of the
13 operations conducted on the granted lands; and if the Lands
14 Commission can report that there have been substantial improve-
15 ments placed within the terms of the grant and in conformance
16 with the conditions of the grant, then the grantee will there-
17 after hold the lands. Failing in that, the lands would revert
18 to the State of California.

19 In 1959, the County of Sonoma received a second
20 grant of tide and submerged lands, of those tide and submerged
21 lands still owned by the State in Bodega Bay, with the special
22 reservation I have just reported, but also additional language
23 that if the county can propose a plan which the Commission
24 can review in advance -- which, again, in turn, if completed
25 would constitute substantial compliance -- the Commission may
26 give such approval and, of course, with such approval the

1 County of Sonoma is in a much better position to arrange for
2 financing and development.

3 The plans of the County of Sonoma for this operation
4 have been reviewed by the staff. They were presented by the
5 Board of Supervisors, representatives of the Harbor Commis-
6 sion for the County of Sonoma, and their consulting engineers;
7 and it is felt that the plans do constitute a base, which if
8 completed would constitute substantial improvement within the
9 meaning of subdivision (g) of Section 1, Chapter 1064 of the
10 Statutes of 1959, the granting statute to the County of
11 Sonoma; and, therefore, such approval at this time is recom-
12 mended.

13 If the Commission desires any further details on
14 the plan or an expression of the position of the County of
15 Sonoma, Supervisor Guidotti of the County of Sonoma, who is
16 personally familiar with -- and this is hearsay from him to
17 me -- and has been fighting for this thing for thirty-two
18 years, is in the audience, as well as the consulting engineer
19 for the Sonoma County Harbor Commission.

20 MR. CARR: Mr. Chairman, there has been quite a
21 little publicity about this development in Bodega Bay in the
22 papers this last weekend. I would be interested in taking
23 the time, if you would, to hear a report as to just what this
24 project is. I think it would be interesting to know this in
25 the light of the development of other lands of similar types --
26 whether we are going to develop our beaches and parks or

1 whether the counties are better able to do it. I am person-
2 ally of the opinion that the counties can do an adequate job.

3 MR. CRANSTON: Frank, who might make such a report
4 as Director Carr suggested?

5 MR. HORTIG: Mr. Guidotti, would you feel that your
6 engineer should make this report, or would you.....

7 MR. GUIDOTTI: I would prefer that our engineer
8 do it.

9 MR. CRANSTON: Did you hear Mr. Carr's comments?

10 MR. SARLES: No, I did not.

11 MR. CRANSTON: Mr. Carr, would you briefly state
12 what you would like to hear?

13 MR. CARR: Yes. I was up in the county over the
14 weekend and read some of the publicity in the papers -- there
15 was a map. I would like to know a little more about what
16 use you would put this to, who is going to pay for the devel-
17 opment, who is going to enjoy it, what revenue is coming from
18 it, and who gets the revenue.

19 MR. SARLES: The proposal, Mr. Carr, is set out in
20 plans which we have filed with your Commission. There has
21 been a proposal placed on the bond election to authorize the
22 sale of two million dollars' worth of bonds. This two million
23 dollars will provide considerable dredging in the harbor,
24 which will -- as you probably know, that harbor is a broad
25 expanse of water at high tide but at low tide there is very
26 little of it that is usable. It is necessary to do a very

1 considerable quantity of dredging in order to provide usable
2 deep water for the commercial fishing fleet.

3 MR. CARR: It doesn't say so here, but I believe
4 the paper stated the maximum depth to be dredged out was
5 twelve feet. Would you comment on that?

6 MR. SARLES: That is correct. It is anticipated
7 that the work can be done, if authorized by this bond issue,
8 coincidentally with a maintenance operation by the Corps of
9 Engineers. The Congress has authorized that expenditure for
10 the present fiscal year and they propose to award a contract
11 for maintenance, dredging and repairs to the entrance jetty.
12 It is felt that there will be considerable advantage to the
13 county to award their contract for dredging coincidentally
14 with that work, so that one organization can probably give us
15 a lower bid than they would if they had to assemble their
16 equipment and organization for a separate job. It is contem-
17 plated that this maintenance dredging will provide a deep
18 channel, not only for the existing commercial fishing fleet
19 which operates out of Bodega Bay, but for a very considerable
20 recreational development on the tidelands of the southeast
21 corner of the Bay.

22 We are now faced with the various problems of sani-
23 tation and water supply to Doran Park, a county-owned park,
24 which is well patronized and of considerable benefit to other
25 counties other than Sonoma County. Analysis of the use has
26 indicated that more people, perhaps, come from outside the

1 county to utilize that facility than do from the county itself.

2 We propose to provide sanitary facilities for the
3 area; we propose to provide potable water for the area; we
4 propose to provide dredged areas of deep water, that is to
5 twelve feet of depth, for the creation of marinas, boat-
6 launching ramps, facilities of that nature; we propose to
7 provide area which can be developed by commercial interests
8 for parking lots, restaurants, things of that type; and the
9 revenues from those will accrue to the County of Sonoma and
10 will be utilized for the retirement of the bond issue if it
11 is approved.

12 MR. CARR: Are these general obligation bonds of
13 the county?

14 MR. SARLES: That's correct.

15 MR. HORTIG: Mr. Sarles, may I supplement your com-
16 ment? There is also included within the plan, and there are
17 already negotiations which have been completed, which will
18 result in the location of a Coast Guard station within the
19 area of this development.

20 MR. SARLES: Coast Guard on Bodega Bay, that is
21 correct.

22 MR. CARR: Mr. Chairman, I move the approval of
23 this. I think as a matter of policy, where a county is taking
24 the initiative and developing these areas, this is a sound
25 policy. I'd move this approval of this item and not wishing
26 to commit the rest of the Commission I would say, as the

1 Director of Finance, I think it is a good policy. I think we
2 are going to get more recreational areas developed in usable
3 areas without obligation to the State if more counties will
4 do this.

5 GOV. ANDERSON: Second.

6 MR. CRANSTON: It is moved, seconded and unanimously
7 approved, and I think all of us join in commending you in
8 what you are doing in the county.

9 MR. SARLES: Thank you, gentlemen.

10 MR. CRANSTON: Moving on to Item 10 -- Authoriza-
11 tion for Executive Officer to take necessary action to affirm
12 State's sovereign ownership of the accreted lands waterward
13 of the ordinary high water mark established by the Commission's
14 survey of June 1941, bounding uplands owned by Coronado Beach,
15 Inc., on the ocean side of Silver Strand, San Diego County.
16 Any comment on this item?

17 MR. HORTIG: Mr. Chairman, at the ocean side of the
18 Coronado Peninsula, known generally as Silver Strand, and
19 where also is located the Coronado Hotel, the operators of
20 the Coronado Hotel, Coronado Beach, Inc., have now, as recently
21 as yesterday, submitted a recorded map, recorded in San Diego
22 County, which has in turn been submitted to the Assessor of
23 San Diego County as a basis for levying taxes, indicating
24 ownership of the surveyed lands to be in Coronado Beach, Inc.

25 The problem arises that the majority, if not the
26 entire area within that survey, by records of the State Lands

1 Commission is sovereign tide and submerged lands of the State,
2 filled by artificial accretion. So we are faced with, after
3 having reviewed this situation with the Office of the Attorney
4 General, diametrically opposite opinions by the State's attor-
5 ney and the State's technical staff and the staff and attorneys
6 for Coronado Beach, Inc., as to who owns these lands.

7 In view of the fact that, unless the State's title
8 to these lands is affirmed, Coronado Beach will undertake
9 improvements and capital expenditures on the land, it would
10 appear completely desirable and almost equitably necessary
11 that this question be resolved before any considerable money
12 is expended in operations on these lands. Therefore, it is
13 recommended that the Commission authorize the staff, in con-
14 junction with the Office of the Attorney General, to undertake
15 the necessary legal actions requisite -- probably in the form
16 of a quiet title action, to have in the record a judicial
17 determination as to the ownership of the contested lands.

18 MR. SHAVELSON: May I ask, Frank, are these tide-
19 lands in this area still owned by the State or have they
20 been granted to the City of Coronado?

21 MR. HORTIG: They are still owned by the State.

22 MR. CRANSTON: Motion is in order.

23 GOV. ANDERSON: So move.

24 MR. CARR: Second.

25 MR. CRANSTON: Moved, seconded, unanimously adopted.

26 Item 11 -- Authorization for Executive Officer to determine

1 date for and to publish notice that public hearing will be
2 held to consider factors for subsequent Commission determina-
3 tion of proposed oil and gas lease terms and conditions for
4 2,550 acres T&S lands in Ventura County.

5 MR. HORTIG: The Commission has heretofore author-
6 ized the publication of the notice required by the statutes
7 in those situations where the Commission may wish to consider
8 offering tide and submerged lands for lease, furnishing such
9 notice to any affected cities and counties. Such notice was
10 furnished to the people of Oxnard and to the County of Ventura.

11 The County of Ventura, in accordance with the
12 statutes, in turn has requested that a public hearing be
13 scheduled and be held with respect to what terms and condi-
14 tions would be proposed to be included in any lease to be
15 offered in that portion of the offshore Montalvo Oil Field
16 which the Commission has under study for future lease offer.

17 It can also be reported to the Commission that in
18 turn, for information purposes, both the city officials of
19 the City of Oxnard and representatives of the County of
20 Ventura may inspect other operations under lease from the
21 Commission, in order to see what is being accomplished in
22 fact in modern technology. This inspection will be made on
23 November 14th.

24 MR. CRANSTON: Motion is in order.

25 GOV. ANDERSON: I'll move it.

26 MR. CARR: Is there any discussion on this?

1 MR. CRANSTON: Is there any discussion on this
2 motion? (No response) Its approval is moved, seconded
3 and unanimously adopted.

4 Item 12 -- Approval of proposed budget for fiscal
5 year '61-'62 in the amount of \$1,179,064, and of establishment
6 of new positions of Associate Counsel and Senior Stenographer-
7 Clerk.

8 MR. CARR: I will move the approval of the budget.

9 GOV. ANDERSON: I will second it.

10 MR. CRANSTON: Approval of the budget is moved,
11 seconded and unanimously adopted.

12 Item 13 -- Report of status on major litigation --
13 informative, no Commission action required.

14 MR. HORTIG: Mr. Chairman, I have a supplement just
15 received, which is in the nature of a progress report from
16 the Office of the Attorney General.

17 As the Commission will recall, the resolution was
18 adopted at the September meeting expressing the concern of
19 the Commission with respect to the necessity for expeditious
20 resolution of legal questions which are unresolved in the
21 City of Long Beach, particularly with respect to the matter
22 of whether granted tide and submerged lands can legally be
23 committed to unit operations.

24 Following that resolution, I am happy to report
25 that the City of Long Beach did undertake filings of the
26 initial papers to initiate the legal actions, as was reported

1 to you by City Attorney Desmond at the last meeting would be
 2 done; and in addition thereto, the clerk in the Los Angeles
 3 office of the Supreme Court notified us on October 17th that
 4 the Supreme Court has determined that they will retain juris-
 5 diction in this proceeding as the court of original juris-
 6 diction. They have issued an alternative writ returnable
 7 January 9, 1961; directed that such writ must be served on
 8 the interested parties by October 27th and any written return
 9 must be filed on or before November 17, 1960 -- all of which
 10 I believe summarizes the fact that the court will have the
 11 question under active consideration, and we certainly hope
 12 expeditious decision, by January 9, 1961.

13 All the legal steps that can and should have been
 14 taken are now of record, have been taken. For any further
 15 detail, of course, if the Commission wishes it, as you
 16 gentlemen have already noted, City Attorney Desmond is in
 17 the audience this morning.

18 MR. CRANSTON: Any comments on this item, on
 19 which no action is required? Hearing none, I believe we
 20 move on to a supplemental item, which might be called 13-b,
 21 which relates to the form of oil and gas lease in Santa
 22 Barbara County.

23 MR. HORTIG: This appears on pages 39 and 40 of
 24 the calendar you have before you.

25
 26

1 MR. CRANSTON: Pages 39 and 40 of the calendar --
2 which amounts, first, to review of what has occurred since
3 March 24, 1960, when the Commission was informed that the
4 Shell Oil Company had nominated nine parcels of tide and sub-
5 merged lands for oil and gas lease development offshore Santa
6 Barbara County. There then follows a discussion and outline
7 of the few revisions which would occur in the lease form and
8 which amount to the only ways in which this lease would differ
9 from the adoption of the last Commission lease offer in 1958.
10 The final draft of the lease is attached as Exhibit I.

11 Section 6834 of the Public Resources Code provides
12 that whenever the Commission determines that lands shall be
13 leased for oil and gas a lease form shall be prepared by the
14 Commission; and then there is the following recommendation:

15 "It is recommended that the Commission approve
16 and adopt the form of oil and gas lease, attached
17 hereto as Exhibit I, as the basic bid-lease form
18 for the issuance of oil and gas leases on tide
19 and submerged lands in the area west of Gaviota
20 and extending to Point Conception in Santa Barbara
21 County, pursuant to Division 6, Public Resources
22 Code."

23 Are there any comments?

24 MR. HOPTIG: Mr. Chairman, before any other com-
25 ments or action by the Commission, and particularly for the
26 information of those members of the industry committee who
have cooperated with the staff, I should like to clear the
record on one item which we have not been able to discuss
heretofore, inasmuch as the particular calendar item before

1 you was not reproduced in its final form until last night.

2 At the time of last discussion with industry com-
3 mittees, there were certain proposals under consideration for
4 possible modification of the lease, and which it was agreed
5 by staff would be furnished to all interested parties for
6 advance review prior to recommendation to the State Lands Com-
7 mission. We have already heard some rumblings of concern
8 because no one received any advance copies for review.

9 As the calendar item here indicates, the areas which
10 we had under discussion for possible modification have been
11 eliminated in major part because the Office of the Attorney
12 General recommended this as the prudent thing to do, lacking
13 clear cut legislative authorization to include these modifi-
14 cations. Therefore, there is no modified language under con-
15 sideration here today remaining in existence, which might have
16 been discussed in advance with the committee and, therefore,
17 I would like to emphasize the point which you already made --
18 that there are minimum nominal and primarily modifications of
19 draftsmanship which are the essential variances in the lease
20 form proposed here this morning to the Commission, contrary
21 to the greater number of modifications which were presented
22 to the Commission for consideration at the meeting of September
23 27th - or 29th.

24 MR. CRANSTON: Does anyone wish to be heard?

25 GOV. ANDERSON: Could we be told what the changes
26 are -- the modifications?

1 MR. HORTIG: Yes sir. They appear on page 40 of
2 your calendar, Governor.

3 MR. CARR: Is there any objection to reviewing
4 these, this outline here?

5 MR. HORTIG: No sir, if you wish

6 MR. CARR: I think so. This is a public hearing.
7 For the benefit of those present it might be well to review it.

8 MR. HORTIG: The first modification proposed for
9 page 2, lines 28 through 30 of the draft as attached to the
10 calendar item, is identical with what was presented to the
11 Commission on September 29th and is a technical clarification
12 to be certain that the Exhibit A which is referred to in the
13 lease is recognized as being a part of the lease and is in
14 full legal language "by reference made a part" of the lease.
15 This is a clarification of draftsmanship as against the
16 former lease form as used.

17 Page 3, line 13, relates to proposed modification
18 relating to the manner of determination of the price of the
19 oil on which royalties shall be paid. Again, inherited
20 language from earlier leases was utilized in the 1958 draft,
21 which read that this price "shall not be less than the highest
22 price or prices in the nearest field." The "or prices" is
23 not only redundant, it creates an ambiguity -- it makes un-
24 specific, if there is such a term, what can otherwise be
25 obviously specific by restricting the language to referring
26 only to the "highest price" and that the relationship shall

1 be to the "highest price in the nearest field" producing oil
2 of like quality and quantity.

3 Page 8, lines 9 through 12, is again clarification
4 of the draftsmanship. Having previously, on page 2, made
5 Exhibit A an exhibit by reference

6 MR. CARR: What line?

7 MR. HORTIG: Page 8, lines 9 through 12 previously
8 referred to "Exhibit A attached hereto and by reference made
9 a part hereof." That language, having been moved to the fore
10 part of the lease, is now redundant and is stricken as a
11 repetition because in the first reference to Exhibit A in the
12 proposed lease form it is definitely and legally included
13 in the lease.

14 I should comment that the lease form with the modi-
15 fications we are discussing here has been reviewed - - its
16 present form is the form suggested for revision by the Office
17 of the Attorney General and the form in which it appears before
18 you gentlemen here this morning has been approved by the
19 Office of the Attorney General as to form.

20 Page 19, lines 12 and 17 - "6,000 feet" is substi-
21 tuted for the number "8,000 feet" as reported on September 29th
22 and this is no change from that time. To coordinate and give
23 optimum well spacing in relation to offshore structure costs
24 and the costs of drilling deep wells, the staff evaluation
25 indicates that 6,000 feet is a better transition point than
26 8,000 feet, which would modify the well spacing in that the

1 lease would now read that wells drilled down to 6,000 feet or
 2 less would have to be drilled one for every twenty acres; if
 3 they go over 6,000 feet, the minimum wells required to be
 4 drilled will be one to forty acres.

5 Page 25, lines 17 through 19, would be an addition
 6 to Exhibit C of the lease form. At the September 29th meeting
 7 it was proposed that the provisions with respect to the
 8 bidder's specification of bonus offered to be paid would be
 9 included within the lease form. The Office of the Attorney
 10 General found this to be possibly productive of, or could
 11 potentially be productive of, more ambiguities than it might
 12 eliminate; and suggested, instead, that the Exhibit C for
 13 specification of the cash bonus bid which has been utilized
 14 heretofore be continued, but in order to preclude any confusion
 15 as a result of modification of bids and, therefore, a difficult
 16 decision for the Commission to evaluate, that there be added
 17 a restriction that there be no modifications in the bidding
 18 by inserting the language:

19 "It is understood that no variation shall be made
 20 in this prescribed form of offer and that the
 21 insertion of any additional condition, qualifi-
 cation or provision hereon will invalidate the
 bid."

22 This constitutes the sum total of the proposed
 23 modifications from the requirements which, as indicated, had
 24 been previously adopted and utilized by the prior State Lands
 25 Commission in the last offer of tideland oil and gas leases
 26 in 1958.

1 MR. CRANSTON: Are there any questions, comments
2 or suggestions?

3 MR. CARR: I move the approval.

4 GOV. ANDERSON: second (unintelligible)

5 MR. CRANSTON: Approval is moved and seconded

6 GOV. ANDERSON: I didn't second it.

7 MR. CRANSTON: Senator Richards.

8 SENATOR RICHARDS: Mr. Chairman, gentlemen, my name
9 is Richard Richards, attorney-at-law, appearing in that
10 capacity and appearing to ask a few questions, if I may,
11 because I believe a question has been raised by virtue of
12 the last correction mentioned by the staff, to wit, page 25,
13 lines 17 through 19, with reference to Exhibit C, if that
14 is correctly interpreted. My question is: Is the change
15 thus made intended in the minds of the Commission, assuming
16 you adopt this change, to preclude as an effective matter
17 conditional bidding of the kind which was utilized in 1958
18 in related tidelands properties? May I ask that question be-
19 fore proceeding, if that be appropriate?

20 MR. CRANSTON: It is my understanding that this
21 language would have that effect, but I would ask Mr. Hortig
22 to comment.

23 MR. HORTIG: I will answer categorically, Senator,
24 this was the intent, and as to its legal sufficiency the
25 Office of the Attorney General is represented here today and
26 can comment, if you wish, on the theory of this language.

1 SENATOR RICHARDS: Well, I would like to do exactly
 2 that myself, because my appearance here, with the permission
 3 of the Commission, will be for the purpose of discussing
 4 policy, not just law. Law, of course, can either defeat or
 5 expedite the policy that you decide and I think this strikes
 6 directly at the root of policy itself.

7 MR. CRANSTON: I think there is one question we might
 8 ask of the Attorney General's representative -- if, in his
 9 opinion, insertion of such a provision is necessary under
 10 the law.

11 MR. SHAVELSON: Mr. Chairman, I'd like to answer
 12 that question perhaps at a little more length than you
 13 anticipated. We haven't decided that as a matter of law it
 14 is necessary to preclude conditional bidding. Our position
 15 is this: that we are opposed to a situation under which it
 16 is left uncertain as to whether or not conditional bidding is
 17 to be allowed. We think that it ought to be either speci-
 18 fically forbidden or, if the State Lands Commission decides
 19 that as a matter of policy it wants to allow conditional
 20 bidding and if upon further study our office in conjunction
 21 with the State Lands Division determines that it is legally
 22 and practically possible to set up precise terms governing
 23 such conditional bidding, then we suggest that such precise
 24 terms be inserted. If it's left uncertain as to exactly
 25 whether or not conditional bidding will be allowed and what
 26 sort of conditional bids will be allowed, we think that the

1 door is open for a great deal of confusion and a possibility
 2 that if a lot of people put in conditional bids and put in
 3 different priorities for different parcels, we would get into
 4 an almost hopeless confusion in trying to compare the differ-
 5 ent bids and determine who is the highest bidder, which could
 6 conceivably lead to litigation that would delay the granting
 7 of leases as to all bids or perhaps force the Commission to
 8 reject all bids.

9 So, therefore, our position is that either condi-
 10 tional bidding should be clearly forbidden -- which is the
 11 intent of the present language and what we thought was the
 12 policy consideration of the Lands Division -- or, if it is to
 13 be allowed, we would like further time to study the problem
 14 and see if we can evolve some workable terms for accepting
 15 conditional bids.

16 GOV. ANDERSON: Did not your office approve condi-
 17 tional bidding on the last awards?

18 MR. SHAVELSON: Yes, ultimately the conditional
 19 bids under the particular circumstances of the offers that
 20 were received in 1958 were approved. It happened that there
 21 was only one bidder that made conditional bids, so that it
 22 was easy to determine.

23 GOV. ANDERSON: But you didn't know that when you
 24 gave your approval, did you?

25 MR. SHAVELSON: Yes, when it was ultimately approved
 26 we knew what the circumstances were and we felt that under

1 those particular circumstances it could be approved legally.

2 GOV. ANDERSON: You mean the approval last time
3 was based on the fact that you only had one bid in this way
4 and if there had been more you couldn't have approved it
5 legally?

6 MR. SHAVELSON: Well, there would have been a
7 great deal more difficulty in evaluating the legal situation
8 at that time if there had been more than one set of conditional
9 bids.

10 GOV. ANDERSON: That sounds rather odd. I didn't
11 know your opinion was based on that fact. Your opinion, I
12 thought, covered even though there was more than one set of
13 bids.

14 MR. SHAVELSON: It didn't deal expressly with the
15 situation either way, but it was only intended to deal with
16 the specific situation it dealt with. It didn't mention
17 that particular circumstance, but we do feel that there is
18 at least potentiality of challenge if it is left ambiguous;
19 and even though we may feel it is legal and even though a
20 court should ultimately determine that it is legal, we think
21 that there is a potentiality of difficulty, legal difficulty,
22 if the situation is left uncertain.

23 GOV. ANDERSON: If it were the Commission's policy
24 to allow and permit conditional bidding, do you think it could
25 be written so there wouldn't be any legal question?

26 MR. SHAVELSON: We haven't gone into that in detail.

1 because we hadn't been asked to, but we will be able to let
2 you know if it is so determined.

3 MR. CRANSTON: Mr. Richards.

4 SENATOR RICHARDS: Thank you. I would only comment
5 on Mr. Shavelson's problem that, of course, there is a problem --
6 as his own office has recognized -- since 1958. It is a prob-
7 lem, as he himself says, which should be settled in policy,
8 which makes it a policy in the Commission rather than between
9 attorneys. I would, Lieutenant Governor, agree certainly that
10 the legal question would not rest with whether there was one
11 or more, but the practical question could rest on that; but
12 the law to the degree it has been expressed by the Attorney
13 General is contained in a July 23, 1958 letter from the Office
14 of the Attorney General on the question that arose ex post
15 facto following the opening of bids on this same general
16 group of property. At that time there was what we have
17 loosely termed "conditional bidding." At that time the ques-
18 tion was raised and at that time the Attorney General said
19 it was legal and proper, and as a result the State through
20 the Commission should act on it, and you did.

21 Now, this is again before us as we face opening of
22 new tidelands and I think it should be understood -- because
23 the term "conditional bidding" has a kind of strange ring
24 to it itself, the practical matter that faces us is the same,
25 it seems to me, as far as the State of California is concerned,
26 as when a group of us goes to an auction. As I say, I am not

1 talking law, but policy. If you have four or five people who
 2 go in to bid on a series of four or five clocks, a very wealthy
 3 man might be able to bid on all five clocks and outbid every-
 4 body else and take those clocks home. Most of us would want
 5 one of the clocks, fully aware we could not pay for all five.
 6 In order to get one, and if we lost the bid on number one, we
 7 would still have money in our pockets to bid on number two;
 8 and thus if the man with a lot of money pulled number one,
 9 we would have a chance against those who have a little less
 10 money and take home number two. And that is what happened
 11 in the 1958 tidelands. This points out that in the oil
 12 industry, as in the case of individuals, there are smaller
 13 and larger groups; but aside from fairness -- fairness is
 14 obviously on the side of the example I have given -- beyond
 15 fairness, and perhaps of greater importance to all of us, is
 16 the interest of the people of the State of California, the
 17 interest of the people represented by all of us -- you, the
 18 Attorney General, and myself -- in regard to getting as much
 19 money as we can from the tidelands bids.

20 How did conditional bidding work in 1958? The
 21 result is clear. If the opinion of the Attorney General had
 22 been against recognizing the Phillips-Pauley joint bid (which
 23 it wasn't -- it was in favor of it) which was a conditional
 24 bid; if the opinion had been the other way and been against
 25 it, the State would then and there have lost six million
 26 four hundred thousand dollars that we received -- the reason

1 being that this joint bid, called a conditional bid, was a
 2 very simple situation; this group went in and laid all the
 3 money they had on the line for one parcel, parcel "D"; if
 4 they got it, fine -- if they didn't get it, they were in line
 5 for parcels "A" and "E". And they did not get the first
 6 parcel and therefore they had stated (and the only condition
 7 in their bid was) "If we don't get that first parcel and our
 8 money is still around, we want our money on the other parcels."
 9 And their money resulted in the high bid for the State of
 10 California.

11 It seems to me, as Mr. Shavelson points out, you
 12 might possibly have practical items of confusion. I think
 13 it would be utterly foolish for any of us to adopt a policy
 14 on the basis of confusion which would preclude the State of
 15 California from getting as much money as it could possibly
 16 get and, incidentally, open up in all fairness not only to
 17 the deepest pocket but to everyone, allowing for cash on the
 18 line and allowing, incidentally, for more than one parcel to
 19 be put up at one time.

20 It is because of the adoption by the State -- and I
 21 make no comment as to whether this is right or wrong -- for
 22 some reason the State has concluded through Commission action
 23 and through your predecessors that instead of putting up one
 24 parcel of land at a time you want to put up more than one.
 25 It is only for that reason that we have the problem. If only
 26 one parcel were involved, there would be no problem -- you

1 and I bid against each other, one of us wins. The other man
2 around, who walks in day after tomorrow for another parcel,
3 knows how much money he has to bid because he knows what went
4 on the first bid. This is the practical manner, if the A. G.
5 wants to avoid problems. We are now faced with the problem
6 because of the policy of the State that there is more than
7 one parcel put up simultaneously. Therefore everyone here in
8 the oil industry has to consider this as a simultaneous situ-
9 ation and they can say "Let's go bid on all of them" if they
10 have unlimited money; but if you don't have unlimited money,
11 you have to be pretty analytical on which ones you bid. Even
12 that is all right if you allow the possibility of not bringing
13 in only those with a great deal of money, if you allow the
14 possibility of bringing them in by allowing them to say "If
15 I don't get "A" I might still get "B". In any case, the
16 highest bidder gets the parcel and that is in the interest of
17 the State that the highest qualified bidder gets the bid --
18 not some technicality that precludes him, but some policy
19 that allows him to bid.

20 I would refer again to the Attorney General's own
21 opinion -- which I have every reason to assume has not been
22 vitiated, has not been changed, has not been overruled by any
23 court -- and that opinion in the form of an advice letter
24 points out exactly the various contentions that I have been
25 making, first, that the basic test for determining a deviation
26 is substantial is whether it destroys or impairs the

1 competitive character of the bidding procedure; and this
2 cites various litigation. We don't want to impair the com-
3 petitive character of the bidding, to limit the number of
4 bidders. Any technicality would obviously do that.

5 To allow for what we call "conditional bidding" is
6 the reverse -- is to make possible competition in bidding,
7 which is what we want.

8 Further, the Attorney General's office points out
9 that the bid proposal prohibited deviation (that's the
10 original one in 1958) from its own specific requirements and
11 there was no deviation from this. The cash bonus offer did
12 not itself prohibit such deviation. Now that was in Exhibit
13 C. Exhibit C is still before you, but with one very sig-
14 nificant change -- the additional insertion of that one
15 short paragraph, the effect of which, as the staff has just
16 pointed out and the Attorney General has also asserted, is
17 to reverse the policy validated by the A. G. in the 1958
18 bidding procedure which resulted in more than six million
19 dollars which we otherwise would not have received.

20 What you would be doing here is important because,
21 if I may read again from this letter of the Attorney General
22 in 1958, "Assuming that the inserted contingency clause
23 departed from the Commission's procedure, there was a deviation
24 only from an administrative requirement, not from a statutory
25 procedure." And we all know, as attorneys, that the statutory
26 procedure has not been changed. Therefore, if this letter

1 was valid then, and I assume it was, it is valid now.

2 Again, we are determining basically not the deter-
3 mination of any attorney of any statute -- we are talking
4 about administrative procedure, which is your baby, which
5 puts it smack on the table here as to what is the intelligent
6 process in determining the procedure on these tidelands that
7 are going to be opened in Santa Barbara. After this is
8 opened, then is the time for you to decide to make a change
9 and stop putting up a lot of parcels all at once. You can
10 put up one at a time and you have plenty of time to think of
11 that; but in terms of policy on the opening of this land, as
12 to the limitation of the chances to the State of more money,
13 I think it would be a great mistake and I urge you as strongly
14 as I can not to make the changes on page 25, lines 17 through
15 19 and, if you will, face squarely the problem of recognizing
16 the utilization of conditional bids to allow bidders to come
17 in, so if they miss on number one they can come in on two.

18 MR. CRANSTON: Are there any questions?

19 MR. CARR: I do not know whether this is a proper
20 question to Mr. Richards, but I presume so. It has occurred
21 to me several times the simplest way to do this and the one
22 that would result in the most money in the State would be
23 to put up these parcels one at a time and I am in favor of
24 that. I am not in favor of conditional bidding, but I am in
25 favor of putting up the parcels one at a time and I think the
26 State would get more money.

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GOV. ANDERSON: I'll make my statement: I also believe they should be put up one at a time. If they are going to be put up in multiple fashion, I think we have to consider conditional bidding. If there is some way we can consider putting these up one at a time

MR. CARR: Isn't it within the purview of the Commission to determine we can put these up one at a time instead of all at one time?

MR. HORTIG: Definitely, Mr. Chairman. Both in response to Mr. Carr's question and for the further information of the Commission for your further consideration here -- and I believe with the concurrence of Senator Richards -- it is patently impossible to offer you gentlemen a complete all-inclusive one-paragraph summary of everything that was in the Attorney General's opinion in 1958. Having stated the impossibility, I will now proceed to attempt it nevertheless. I believe the point of substance for the Commission to recognize here and, as I say, I trust with the concurrence of Senator Richards, is that the Attorney General's opinion did state that the bids as received were not free from doubt as to their legality -- they could be defended in courts. There was, of course, no basis under which the Attorney General could write an insurance policy as to what a judicial determination might be, but that in view of all the other circumstances involved (which have already been referred to in general by Deputy Shavelson) it appeared that the solution to

1 the problem or to the dilemma was that the acceptability or
 2 rejection of the bids be considered as a policy matter by
 3 the State Lands Commission -- coming right back again to the
 4 question of the policy being under the complete cognizance
 5 and control of the Commission -- and the Commission make the
 6 election of the course to follow; and the Commission made the
 7 election of deciding to follow the course of accepting the
 8 high bids and awarding the leases thereon.

9 I think this underscores what Senator Richards has
 10 already indicated -- that the primary question here this
 11 morning is a matter of policy. Both Mr. Carr and Governor
 12 Anderson have touched on the policy. There is no statutory
 13 requirement and it would be within the purview of the Com-
 14 mission to determine to offer any lands from here on out
 15 one parcel at a time, thereby eliminating any problems for
 16 prospective bidders in the sense that they even had to think
 17 about conditioning the bid and happily eliminating any poten-
 18 tial problems for the staff in trying to evaluate any series
 19 of bids and give the report on which bid was in fact high.

20 I believe Deputy Shavelson has a supplementary
 21 statement.

22 MR. SHAVELSON: Yes. I'd like to clarify what I
 23 have said up to now and remark on the general nature of a
 24 letter advice from our office. All it is, is an opinion as
 25 to what we think the better legal view is. This was a letter
 26 written after the fact that the conditional bids had been

1 received. At that time we told the Commission that the
2 question was not free from legal doubt, but we felt the better
3 view would be to say that the bids were legal and we still
4 feel that they are legal bids, but the question wasn't free
5 from doubt. Now we are faced with the question before the
6 bids are solicited. All we are saying here is that we don't
7 think we should deliberately go forward and create a situa-
8 tion where there is any legal doubt and, furthermore, in 1958
9 had we received conditional bids from six or eight bidders,
10 each one giving a different priority to his various condi-
11 tions, I think the problem would have been a lot more difficult
12 than it actually was to resolve; but I want to also say, of
13 course, that we have no right and we are not trying to intimate
14 the better policy. All we are saying is that if conditional
15 bids are to be allowed, they should be allowed under precisely
16 defined criteria and not left in an ambiguous state, which
17 we think might be the situation if this additional language
18 had not been added.

19 MR. CARR: Mr. Chairman, ^{as} inasmuch/there is no motion
20 before the Commission -- I would withdraw my motion because
21 it had no second -- I move that we withdraw these parcels and
22 offer them one at a time with as much dispatch as possible;
23 and in commenting on this, I think it reduces the confusion,
24 eliminates the doubt of the legality, will result in more
25 money for the State of California, and I can't help commenting
26 on the emotional situation. This conditional bidding reminds

1 me too much of the sorority bidding in the University of
2 California -- where a girl puts in first, second and third
3 choices. If she doesn't get the first choice, she might find
4 herself wearing a pin all through her life, a pin she didn't
5 want, but she didn't want to go through life without belonging
6 to a sorority. I think we could spare these oil companies
7 this horrible ordeal.

8 MR. CRANSTON: I'd like to ask Mr. Hortig -- by
9 putting up these parcels one by one, would it necessarily
10 lead to more income to the State of California?

11 MR. HORTIG: Mr. Chairman, this objective reply
12 will require, of course, an advance prognostication as to
13 just how badly prospective bidders are going to scramble at
14 one particular time. I would think, certainly, that with
15 one parcel at a time to be evaluated, it could be given the
16 benefit of the full objective evaluation and consideration,
17 of using all the technical resources of any one bidder in
18 connection with that evaluation; so that, over all, probably
19 the bids would -- in the final analysis, one parcel at a
20 time would have individually received more scrutiny than in
21 an instance where numerous parcels are offered and therefore
22 even as bidders might, for financial reasons, have to condi-
23 tion their bids as outlined by Senator Richards, or feel they
24 must rather than selecting a parcel on which to concentrate,
25 they similarly patently not having limitless manpower resources
26 also have limits on their evaluation forces. This is one

1 factor in addition to the one Mr. Carr suggests the oil com-
2 panies would be spared -- this could be added to that category.

3 MR. CRANSTON: Does anyone representing anyone
4 other than or the same people have any other viewpoints to
5 present in regard to this general matter?

6 MR. HUTCHINS: My name is J. Barton Hutchins. I
7 am with Edwin W. Pauley. I just would like the record to show
8 that Mr. Richards appeared here today for and in behalf of
9 him and Mr. Richards talked to Mr. Pauley as late as fifteen
10 minutes ago about everything he was prepared to say. The
11 Pauley people are back of everything Mr. Richards says.

12 MR. CRANSTON: Mr. Hortig, I would like to ask
13 this. I know that all of us are eager to move forward in
14 actually opening these oil fields and in opening the bids.
15 This is a new matter that has come before us that the members
16 of the Commission have not had time to fully consider: first,
17 the matter of opening up one by one the fields; and, secondly,
18 the matter of conditional bidding. The Attorney General's
19 office hasn't had time to consider the matter fully and we
20 haven't had any opportunity to see how they would set forth
21 a conditional bid clause if they did put in one.

22 Since there are millions of dollars involved, I
23 don't think too great speed should be made. I wonder if it
24 would be possible to approve this, except for this two-fold
25 related question -- putting these up one at a time and the
26 matter of conditional bidding, without slowing up our final

1 schedule?

2 MR. HORTIG: No sir. Any deferment today or any
3 portion or any segment of what is proposed here today would
4 of necessity slow up the final schedule.

5 MR. CRANSTON: I did not derive from your answer to
6 me any clear-cut feeling as to whether we would get more money
7 on step-by-step. I think unless you have clear-cut feelings,
8 I would prefer to put this over. I think a deferment of
9 thirty days would be better.

10 MR. HORTIG: In my reply with regard to clear-cut
11 feelings, I had no intent to be coy and I think intuitively --
12 and I think this was certainly within the framework of the
13 example cited by Senator Richards -- if you had the same
14 number of bidders and possibly only one clock, there is pos-
15 sibly more enthusiasm with respect to the bidders convincing
16 themselves they want that one clock than if their attention
17 is distracted over five clocks. I certainly can't prove to
18 the Commission that this method would produce more money, but
19 I share the intuitive feeling that this might result in more
20 money.

21 GOV. ANDERSON: If we would adopt Mr. Carr's sugges-
22 tion on one bid and try it, if it looked all right on that one
23 continue in that fashion ...

24 MR. CRANSTON: Well, it would be an interesting
25 experiment. I think it is rather hard to predict what the
26 outcome would be and I, for one, would like to give it a little

1 more thought, consider the matter further, before we make a
2 decision.

3 MR. CARR: I would urge we put up one parcel for
4 bid as soon as possible. I think it has quite a bit to do
5 with our fiscal situation, our budgeting policy, and what
6 might happen along that line and as it affects our proposed
7 capital outlay in various directions. I would like to see
8 if we are going to lease these oil fields, I would like to
9 see us begin leasing. I don't like to see us put it off
10 thirty days. Thirty days is getting very close to the
11 Legislature.

12 GOV. ANDERSON: I am inclined the same way.

13 MR. CRANSTON: It is my feeling that in a matter
14 as important as this, where the bids may be high or low
15 depending on various aspects of the situation; where informa-
16 tion comes to light, perhaps, from one company to another on
17 the bid on the first parcel, which may have a great bearing
18 on bidding on other parcels in the same area, I would like
19 more time to consider all the ramifications and do not favor
20 action on the matter today. I think thirty days would be
21 worth considerably more money to the State. I would like to
22 cast my vote when I am more acquainted with this matter, since
23 I had no time to go into this.

24 MR. CARR: May I ask the Chairman what he proposes
25 to do in the next thirty days to arrive at a decision?

26 MR. CRANSTON: I would personally talk to a good

1 many people, avail myself of all information I could obtain. . .

2 MR. CARR: Would the Chairman be prepared to come
3 in with a decision in thirty days?

4 MR. CRANSTON: I certainly would.

5 MR. HORTIG: May I suggest, for the information of
6 the Commission, this would mean of necessity, as far as
7 determination of Lands Commission meetings, a possible decision
8 at the December meeting of the Commission because you gentlemen
9 have advanced the November date to November 15th, which both
10 for calendar closing and number of calendar days to elapse
11 is only a small portion of thirty days.

12 MR. CRANSTON: November 15th would suit me.

13 MR. CARR: Would we be prepared at that time to have
14 a recommendation from the staff? If we decide to put on one
15 parcel at a time, would we be in a position to decide which
16 parcel?

17 MR. CRANSTON: I think that would be a relevant
18 factor.

19 MR. CARR: In what schedule, Mr. Hortig, would we
20 be prepared to put out succeeding parcels? What would our
21 procedure be here -- what would be the timetable?

22 MR. HORTIG: Well, I am inventing the procedure as
23 I sit here, Mr. Carr, as you appreciate. It would occur to
24 me that if this is the policy route that the Commission desires
25 to develop to the fullest -- in the best interest of the State
26 to eliminate all the complications that have heretofore been

1 attributed to conditional bidding and to enable an operator
2 to evaluate his position with respect to future bids, as the
3 problem was outlined by Senator Richards -- it would appear
4 that once a sequential series of lease offers were made, that
5 they would have to be spaced so that a bidder, before being
6 raced with his next bid, would know reasonably well whether
7 or not he had a final stake in the prior bid, that he defin-
8 itely was not or likely was not the successful bidder in the
9 first lease before he would know he had his money available
10 for the second bid.

11 MR. CARR: That would certainly contemplate putting
12 out the second bid following the acceptance of the first bid,
13 otherwise there would be no point...

14 MR. CRANSTON: It would seem to me this would be
15 something the oil companies would like to express themselves
16 on to the Lands Commission -- would they like an hour, day
17 or week. I'd like to point out this might lead to leasing of
18 these fields in a much slower schedule than we anticipated.
19 If the oil companies want a slower schedule, that may mean
20 that we may in January not proceed to lease the whole field
21 as we would today; so I feel speed is not necessary today.
22 I would therefore suggest November 15th. It would give me
23 that much time to consider the matter.

24 MR. HORTIG: Considering all the procedural require-
25 ments and the necessity for bringing evaluated bids to the
26 Commission with the recommendations for offering a lease,

1 which is the first time that a series of bidders actually know
 2 whether or not they have been successful, it would necessitate
 3 a period ranging from a period of sixty days to possibly ninety
 4 days between parcel offers if they are to be offered by parcels,
 5 in a series.

6 MR. CRANSTON: So actually the result of this policy,
 7 if adopted, is that we would open these fields on a far slower
 8 schedule than if we proceeded to offer them all at once.

9 MR. HORTIG: This is not the sum total result, Mr.
 10 Chairman, for the sequential series, if they were all under
 11 the same procedure, could run on a schedule -- this could be
 12 of advantage to bidders -- if they were going to be sixty or
 13 ninety days apart. There would be an offer every sixty or
 14 ninety days, so that two or five years down the row there
 15 could have been actually more parcels leased than on the more
 16 spasmodic and larger leasing utilized heretofore.

17 MR. CRANSTON: The simultaneous opening of other
 18 scheduled areas as compared to several at a time would be
 19 the same. It seems to me there are many matters we can't
 20 analyze or spell out completely at the moment.

21 GOV. ANDERSON: Mr. Carr, my feeling is that I am
 22 perfectly ready to make a second to your motion, although in
 23 deference to Mr. Cranston's request for another twenty days
 24 to our next meeting I kind of feel this is what we should do.
 25 I am ready and we could pass the motion that we do them one
 26 at a time. I think that's the simplest and will make the most

1 money eventually, but I lean a little in going along with
2 Alan to the next meeting.

3 MR. CARR: I am perfectly willing to do that. I
4 am willing to do either one. Out of courtesy and deference
5 to our Chairman I wouldn't want to ram this down his neck,
6 but I want to call attention to this fact: I think an
7 orderly marketing of these oil reserves is a good thing for
8 the State of California and not being in the oil business I
9 am perhaps being impudent in suggesting this -- but having
10 had some experience in marketing bonds, if people are going
11 to buy this way, they are on notice; they have time for a
12 more thorough preparation and thorough evaluation and can
13 make up their minds how much they are willing to shoot. I
14 think the other smacks a little of the pool table and the
15 horse track, but inasmuch as you have not seconded my motion
16 it wouldn't embarrass me to let it die for lack of a second
17 and I am perfectly willing to withdraw -- whichever seems to
18 be most diplomatic under the circumstances -- and I hope on
19 the 15th we can get off the dime.

20 GOV. ANDERSON: I will be willing to second the
21 motion on the 15th.

22 MR. CRANSTON: Thank you very much for your
23 pleasant diplomatic relations. May I request that the
24 Attorney General's office give us, as far in advance as pos-
25 sible, what would be their recommendation on conditional
26 bidding if conditional bidding were to be something that the

1 Lands Commission decided was something that would be advis-
 2 able; and, secondly, I would advise that the staff and
 3 individual members explore, and industry give us their
 4 thoughts, if they will, on step-by-step opening of parcels
 5 versus opening several simultaneously, and recommendations
 6 as to the time that would be necessary between parcels if
 7 we go step-by-step. I would assume those would be the major
 8 issues.

9 MR. CARR: Mr. Chairman, I might say diplomatically
 10 that I have made up my mind on conditional bidding. I am
 11 not going to change it.

12 GOV. ANDERSON: I am agreeable that we put them up
 13 one at a time. If we have to put them up in a multiple man-
 14 ner, I would suggest conditional bidding because it brings
 15 more money to the State. At least you know our thinking,
 16 Frank.

17 MR. CRANSTON: I will be happy to leave everything
 18 in doubt by expressing no opinions. I believe we have
 19 covered all items on the agenda.

20 MR. HORTIG: One exception, Mr. Chairman, and that
 21 is possible consideration at this time of the date of the
 22 December meeting.

23 MR. CARR: May I ask, as far as the approval of the
 24 contract is concerned, with the reservation of this last
 25 paragraph referring to conditional bidding, can we consider
 26 that it would be in order to approve the contract and the

1 bid form?

2 MR. CRANSTON: Yes, with the exception of the
3 conditional bidding.

4 MR. CARR: With the exception of that last para-
5 graph referring to conditional bidding, which will come up
6 on the 15th.

7 GOV. ANDERSON: There were no objections on the
8 other portions.

9 MR. CRANSTON: Do you so move?

10 MR. CARR: Yes.

11 GOV. ANDERSON: Second.

12 MR. CRANSTON: So there is approval of the entire
13 contract, with the exception of the paragraph on conditional
14 bidding; and implicit in this, there is no decision as to
15 whether we go step-by-step or at once.

16 The date, time and place of the November meeting
17 is Tuesday, November 15th, ten a.m. in Sacramento. I would
18 prefer to leave the December meeting until then -- I don't
19 have my calendar with me. If there is nothing further to
20 come before us, the meeting is adjourned.

21 ADJOURNED 12:00 NOON

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CERTIFICATE OF REPORTER1
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I, LOUISE H. LILLICO, reporter for the Division of Administrative Procedure, hereby certify that the foregoing fifty-eight pages* contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the State Lands Commission in Los Angeles, California, on October 27, 1960.

Dated: October 30, 1960.

Louise H. Lillico

* pagination runs to 57, but in error there are two pages numbered "3", one of which has been numbered "3-A" - making a total of 58 pages of transcript.