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TRANSCRIPT OF
MEETING
of

STATE LANDS COMMISSION

SACRAMENTO, CALIFORNIA

SEPTEMBER 14, 1961

PARTICIPANTS:

THE COMMISSION:

Hon. Glenn M. Anderson, Lieutenant Governor, Chairman
Hon. Alan Cranston, Controller
Hon. Hale Champion, Director of Finance

Mr. F. J. Hortig, Executive Officer
Mr. Don Rose, Executive Secretary to
Lieutenant Governor Anderson

STATE LANDS DIVISION:

Mr. Kenneth C. Smith, Public Lands Officer

OFFICE OF THE ATTORNEY GENERAL:

Mr. Paul M. Joseph, Deputy Attorney General

APPEARANCES:

(In the order of their appearance)

IN RE: ITEM CLASSIFICATION 2 (g)

Mr. A. C. Warren, Real Estate and Right-of-way
representative, Standard Oil Company
of California, Western Operations, Inc.

Mr. Paul K. Home, Standard Oil Company of California,
Western Operations, Inc.

continued

1 APPEARANCES (continued)

2 IN RE: CLASSIFICATION 5

3 Senator Edwin J. Regan
4 representing Warren M. Gilzean

5 Mr. William Ripley, Department of Fish and Game

6 Mr. Curtiss R. Preffitt, State of California,
7 Department of Fish and Game, Game Warden

8 Mr. Ray Nesbit, Executive Officer and Coordinator,
9 State Wildlife Conservation Board

10 Mr. George Difani, representing Associated
11 Sportsmen of California and California
12 Wildlife Association

13 Mr. Graham Hollister, Assistant Secretary
14 of the Interior, United States of America

15 IN RE: SUPPLEMENTAL ITEM RE SANTA BARBARA AIRPORT
16 ANNEXATION

17 Mr. Stanley I. Tomlinson, City Attorney,
18 City of Santa Barbara

19 *****
20 *****

I N D E X
(In Accordance with Calendar Summary)

<u>ITEM CLASSIFICATION</u>	<u>ITEM ON CALENDAR</u>	<u>PAGE OF CALENDAR</u>	<u>PAGE OF CALENDAR TRANSCRIPT</u>
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1 PERMITS, EASEMENTS,
2 RIGHTS-OF-WAY, NO FEE

(a) East Bay Municipal Utility District	14	1	1
	15	3	1
	16	5	1
(b) United States of Am.	29	7	1

3 PERMITS, EASEMENTS,
4 RIGHTS-OF-WAY, LEASES,
5 FEE

(a) Warren H. Crowell	21	8	1
	22	10	1
	23	11	1
	24	12	1
(b) John A. Dick	25	13	2
(c) Globe Explor. Co., Inc.	17	14	23
(d) P G & E	5	15	3
(e) Richfield Oil Corp.	20	16	3
(f) Standard Oil	26	17	3
(g) Standard Oil	27	18	3

MOTION ON ITEM CLASSIFICATION 2 ----- 18

MOTION ON POLLUTION REPORT BY STAFF ----- 15-18

6 CITY OF LONG BEACH

(a) Back Areas, Pier A-D Raise Berth 19, Back Area, 2nd phase	1	20	19
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continued

I N D E X

(In Accordance with Calendar Summary)
continued

<u>ITEM CLASSIFICATION</u>	<u>ITEM ON</u>	<u>PAGE OF</u>	<u>PAGE OF</u>
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4 LAND SALES

(a) Vacant State School Land

(1) John D. Layman	9	22	} 19
(2) Richard Mednick, et al	3	23	
(3) Robt. Smith	4	24	
(4) William J. Swallow Jr	10	25	
(5) Paul R. Woods	11	26	

(b) Vacant Federal Lands

(1) George M. and Arthur E. LeDeit	2	27	19
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(c) Swamp & Overflowed Land

(1) V.P. Baker, et al	7	29	20
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MOTION ON ITEM CLASSIFICATION 4 ----- 20

5 Authorization for withdrawal application 051653 with Bureau of Land Management, rejection of application Warren M. Gilzean, etc.	12	34	20
MOTION ON ITEM CLASSIFICATION 5			64, 65, 66

6 Authorization to approve map of north property line PG&E along Sacramento River, vicinity of Pittsburg, and enter into agreement fixing boundary line	6	38	66
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7 Authorization to enter three preferential mineral extraction leases - Calif. Minerals Corp	19	41	67
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8 Proposed Oil and Gas Lease - Ventura County - Parcel 5	18	43	68
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9 Authorization to file action against Pacific Fluorite Co.	28	45	69
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10 Confirmation of transactions of Executive Officer	13	46	70
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Richard B. Greening
Standard Oil of Calif.

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I N D E X
(In accordance with Calendar Summary)
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11 Next meeting date			86
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13	46	70	SUPPLEMENTAL ITEM:		
14	1	1	30		70
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17	14	2			

1 GOV. ANDERSON: The meeting of the State Lands
2 Commission will come to order.

3 The first item on the agenda is Item Classification
4 1 - Permits, easements, and rights-of-way to be granted to
5 public and other agencies at no fee, pursuant to statute.
6 First applicant is Applicant (a) - East Bay Municipal Utility
7 District; Applicant (b) - United States of America. Is there
8 any motion on those first two items?

9 MR. CRANSTON: I move approval.

10 MR. CHAMPION: Second.

11 GOV. ANDERSON: It has been moved and seconded.
12 Is there any discussion? (No response) Carried unanimously.

13 Item 2 is permits, easements, leases and rights-of-
14 way issued pursuant to statutes and established rental poli-
15 cies of the Commission. The first applicant is Warren H.
16 Crowell -- assignment of partial interests in oil and gas
17 leases, Santa Barbara County. The first one is P.R.C. 2205.1
18 to Paul Appleby; second one is P.R.C. 2205.1 to A. E. Weidman;
19 and the third is P.R.C. 2207.1 to Paul Appleby; and the fourth
20 one is P.R.C. 2207.1 to A. E. Weidman.

21 MR. HORTIG: Mr. Chairman, before the Commission
22 proceeds with further consideration, might we refer back to
23 Item 1(b)? We have just received relative to that item a
24 letter from the Department of Public Works of the County of
25 San Luis Obispo, California, suggesting that there should be
26 further investigation and that on the basis of the information

1 which the County has they would feel they would object to the
 2 issuance of the permit -- which is now a letter of non-objection
 3 by the Commission. However, they realize that they could be
 4 overruled by the Defense Department if no other location exists
 5 for the testing, and the principal basis for their concern is
 6 an expression that the County wishes to be reassured that the
 7 tests will not result in any appreciable damage to the fishing
 8 grounds and that adequate protective measures are taken with
 9 the marine life offshore.

10 This is an area which is already covered by the
 11 statement of non-objection to the United States by the Depart-
 12 ment of Fish and Game, so this has been evaluated by the cogni-
 13 zant State agency and, therefore, it is felt that the action
 14 by the Commission here this morning is correct; but I wished
 15 the record to show that the objection had been received from
 16 San Luis Obispo County and had been considered on its merits,
 17 and that the problems raised by San Luis Obispo County are
 18 covered by the types of permits and investigations which have
 19 been completed heretofore.

20 GOV. ANDERSON: If there is no objection the record
 21 will so show.

22 Continuing on with Item 2, Applicant (b) is John A.
 23 Dick -- 10-year ark site lease on Pataluma Creek at Black
 24 Point, Marin County, effective October 1, 1960 at an annual
 25 rental of \$65. Applicant (c) is the Globe Exploration Company,
 26 Incorporated -- permit for conduct of submarine geophysical

1 exploration operations from 9/14/61 to 10/13/61; tide and sub-
2 merged lands in Suisun Bay, Solano County.

3 Applicant (d) is Pacific Gas and Electric Company --
4 amendment of legal description of 6.31 acres in Sacramento and
5 Solano counties covered by Lease P.R.C. 2539.1.

6 Applicant (e) is Richfield Oil Corporation -- modifi-
7 cation of submarine geophysical exploration permit P.R.C.
8 2765.1 (A)(B)(C), Santa Barbara, Ventura, Los Angeles, Orange
9 and San Diego counties.

10 Applicant (f) is permit for conduct of submarine geo-
11 physical exploration operations for the six-month period from
12 10/15/61 to 4/14/62, tide and submerged lands San Diego, Orange,
13 Los Angeles, Ventura and Santa Barbara counties. The applicant
14 was the Standard Oil Company of California.

15 Applicant (g) is the Standard Oil Company, Western
16 Operations, Inc. -- one-year lease of 81.16 acres of tide and
17 submerged lands in Santa Monica Bay, Los Angeles County, for
18 submerged pipe lines and tanker anchorage area, with provision
19 for new lease to be negotiated effective 9/14/62. Unadjusted
20 rental of \$8,680.29 to be in effect for one year, subject to
21 lessee making up deficit on basis of appraised value at time
22 long-term lease is entered into.

23 MR. HORTIG: Mr. Chairman, directing the attention
24 of the Commissioners to Item 2(c), on page 14 of the full
25 agenda it is recited in the recommendation: "It is recommended
26 ..." that authorization be given for the issuance of a

1 geophysical exploration permit "conforming to all operating
2 conditions (previously) established by the Commission."

3 The record should show that while all operating con-
4 ditions previously established for standard types of operations
5 permit approach of the shore line no closer than one-quarter
6 mile, in connection with the subject permit it is proposed to
7 waive this limitation in that there will be a small and limited
8 number of explosive shots discharged under the permit closer
9 than the one-quarter mile. The basis for the waiver is that
10 the Boards of Supervisors of the counties covering the opera-
11 tions adjoining this operation have heretofore authorized the
12 identical operations on the upland, right down to the water's
13 edge; therefore, there would be no useful purpose served in
14 limiting the approach to the shore from the water side, inas-
15 much as the operators have already been able to place shots
16 right down to the shoreline from the upland.

17 GOV. ANDERSON: Any further comments? (No response)
18 I have a question on Item 2(g) -- the one-year lease.

19 MR. HORTIG: We also have a further report on item
20 (g), Mr. Chairman.

21 GOV. ANDERSON: Maybe you better make your report
22 first before I ask the question.

23 MR. HORTIG: We have, as recently as yesterday, been
24 informed by the U. S. Army Corps of Engineers of the receipt
25 by the Corps of Engineers (not by the State Lands Commission)
26 of an objection by the City of Manhattan Beach, which adjoins

5
1 the area of the proposed pipeline easement here suggested,
2 the pipeline fronting on the City of El Segundo. The objec-
3 tions of the City of Manhattan Beach are concerned with pos-
4 sible contamination or despoilation of the beach by reason of
5 unloading, by oil operations, or tankage operations offshore.
6 The Office of the Attorney General has also informed us that
7 in view of the fact of observation of existing operations over
8 many years (and as you particularly, Mr. Chairman, are aware,
9 Standard Oil Company has had an El Segundo oil loading opera-
10 tion in El Segundo Bay), the Corps of Engineers are satisfied
11 that the conditions of concern to the City of Manhattan Beach
12 have not existed and will not exist in connection with the
13 proposed extended operation and, therefore, the Corps of
14 Engineers is going to grant the permit insofar as navigation
15 is concerned, after having received and considered the objec-
16 tion by the City of Manhattan Beach.

17 As I pointed out, the Lands Commission has not re-
18 ceived any such objection but I felt the Commission should be
19 aware that such objection had been made to the cognizant agency
20 controlling navigation interests, the Corps of Engineers, who
21 are going to proceed with the issuance of their permit.

22 Additionally, I believe it will be of interest to
23 the Commission that actually the existing pipelines and the
24 existing operations which have existed for years are located
25 closer to the City of Manhattan Beach than the proposed new
26 operation. In other words, the lease here proposed will be

1 located upcoast from the existing pipelines of Standard Oil
2 Company offshore at El Segundo.

3 GOV. ANDERSON: How much notification of this do the
4 communities receive on an application like this? In other
5 words, how did Manhattan Beach know about this application?

6 MR. HORTIG: The City of Manhattan Beach was noti-
7 fied in the first instance many months ago of an original
8 application by Standard Oil Company of California to locate a
9 pipeline which, far offshore, would have fronted on the City
10 of Manhattan Beach. The tide and submerged lands in front of
11 Manhattan Beach are ungranted State lands, but the City never-
12 theless filed objection to such location. At that time, then,
13 Standard Oil Company of California, in deference to the objec-
14 tion, filed a revised application -- which was again referred
15 to the City of Manhattan Beach for consideration -- indicating
16 the proposal to relocate the line so that it would not front
17 on Manhattan Beach, would front solely on the City of El
18 Segundo, again on ungranted tide and submerged lands; and it
19 is pursuant to this last revised application that the City of
20 Manhattan Beach submitted objections or a statement of concern
21 to the Corps of Engineers, which the Corps of Engineers feels
22 need not be of concern to the City in fact.

23 GOV. ANDERSON: Their concern was not so much that
24 it fronted on the City of Manhattan Beach -- their concern
25 was that there would be leakage, spillage, and so on, where
26 the oil would go on the beach?

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MR. HORTIG: That is correct.

GOV. ANDERSON: So technically, whether they move this boundary north of the existent boundary, isn't their prime objection, first, that they just don't want oil spilled along the beaches?

MR. HORTIG: That is correct and in connection with the actualities, over and above the indication by the Corps of Engineers that this has not been the case in the existent operations, under the proposed conditions it will not be the case from any extended operations.

GOV. ANDERSON: Whose responsibility is it to police this, to make sure that this oil isn't leaking out during the time of filling?

MR. HORTIG: The Corps of Engineers.

GOV. ANDERSON: I have been kind of chasing this problem for a long time. When I was in the city government, it was always the State; when I was in the Legislature, it was the State Lands Commission; now that I am in the State Lands Commission, it's the Corps of Engineers. Some day maybe I'll be in the Corps of Engineers and it will be somebody else.

MR. HORTIG: The State Lands Commission is involved in those conditions where the Lands Commission is the lessor for the conduct of an oil and gas lease development. In that event, by the lease contract itself the Commission provides, as contract conditions, that there shall be no pollution.

GOV. ANDERSON: What do we do to control it?

1 MR. HORTIG: We have continuous inspection of all o
2 oil and gas leases, but this does not include operations of a
3 type on a lease where a pipeline would be installed under a
4 permit compatible with other navigable installations, where
5 such permit is issued by the Corps of Engineers and the under-
6 lying land is the only thing leased by the Lands Commission fo
7 r occupancy.

8 GOV. ANDERSON: So with these pipelines we have no
9 responsibility to see whether they are leaking or not?

10 MR. HORTIG: We have moral responsibility.

11 GOV. ANDERSON: Do we have any beyond that?

12 MR. HORTIG: No sir, not the legal responsibility.
13 There are Federal anti-pollution statutes which also cover the
14 situation, which are administered by the U.S. Army Corps of
15 Engineers. Therefore, the situation is policed in practice by
16 the Coast Guard, who are more likely to detect offshore leakages
17 and these are in turn reported to the U. S. Army Corps of Engi-
18 neers.

19 GOV. ANDERSON: What would happen if the State Lands
20 Commission were given some authority in policing these things?
21 If we put these underwater lines, like at Santa Barbara, we're
22 going to have to pass that responsibility to the Corps of
23 Engineers or someone else unless we have some policing agency
24 on this.

25 MR. HORTIG: This could become a legal problem in
26 this sense -- In that ordinarily State legislation isn't

1 adopted in a field in which the Federal Government has entered
 2 fully, as the Federal Government feels it has in connection with
 3 the navigation control under the powers reserved to the Federal
 4 Government under the Constitution and with Federal statutes
 5 against pollution from any types of operations, which are in
 6 effect for all coastal waters of the entire United States.
 7 Similarly, of course, the State courts have held that munici-
 8 palities and counties cannot adopt either ordinances or whatever
 9 their form of regulation may be in any wise contravening or
 10 impinging on areas already fully occupied by statutes of the
 11 State.

12 GOV. ANDERSON: Can you see any reason why the State
 13 Lands Commission shouldn't go beyond the moral responsibility
 14 and do some actual policing of leakage on these pipeline loading
 15 areas and things of that sort?

16 MR. CHAMPION: What would we be doing -- reporting
 17 this to the Federal Government?

18 GOV. ANDERSON: No. I am trying to bring it a little
 19 closer to us than moral responsibility. If it isn't imagination,
 20 cities like Manhattan Beach protest usually after these vessels
 21 get closer to their beaches and they try to protest and don't
 22 know where to look, and can't get any help. They are always
 23 told that if it is from these vessels it is underground seepage
 24 and I'd like to see some of this responsibility come back to us.

25 MR. HORTIG: Mr. Chairman, might I suggest in connec-
 26 tion with consideration of a program as you have outlined it,

1 particularly for the benefit of the other Commissioners, it
2 might be in order to relate all the facts of the southern Cal
3 fornia situation, with which you are a little more familiar.

4 GOV. ANDERSON: We are now completing oil wells with
5 pipelines coming in and I am assuming we are going to expect
6 some other agency to police those.

7 MR. HORTIG: No sir. There is a double policing
8 under those leases issued by the State Lands Commission. We
9 have a policing responsibility under contract and, on the con
10 trary, the lessee could lose his lease because of pollution.

11 GOV. ANDERSON:
12 Why can't the same thing occur in this instance?

13 MR. HORTIG: Actually, the only portion of the type
14 of facility considered this morning that has an opportunity to
15 leak or drop any oil as a result of negligent operation would
16 not be the pipeline, which is located on State lands, but only
17 the loading hoses and other connections which are attached to
18 floating buoys -- which, again, are not under the jurisdiction
19 of the Lands Commission, but are under the control of the Cor
20 of Engineers as to navigation control.

21 GOV. ANDERSON: Couldn't they be brought under our
22 control before a lease is approved?

23 MR. HORTIG: As a matter of agreement by the lessee
24 as a matter of contract so negotiated, I would assume they do
25 They have not heretofore because of the control over navigati
26 interests and noninterference with navigation and anti-pollut
27 from industrial-type establishments (which this is) -- which

1 control is exercised by the U. S. Army Corps of Engineers.

2 Now, as to the petroleum industry's share of possibly
 3 contributing or proving the extent of negligence, or, happily,
 4 non-negligence -- the industry has heretofore supported an
 5 independant research study, which has developed methods for
 6 sampling this oil which arrives on the beaches, to the real
 7 definite concern of the citizenry. The samples can now be
 8 analyzed and it can be determined what their source is --
 9 whether from an offshore operation (from which we have had no
 10 evidence of spills), or from tankage, or from the offshore oil
 11 seeps which unfortunately do exist in southern California and
 12 in such location that when Nature disgorges a quantity of oil
 13 on the ocean floor it washes up on the beaches and there is no
 14 way to prevent this situation -- and El Segundo Bay offshore of
 15 Manhattan Beach is well known for this -- and it is impossible
 16 to distinguish the difference and have the citizenry understand
 17 the difference when Mother Nature puts a load of oil on the
 18 beach as distinguished from careless operations, which in
 19 these days are at a minimum.

20 If the Commissioners would care to have any review
 21 as to the background of the operations, the actual experience,
 22 the citations (if any) that have been issued against the exist-
 23 ing operations by the Corps of Engineers for pollution or
 24 spillage, the port captain for Standard Oil Company of Cali-
 25 fornia (here the applicant) -- the port captain being responsible
 26 for the operations and the one being the first one to hear as,

1 if, and when there is any spillage -- is with us here this
2 morning and could report to the Commission if you have any
3 questions in that direction.

4 GOV. ANDERSON: No, I personally haven't any ques-
5 tions in that direction. I have had the tour down there many
6 times and I have been shown the places where the tar and oil
7 is supposed to come out of. However, you can often tell the
8 difference when you are swimming on the beaches, when the tar
9 gets all over you, and the cities wouldn't continuously com-
10 plain if there wasn't something to it; and I would like to
11 bring the responsibility a little closer. I am not opposed to
12 giving this lease -- a one-year lease I understand -- but I
13 would like to see some way where we could bring the responsi-
14 bility of our agency to do something more than give moral sup-
15 port to prevention of this pollution.

16 MR. CHAMPION: As I understand it, didn't you say
17 we can do this contractually?

18 MR. HORTIG: Yes sir.

19 MR. CHAMPION: Well, why don't we explore it?

20 MR. HORTIG: This is with mutual consent by our
21 lessee -- but certainly this can be explored, as you suggest.

22 GOV. ANDERSON: There is also a question on the fee
23 involved. I would like to have you explain what the problem
24 on the fee is. They want a long lease but they are taking it
25 on a year basis until an agreement on the fee can be worked out.

26 MR. HORTIG: This type of operation, the extent of

1 the operation, and the period of time over which these lands
2 are desired to be leased present a rather complex series of
3 appraisal questions, and the applicant has the pipeline equip-
4 ment ready to go. If it is to be installed and placed in opera-
5 tion in the immediate future, this operation must be started
6 immediately before the winter surges in the ocean start; and
7 there already having been extensive delays during the time the
8 earlier objection by the City of Manhattan Beach was considered
9 and during the time that a new and revised application was sub-
10 mitted, the period was nevertheless still too brief in the
11 opinion of our staff to permit a full, objective appraisal
12 report on the area. Therefore, in order to bring it to the
13 Commission at this time in the form where an interim lease
14 could be issued while the actual appraisals are determined, it
15 was presented in this manner.

16 MR. CHAMPION: We could then be in a position of
17 issuing an interim lease while both this was being done and we
18 could be exploring the other problem.

19 MR. HORTIG: That is correct.

20 GOV. ANDERSON: One other question: The existing
21 submarine pipeline -- is that all going to be abandoned?

22 MR. HORTIG: No sir.

23 GOV. ANDERSON: In other words, this is going to be
24 an additional loading area?

25 MR. HORTIG: Actually, the location of the existing
26 line will be a standby for emergency peak capacities and times

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1 of any necessary maintenance on the new facility; but the use
2 of the existing lines will be less in the future by reason of
3 installation of the new line. Part of the problem, of course,
4 is that lines also have to go farther out in the ocean these
5 days to deeper water anchorage because of the continued produc-
6 tion of super and super-super tankers, which are turning out
7 to be the largest things afloat in the world, and larger
8 capacities are needed to permit operation from these super
9 tankers and even to permit these tankers to get close enough
10 shore to tie into an unloading line.

11 GOV. ANDERSON: I am just rather curious as to why
12 the other cities didn't protest. I am thinking of Redondo,
13 Hermosa - - were they notified, or was Manhattan Beach notified
14 only because it was the adjoining city?

15 MR. HORTIG: Of course, Manhattan Beach is the next
16 adjoining area to where the pipeline is to be located and if
17 there were any hazards expected,.....

18 GOV. ANDERSON: Were the other cities notified?

19 MR. HORTIG: I could not say whether the Corps of
20 Engineers notified them or not. The representative of Standard
21 Oil could possibly tell us. We did receive a statement of
22 nonobjection in general from the City of Los Angeles, recog-
23 nizing that the control conditions required in the leases by
24 the State of California and by the permits of the Corps of
25 Engineers were such that pollution and contamination of the
26 beaches would be prevented under existing statutes, rules and

1 regulations, and permit terms and conditions; and, therefore,
2 the City of Los Angeles has a statement of nonobjection in the
3 Commission's files to this operation. Even though they are
4 not the immediately adjoining landowner, the City of Los Angeles
5 does front on Santa Monica Bay at various places, notably the
6 Westgate addition on Santa Monica Bay, which is in the opposite
7 direction from El Segundo, where Manhattan Beach is downcoast;
8 but we do have this statement of nonobjection and the feeling
9 by the City of Los Angeles with respect to their beach program
10 in Santa Monica Bay that they are fully protected as long as
11 the requirements which the Lands Commission includes as standard
12 operating conditions in the leases and the surveillance of the
13 Corps of Engineers are maintained.

14 MR. CRANSTON: Mr. Chairman, I certainly share your
15 interest and I move that the staff thoroughly explore and imme-
16 diately report back to us on this matter of pollution.

17 GOV. ANDERSON: And also in new leases

18 MR. CRANSTON: That would be part of this.

19 MR. HORTIG: Mr. Chairman, if I may speak of a little
20 background on Mr. Cransten's motion, this also brings to mind
21 the fact that the pollution surveillance does not stop at the
22 point we have discussed this morning, but actually the opera-
23 tion of this and any other pipeline as an industrial facility
24 is also conducted under terms and conditions, rules and regula-
25 tions of permits issued by the District Water Pollution Control
26 Board for the area, under the State Water Pollution Control Board

1 and, last but not least, and acutely sensitive to pollution
2 and particularly in recreation areas, are the pollution facili-
3 ties of the State Department of Fish and Game. So that actually
4 already we have the Corps of Engineers, the Coast Guard, the
5 State Water Pollution Control Board, and the Department of Fish
6 and Game all exercising authority and necessitating nonpollution.

7 GOV. ANDERSON: We have some control that they don't
8 have and I think that rather than hope the Water Pollution Board
9 does something and somebody else does something, I think we can
10 do it here if we really want to.

11 MR. HORTIG: Under these circumstances, of course,
12 the broadest study and recommendation as to a program involving
13 all existent operations, as well as any suggestions for ampli-
14 fication in order to assure that there is complete and effective
15 pollution control will be undertaken by the staff, pursuant to
16 Controller Cranston's motion.

17 MR. CRANSTON: My motion was purposely broad so what-
18 ever areas necessary could be covered.

19 MR. CHAMPION: I think we ought to tell the staff
20 while we want a broad view, we also want it sharply to the
21 point Lieutenant Governor Anderson raised -- whether we can see
22 that this is done through our particular authority. We want
23 the broad question, but this is the particular question we are
24 interested in.

25 GOV. ANDERSON: Are you gentlemen seeking the floor?
26 Will you state your name and who you represent?

1 MR. WARREN: Mr. Chairman, members of the State Lands
2 Commission, my name is A. C. Warren, and I am the real estate
3 and right-of-way representative of the Standard Oil Company in
4 this application.

5 May I state that we have been operating these sub-
6 marine pipelines for nearly forty years. We have not had a
7 fracture of our lines for more than thirty years -- there has
8 been no fracture in a line. The line which we propose now,
9 and which is covered by our application, represents improved
10 construction, improved control in every manner and every way.

11 We are in full accord with working out some mutual
12 agreement, condition, whereby the State Lands Commission would
13 have concern and assurance as to the method of operation and
14 the control of any pollution. We are in full accord with that.

15 We would hope, please, that we be permitted to move
16 forward with our construction for the reason that with the
17 coming of the winter season (and we may have winter again in
18 California) the construction, should storms occur, would become
19 extremely difficult.

20 Now, the concern of the City of Manhattan Beach --
21 we are more than two miles, measured from the end of our terminal
22 line, more than two miles from the nearest point of their beach
23 property. Their concern is not grounded on fact but is more
24 concern as to the application itself. Actually, there will be
25 a safer condition of operation with a newer line, a stronger
26 line than we have ever had before. It represents the highest

1 type of engineering and construction. We will work completely,
2 as we have in the past, with the State Game Commission, the
3 Corps of Engineers, the Division of Beaches and Parks, and the
4 State. We are in full accord with working out this same agree-
5 ment with the State Lands Commission if it be your pleasure.

6 GOV. ANDERSON: Any questions?

7 MR. CHAMPION: I have none.

8 GOV. ANDERSON: Was there somebody else standing up
9 who wishes to make a comment?

10 MR. HOME: Mr. Chairman, members of the Commission,
11 my name is Paul Home. I am also with Standard of California,
12 and I second Mr. Warren's comments but wish to add this one
13 further point -- that it is our desire and hope that the Com-
14 mission will proceed at this time with the issuance of this
15 interim permit for a one-year period at least, during which
16 period of time we will work out with the State Lands Commission
17 and their staff such reasonable regulations and requirements
18 as may be in order to assure this Commission of the safe and
19 proper operation of any facilities which we place on such lease.

20 MR. CRANSTON: Mr. Chairman, I move approval of all
21 items under Classification 2.

22 MR. CHAMPION: Second.

23 GOV. ANDERSON: You have heard the motion by Mr.
24 Cranston, seconded by Mr. Champion that all items under Item
25 Classification Number 2 be approved. If there is no objection,
26 so ordered. Also the motion by Mr. Cranston, seconded by Mr.

1 Champion, that our staff report back at a future meeting was
2 carried unanimously.

3 Moving on to Item 3 -- City of Long Beach -- Approvals
4 required pursuant to Chapter 29, 1956, First Extraordinary Ses-
5 sion: Project (a) Back areas, Piers A - D; raise Berth 19,
6 back area (2nd phase). Estimated subproject expenditures from
7 9/14/61 to termination of \$149,700, with \$74,850 or fifty per-
8 cent estimated as subsidence costs. That's the only item.

9 MR. HORTIG: That's it.

10 MR. GRANSTON: I move approval.

11 MR. CHAMPION: Second.

12 GOV. ANDERSON: Any comment?

13 MR. HORTIG: No further comment beyond the calendar
14 item.

15 GOV. ANDERSON: No objection -- it is approved
16 unanimously.

17 Item 4 is land sales. All items here presented have
18 been reviewed by all State agencies having a land acquisition
19 program and no interest has been reported by those agencies
20 in any of the lands proposed for sale.

21 (a) Sale of vacant State school lands: Applicant 1,
22 Jehn D. Layman, bid \$7,360; item 2, Richard Mednick, et al,
23 \$6,320 bid; item 3, Robert Wallace Smith, bid \$7,680; item 4,
24 William J. Swallow, Jr., bid \$6,090; applicant 5, Paul R.
25 Woods, bid \$1,000.

26 (b) Is the selection and sale of vacant Federal lands.

1 The first applicant is George M. LeDelt and Arthur E. LeDelt;
2 bid is \$22,200;

3 And (c) is the sale of swamp and overflowed land in
4 Contra Costa County. The first one is W. P. Baker, et al, bid
5 \$7,500.

6 Any comments or questions on any of these?

7 MR. CRANSTON: I move approval.

8 MR. CHAMPION: Second.

9 GOV. ANDERSON: It has been moved and seconded all
10 of these be approved. If there is no objection, so ordered.

11 Item 5 is authorization for withdrawal of Exchange
12 Application No. 051653 filed with the U. S. Bureau of Land
13 Management and for rejection of application of Warren M. Gilzean
14 and for return of all deposits of applicant except \$5 deposit
15 fee, providing protestants appear before the Commission and
16 submit satisfactory evidence that such action is in the best
17 interests of the public; otherwise staff to be directed to
18 proceed with filing of an appeal with the Director of the U. S.
19 Bureau of Land Management in the usual manner. Mr. Hortig?

20 MR. HORTIG: Mr. Chairman, in view of the attendance
21 at the meeting this morning (which has already been noted to
22 you) of parties interested, with your permission I will read
23 the agenda item in order to set for full reference the essential
24 details that are to be heard by the Commission this morning.

25 On December 8, 1955, an application was filed with the
26 Commission by Warren M. Gilzean of Trinity County to acquire

1 certain vacant Federal land containing 57.99 acres.

2 On December 16, 1955, the Commission filed an ex-
3 change application with the United States Bureau of Land Man-
4 agement in accordance with the provisions of State and Federal
5 statutes, offering under the application sixty-plus acres of
6 State land within Trinity National Forest, Trinity County, in
7 exchange for the Federal land proposed to be acquired. At that
8 time the values of both the selected Federal and State offered
9 lands were approximately equal as verified by staff appraisal.

10 It is understood that the applicant, Warren M. Gilzean
11 held the subject land under Federal mining laws but because of
12 his inability to perfect title thereto directly from the United
13 States under a mining patent, he elected to apply through the
14 State Lands Commission, in accordance with the procedure in
15 effect at that time. Normally, lands which are acquired by
16 the State under this procedure have been sold pursuant to com-
17 petitive bidding in accordance with the rules and regulations
18 of the State Lands Commission governing the sale of State
19 school lands.

20 From the date of filing of the State's application
21 with the United States in December 1955, the matter has been
22 pending before the United States Bureau of Land Management.
23 The staff appraisal completed in 1955, as a basis of filing the
24 equal value exchange application, indicates that the land is
25 traversed by State Highway 299 and the Trinity River. Addi-
26 tionally, the report shows that approximately four and one-half

1 acres adjacent to the highway and on the bank of the Trinity
2 River affords an excellent potential commercial site. (These
3 are also shown on the exhibits in the Commission's calendar.)

4 A decision was rendered by the Sacramento Land Office
5 of the United States Bureau of Land Management on May 16, 1961,
6 rejecting the State exchange application. A copy of this deci-
7 sion is attached hereto. Also attached is a copy of the protest
8 by the State Department of Fish and Game and additional protests
9 are attached, and the tally as of this morning is a total of
10 eight protests submitted, as follows: By Assemblywoman Pauline
11 Davis of the Second District; State Department of Fish and Game,
12 Redding and Sacramento offices; Trinity County Sportsman's Assoc-
13 ciation, Weaverville; the Shasta-Trinity National Forrest of the
14 United States Forest Service, Redding office; the National Park
15 Service, San Francisco office; the Trinity County Planning Com-
16 mission at Weaverville; the Shasta-Cascade Wonderland Associa-
17 tion at Redding; and a Mr. Stanley K. Bishop of Carmel.

18 Additionally, Assemblywoman Davis has requested as
19 follows: "I respectfully request that my views be included in
20 the written record of this meeting," and she has written as
21 follows:

22 " I have been notified that the State Lands
23 Commission will hold a meeting at 9:30 a.m. on
24 September 14th in the State Capitol in Sacra-
25 mento to consider an appeal to the recent decision
26 of the U. S. Bureau of Land Management rejecting
State Exchange Application No. 74, S.W.O. 6242 -
Trinity County.

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" The land in question provides the only public campground within 15 miles either way along the Trinity River and furnishes fishermen with direct access to the Trinity River and supplies some of the need for wayside facilities, camping and picnicking. Since the economy of Trinity County, as well as other counties, is greatly dependent upon recreation, it is absolutely imperative that this land be retained in federal ownership to provide accessibility to recreationists.

For these reasons, I am opposed to the exchange of this parcel of land (described as 57.99 acres in Section 1, Township 33 North, Range 11 West, M.D.M., Trinity County) between the Bureau of Land Management and the California State Lands Commission; and furthermore feel that the recent decision of the Bureau of Land Management rejecting the application of the State of California for a land exchange in Trinity County should be upheld.

Sincerely yours,

Pauline L. Davis "

Several petitions (returning to the agenda item) were filed with the United States Bureau of Land Management, objecting to the disposal by the United States of the land under the State's exchange application. As with the objections filed with the State Lands Commission, these objections are based upon the fact that the area is desirable and suitable for public use and therefore should be retained under public jurisdiction in order that such use may be perpetuated.

The matter is submitted at this time for a determination as to whether the Commission considers it desirable to proceed with an appeal to the Director of the Bureau of Land Management or if the Commission should forego the filing of an

1 appeal and withdraw its application under the circumstances,
2 and in turn cancel the application of Warren Gilzean.

3 The applicant, Mr. Gilzean, is represented by State
4 Senator Edwin J. Regan, who is here this morning, and a copy
5 of this item was furnished Senator Regan and all organizations
6 and individuals who were listed in the attached decision
7 (attached to the Commission's calendars) in order that all
8 parties in interest would be advised of the Commission's con-
9 sideration of this matter.

10 Therefore, the recommendation is before the Commis-
11 sion for consideration (and hearing by proponents and opponents)
12 that it is recommended that the Commission withdraw its ex-
13 change application Serial Number 051653 filed with the Bureau
14 of Land Management and reject the application of Warren M.
15 Gilzean and direct the return of all deposits to the applicant
16 except the \$5 filing fee, if the parties of interest listed in
17 the decision of May 16, 1961, (that is, the decision of the
18 Bureau of Land Management) who have been notified of this
19 calendar item, appear before the Commission and submit evidence
20 to the Commission that the public would best be served by the
21 retention of the subject 57.99 acres in Trinity County in pub-
22 lic ownership. If the said parties do not appear before the
23 Commission or do not offer evidence sufficient to justify the
24 Commission's withdrawal from the transaction and cancellation
25 of the application of Warren M. Gilzean, it is recommended that
26 the staff be directed to proceed with the filing of an appeal

1 with the Director of the United States Bureau of Land Manage-
2 ment, Washington, D.C., in the usual manner.

3 GOV. ANDERSON: Now, the applicant, Mr. Warren M.
4 Gilzean, is represented here today, I believe, by Senator
5 Edwin J. Regan.

6 SENATOR REGAN: That is correct.

7 GOV. ANDERSON: Senator Regan, would you like to
8 state the case for Mr. Gilzean at this time?

9 SENATOR REGAN: I think I probably would be doing
10 it in reverse. I think under the form of procedure, unless
11 those who are objecting can make a satisfactory case here, I
12 think you should go on and process the appeal. However, if
13 you wish, I will be glad to present it -- because I think there
14 isn't any question of refuting these letters as being half
15 truths, except it is a good fishing stream. I personally
16 would like to hear some of the men who have written these
17 letters substantiate what they are saying here and then I
18 will have my inning.

19 GOV. ANDERSON: Then we will have the report of the
20 applicant later. I don't have all the people here (looking
21 through attendance slips) - - I have Ray J. Nesbit, Coordinator
22 of the Wildlife Conservation Board; I have Curtis R. Proffitt,
23 a State Game Warden; and Walter T. Shannon, Director, Cali-
24 fornia Department of Fish and Game. Are there any others who
25 wish to speak on this matter?

26 MR. DIFANI: George Difani, representing California

1 Wildlife Federation and Associated Sportsmen.

2 GOV. ANDERSON: Any others?

3 MR. HORTIG: Not that I know of.

4 GOV. ANDERSON: How do you think they should be
5 called, Frank? Does anyone wish to start off? Would you
6 state your name and who you represent?

7 MR. RIPLEY: I am Bill Ripley of the Department of
8 Fish and Game, representing Mr. Shannon, Director of the
9 Department. You have in the files a letter of June the 22nd
10 which sets forth most of the facts of the situation in refer-
11 ence to the rejection. I would like just briefly to call atten-
12 tion to several of the factors that are involved in this area
13 that have an important bearing on the conservation of the salmon
14 and steelhead resources of this area.

15 As has been brought out before, the nearest camp to
16 the area in question is about fifteen miles away, and the near-
17 est desirable camp of equal size and facility is located some
18 thirty miles downstream. That is located at Hayden Flat.

19 In this area we are talking about on the Trinity
20 River, approximately twenty-five percent of the total resources
21 is taken between Junction City and Helena. Now, the Bureau
22 of Land Management lands that are under consideration here are
23 located in the center of this area. This is an area of about
24 seven miles, encompassed within this general area between
25 Helena and Douglas City. This is a distance of about twenty
26 miles along the river and this piece of land is also in the

1 center of this. Fifty percent of the total take of steelhead
2 and salmon comes from this section of the river. Most of the
3 area from Douglas City and Junction City is not accessible to
4 the public -- not generally available to people who do not
5 have local knowledge.

6 There is another factor that has been added to this
7 situation and that is the building of the Lewiston Dam.
8 Formerly, approximately forty percent of the total catch of
9 this particular system was taken between the area of Lewiston
10 and Trinity Center. This will be shifted downstream, so we
11 have approximately ninety percent of the total fishery of the
12 Trinity system involved in this particular area.

13 Now, it is important that the people have access to
14 the resource, to harvest it. If there isn't access to the
15 resource, the resource will lie fallow and be unharvested.
16 This is one of the few spots of the total area we are talking
17 about where this salmon and steelhead can be taken. In magni-
18 tude, we are talking about some 30,000 fish -- of which approxi-
19 mately 5,000 are salmon, 30,000 steelhead, late steelhead
20 approximately 5,000, and the rest late trout. I am sorry - -
21 I read the wrong figures. That is angler days -- there are
22 some 30,000 angler days in this area, on which some 50,000
23 fish are taken in this general area.

24 With the construction of the dam we can anticipate
25 the area will become more important because the cool water
26 which will come from the dam at Lewiston will be advantageous

1 to the survival of both salmon and steelhead. Use of the
2 hatchery facilities being built at the Trinity Center area
3 will incur the actual production of fish. This will make more
4 fish available for the public and without access area for the
5 public to get in to the stream to fish and for camping facili-
6 ties for the general public that will utilize this resource,
7 the utilization of this resource will not be fulfilled.

8 The Department strongly recommends this property
9 stay in public ownership. We have with us Warden Proffitt if
10 you care to get any specific information on the area. Warden
11 Proffitt lives in Weaverville and is familiar with the use of
12 the area and general conditions existent in the area.

13 GOV. ANDERSON: Thank you. Any questions of Mr.
14 Ripley before we call on Warden Proffitt? (No response)
15 Warden Proffitt, would you like to state your name and who
16 you represent?

17 MR. PROFFITT: My name is Ray Proffitt, Warden for
18 the Department of Fish and Game.

19 MR. CRANSTON: Fish and Game?

20 MR. PROFFITT: Yes. I am here apparently if you care
21 to ask questions on the area. I have some photos I have taken
22 of the area that show the general area in question, is there
23 are any questions on that.

24 MR. HORTIG: The Commissioners also have photographs
25 attached to their agenda item of the subject area.

26 GOV. ANDERSON: Frank, do you have any questions?

1 MR. HORTIG: No sir, but might I suggest, Mr. Chair-
2 man, at this time for the presentation of the material with
3 respect to this situation, the question that the Lands Commis-
4 sion is to decide here this morning is going to revolve, I
5 believe, around determination whether in equity a pending
6 application for a land purchase, pending with the Commission
7 prior to adoption of a moratorium (at which time the Commission
8 directed the staff to process such pending applications to
9 completion), shall be processed completely so that all admini-
10 strative remedies that are available to the applicant will
11 have been utilized; or whether, at this stage of the proceedings,
12 the composite of the bases or feeling by the public and semi-
13 public agencies who are making presentations here today is such
14 that the Commission feels that the public interest would better
15 be served by terminating this application at this time.

16 Although the Commissioners certainly will go into the
17 situation and the details to the extent of their individual
18 interests, I don't feel the Commission is going to be consider-
19 ing and does not wish to consider this morning the individual
20 merits of Fish and Game requirements for recreational areas
21 and those of any of the other agencies that come along.

22 MR. CHAMPION: Why shouldn't we?

23 MR. HORTIG: You can, but I am not positive that the
24 detail of this is essential to your consideration of whether
25 the composite of the public agencies leads you to cancel the
26 application at this time or to proceed in equity with the

1 processing of the application in the normal channels, this
 2 application having been caught in the wheels of progress. The
 3 Federal policies are different today than they were in 1955
 4 when this application was filed. The application has been on
 5 file for six years with the Federal Government and, therefore,
 6 the Commission has the question whether the equitable rights,
 7 whatever they may be, that the applicant acquired by filing
 8 the application at the time should be pursued to the ultimate;
 9 or whether there is an overriding public interest represented
 10 by the composite total of the presentations made here this
 11 morning.

12 I did not wish to suggest foreclosing any presenta-
 13 tions, Mr. Champion.

14 MR. CHAMPION: Well, anything else would just be
 15 paper shuffling.

16 MR. HORTIG: The opinion of the Department of Fish
 17 and Game that this is essential, this is the part that the
 18 Commission considers. Whether Fish and Game's decision that
 19 this is essential because of "x" number of fish at a certain
 20 location - - I wanted to say the Lands Commission is not
 21 passing on that.

22 SENATOR REGAN: May I suggest - - assuming there is
 23 complete access to the river, do they still have their objec-
 24 tions? Say that the public has complete access. If they have,
 25 then I want to know what their objections are after that.

26 MR. CRANSTON: Mr. Chairman, before asking that

1 question, which might be an appropriate question to ask, I
 2 would like to ask a different question: If the right of appeal
 3 were granted through us at this time and there was the appeal
 4 to Washington, would the matter, if it was approved in Washing-
 5 ton, come back to us for consideration here or would it be
 6 closed?

7 MR. HORTIG: No sir. If the appeal to the Bureau of
 8 Land Management were to reverse the rejection of the local
 9 district office, then the lands after being listed to the State
 10 of California would still be subject to determination on a
 11 policy basis by the State Lands Commission as to whether they
 12 should be held for public ownership or be made available for
 13 private sale to the applicant. This is an area that is com-
 14 pletely under the control still of the State Lands Commission.

15 There is, of course, the alternative possibility
 16 that the appeal would be rejected, in which event the lands
 17 would continue automatically in public ownership under the
 18 jurisdiction of the Bureau of Land Management until the Bureau
 19 of Land Management made some other disposition of those lands.

20 MR. CRANSTON: If approved in Washington, the matter
 21 would come back to us for final consideration?

22 MR. HORTIG: Yes sir.

23 MR. CRANSTON: Let me ask you, then, is the situa-
 24 tion here that we are presently being asked to let the applicant
 25 have his day in Washington on appeal?

26 SENATOR REGAN: That's correct.

1 MR. CRANSTON: So as to the matter of what our
2 policy might be -- as to whether or not this might remain in
3 public domain -- is that a matter that would be more germane
4 if it were approved and given back to us? Then we would hear
5 from Fish and Game and from the applicant and what our policy
6 would be -- would it be more germane to decide it at that time?

7 MR. CHAMPION: To that I'd like to add just another
8 question and we can get them all answered at the same time:
9 By passing this on, does this become an appeal of the State of
10 California? In other words, are we representing a policy that
11 we are supporting this claim?

12 MR. HORTIG: It would be an appeal by the State of
13 California, Mr. Champion, but a normal appeal in the normal
14 sequence of events, as has been utilized many times in the
15 past by the State in accordance with established Federal and
16 State regulations. This would not establish a precedent.

17 MR. CHAMPION: I am not talking about a precedent.
18 I am talking about a policy. Is our action representing a
19 policy -- that this is the State's policy; we want to do this;
20 or are we, in effect, when it comes back -- if we change our
21 minds, are we in the position of reversing ourselves in State
22 policy?

23 MR. HORTIG: If I may essay a composite answer to
24 your question and Controller Cranston's, because your questions
25 are interrelated -- there has to be a cutoff point and as you
26 Commissioners are aware, as of May 24, 1960 the State Lands

1 Commission imposed a moratorium on acceptance of any further
2 applications for the purchase, exchange or selection of State
3 lands, to be followed by a staff report and a future policy
4 determination by the Commission as to an over-all State program
5 with respect to land disposition, and with the directive to the
6 staff that existent applications be processed to completion in
7 the normal course of events. If this appeal under this subject
8 application were to be processed, this would have been the
9 normal course of events but for objections which here have been
10 voiced.

11 The second phase, then, is while certainly it is not
12 improper to consider this here this morning, Mr. Cranston's
13 suggestion carries considerable merit in that a determination
14 of policy by the Commission is yet to come and possibly by the
15 end of this year, with respect to the total land disposition
16 program. Therefore, from the standpoint of timing the integra-
17 tion of the determination with respect to this parcel, as well
18 as all other pending applications, could probably be more
19 properly completed in the light of all the facts and recommenda-
20 tions when the over-all policy is determined; and this timing,
21 therefore, would be implemented by giving, as Mr. Cranston said,
22 (or could be implemented) by giving the applicant his day in
23 court with the Federal Government without either committing the
24 State to a new policy or committing the State to a policy to
25 continue on this basis or setting a precedent.

26 SENATOR REGAN: Mr. Chairman, I think if you want to

1 interrupt and let me make a presentation, on the basis of what
2 you say I think you will be satisfied as far as the State is
3 concerned.

4 GOV. ANDERSON: I think we should hear the other
5 people.

6 MR. CRANSTON: The question is whether we should hear
7 either side. I am not certain whether we should hear now or
8 in the future. The people are here and perhaps it is inconven-
9 ent to ask them to come back another time. Perhaps it would
10 be more proper if we can do this -- without any commitment of
11 the State, which I certainly wouldn't be prepared to do without
12 hearing all sides -- but if we can hear all sides with the
13 view that we are not setting a policy at this time, and review
14 it.

15 MR. CHAMPION: I think we would want to preserve it
16 in the record, so it would be clear we are not setting a policy.

17 GOV. ANDERSON: Frank, can this be done? The Bureau
18 of Land Management has now rejected our application. Now
19 what we would have to do would be to file an appeal to have
20 them reverse their action.

21 MR. HORTIG: That's correct.

22 GOV. ANDERSON: Now, how can you file something and
23 still remain neutral -- file an appeal to their action and
24 still say we are not involved?

25 MR. HORTIG: Only to the extent, Governor -- and
26 then we can have comment and further detail by Land Specialist

1 Deputy Paul Joseph here -- I believe the record could be pre-
2 served, and it would be Mr. Joseph's chore to preserve it,
3 that in this processing it is processing to complete the exer-
4 cise of all administrative rights and processing to completion
5 a pending application which had been pending for many years
6 with the State Lands Commission under a directive to process
7 to completion, whatever that may be, of the applications pending
8 May 24, 1960.

9 MR. CRANSTON: Could we hear from Mr. Joseph?

10 MR. JOSEPH: I am Paul Joseph, Deputy Attorney
11 General, Sacramento office, and I have a slight familiarity
12 with these public land matters. This apparently is an appli-
13 cation of the State under Section 8 of the Taylor Grazing Act --
14 an exchange for State public land of reserved Federal public
15 lands. The applicant applies to the State and the State applies
16 to the Federal Government, and this application has reached the
17 point where the United States Land Office at the lowest level
18 has rejected the application in the public interests.

19 Now, there is considerable doubt whether this is a
20 proper rejection on that ground by the United States Land
21 Office under Section 8 of the Taylor Grazing Act. The appeal
22 to be taken will be an appeal by the State of California. The
23 applicant to the State will have no part in the appeal at all,
24 although the State will be appealing on his behalf; and these
25 objections in the public interest and various other grounds
26 having been presented to the State, and the United States Land

1 Office must be cognizant of them, it would be my idea that if
2 the State Lands Commission begins an appeal here it will be
3 taking a policy on appeals.

4 When an application is received, there is an applica-
5 tion from someone to the State. The State Lands Commission has
6 no part in the approval or disapproval at that stage, but more
7 or less automatically the staff makes an application to the
8 United States Land Office. The first opportunity that the
9 State Lands Commission has to approve or disapprove the applica-
10 tion is when the application is approved by the United States
11 and it comes then to the State Lands Commission as to whether
12 the land will be accepted from the United States and the ex-
13 change gone through or not; or, in the case of rejection such
14 as in this case, this is the first opportunity of the State
15 Lands Commission to say whether it wants to go on or not to go
16 on with its application. It has never been given an opportunity
17 to say that before; and here I should think that the State Lands
18 Commission is determining its policy with respect to this
19 particular application at this time that is before it. If it
20 goes on with the application, I should think it is approving
21 the continuance of the application and if the application to
22 the United States Government is successful, the Lands Commission
23 will again have an opportunity to say whether or not the State's
24 applicant should obtain the land. But at this time, it seems
25 to me that there is a policy question involved -- whether the
26 State Lands Commission wants to go on with this thing or not.

1 GOV. ANDERSON: In other words, your feeling is if
2 we make the appeal then we will actually be taking a position
3 on the public policy?

4 MR. JOSEPH: It is my feeling, definitely.

5 GOV. ANDERSON: You don't feel there is any way we
6 can make the appeal and at the same time disassociate our-
7 selves from the application itself?

8 MR. JOSEPH: The State applicant is likely to have
9 some rights here in this thing if we go on with this thing and
10 the State gets the land.

11 MR. CHAMPION: We are also in the position of putting
12 something off which we are going to have to decide and I think
13 we have most of the parties here before us and the record here
14 before us today.

15 MR. HORTIG: With the addition, if I may venture to
16 comment on Mr. Champion's comment, Mr. Chairman, that the
17 over-all policy is yet to be considered and determined by the
18 Commission and the later phases of the current application are
19 certainly going to be an integral part of such final determina-
20 tion of an over-all policy and, therefore, the Commissioners
21 would have the problem -- if they are to make, in effect, a
22 policy determination on this subject today as a result of full
23 hearing and all, rather than proceeding with the appeal,
24 reserving what can be reserved in the record -- that such
25 policy determination of necessity would be on a piecemeal
26 basis; and it is a little difficult to forecast today how the

1 determination by the Commission would integrate or might not
2 reasonably integrate with the full policy determination for an
3 over-all land disposition program to be considered by the Com-
4 mission in the future.

5 MR. JOSEPH: May I say one thing more? I didn't
6 emphasize very much, but the State of California has not been
7 extremely successful with appeals of this type -- in these
8 cases, appeals from one of these exchanges. There is a pretty
9 good indication the State could be successful in the appeal
10 case because these considerations of public interest and so on
11 are supposed not to be relevant to the State application for
12 an exchange, but there has been, as Mr. Hortig said, somewhat
13 of a change in the public land policy of the United States in
14 the last few years and it has been detrimental to State appli-
15 cations; but if we go on orthodox grounds, the State should be
16 pretty successful in this appeal.

17 MR. CRANSTON: Mr. Chairman, it appears that whatever
18 we do now will have policy implications, so I gather we better
19 proceed.

20 GOV. ANDERSON: Any questions of the warden, Frank?

21 MR. HORTIG: No sir.

22 MR. CRANSTON: Do you have any statement to make?

23 MR. PROFFITT: That's just about it -- if there is
24 any questions to be asked.

25 MR. CHAMPION: Maybe some will be raised as we hear
26 testimony.

1 GOV. ANDERSON: The other one is Mr. Nesbit. Will
2 you state your name and who you represent, Mr. Nesbit?

3 MR. NESBIT: Yes. I am Ray Nesbit, the executive
4 officer and coordinator of the State Wildlife Conservation
5 Board, and the Board is responsible for a capital outlay pro-
6 gram for fish and game conservation, including access for
7 desirable public utilization of the wildlife resources. We
8 consider access as an important part of wildlife management.
9 In addition, the growing need for outdoor recreational oppor-
10 tunities and facilities to accommodate California's rapidly
11 mounting human population is so well recognized it hardly
12 requires mention.

13 One of the programs of the Board is to provide
14 angling access to inland waters of the State, including the
15 major rivers, lakes and reservoirs. To date more than seventy
16 of these access projects are in use or under construction.
17 These include such projects as all rivers, such as the Trinity,
18 which has an important salmon and steelhead run.

19 The Bureau of Land Management property that is the
20 subject of this State exchange application provides one of the
21 few good public accesses to the Trinity River in the general
22 vicinity of Junction City. I should like to point out this
23 is not the only public land along there. There is quite a
24 lot of public land along the river, but I believe most of it
25 does not provide access and there is insufficient parking.
26 It is too steep.

1 We consider this land has high value for public fish-
2 ing access and other recreational use and would protest the
3 sale into private ownership of such badly needed public land
4 of this type. An inspection of the site indicates that the
5 land already receives heavy use by the public. It is used as
6 a public campground and day use area. The land on the east
7 side of the road is the only land available for parking area
8 and other use such as camping and picnicking. The land on the
9 west side of the road would not afford complete access because
10 there would be no adequate parking. I think we would have a
11 situation like on the Delta -- the fishermen could get to the
12 water, but no place to park their car. The entire area has a
13 use for public camping area. Across the highway would be a
14 safety hazard as well.

15 In accordance with various requests from organizations,
16 the Wildlife Conservation Board is interested in acquiring this
17 land by lease or in fee and developing it for public purposes.
18 This would include development of access roads and parking areas
19 and sanitary facilities, and possibly making it also available
20 to a concessionaire.

21 In view of the further consideration of the State
22 exchange application for this land, we request that full con-
23 sideration be given to the high public values and it is to the
24 interest of the State to retain it in either Federal or State
25 ownership.

26 GOV. ANDERSON: How much is being used now?

1 MR. NESBIT: I have, Mr. Chairman, seen the parcel and
2 used the parcel, but I think Warden Proffitt, who lives near it,
3 could better answer.

4 GOV. ANDERSON: You mentioned the Wildlife Conserva-
5 tion Board is interested in acquiring this?

6 MR. NESBIT: Yes.

7 GOV. ANDERSON: When did the interest start?

8 SENATOR REGAN: That's what I want to know, too,
9 and how.

10 MR. NESBIT: We were first approached on this about
11 a year ago. We have been approached several times since then.

12 SENATOR REGAN: By whom, may I ask, Mr. Chairman?

13 MR. NESBIT. Yes, the Shasta-Cascade Wonderland
14 Association.

15 SENATOR REGAN: Yes, I thought so. I am the attorney
16 for them and I think I know something about that, too. We
17 will develop it.

18 MR. NESBIT: It has been recommended for acquisition
19 or retention in public ownership especially by the regional
20 office of the Department of Fish and Game in Redding.

21 GOV. ANDERSON: How long has this been used as a
22 public camp and day use area -- the last twenty or thirty years?

23 MR. NESBIT: Again, Mr. Chairman, I would have to
24 defer to a local resident up there. I live in Sacramento and
25 I am not that familiar with the parcel.

26 GOV. ANDERSON: If this were acquired by a private

1 party and he developed this for campers and for fishermen and
 2 so on, and access roads were made up there, do you think there
 3 would be more or less facilities available under this operation
 4 than under the present?

5 MR. NESBIT: I couldn't answer that. It would depend
 6 entirely upon the type of facility. If they have in mind a
 7 resort that would cater to the fishermen, I presume they could.

8 GOV. ANDERSON: There could be more than there is
 9 today?

10 MR. NESBIT: If they have in mind a resort of a
 11 private nature, it could very well preclude fishing use.

12 MR. CRANSTON: The question that Senator Regan asked
 13 be proposed earlier: Would your objection be continued if
 14 there were some binding arrangement for public access?

15 MR. NESBIT: I think this depends on the definition
 16 of public access.

17 SENATOR REGAN: Mr. Chairman, may I say this: We
 18 are not interested in the river. We would be willing to with-
 19 draw it from the application. It's the worst part of the river
 20 here. It's an old dredging pile. I think some of the people
 21 testifying don't even know the land. We are not interested in
 22 the river. There is only 600 feet in one place and 1300 in
 23 another, and the United States has a hundred miles in public
 24 ownership along there. This is fantastic when you hear what
 25 we have to present. I can't see how these people get into this.

26 MR. NESBIT: Mr. Chairman, I am familiar with the

1 area as well

2 SENATOR REGAN: I have fished every foot of it.

3 MR. NESBIT: I think the main public interest in here
4 is seeing that there is sufficient parking space available.
5 If only the land area between the road and river were available,
6 it still would not provide parking and you would have the same
7 situation you have down considerable stretches of Highway 99,
8 where you don't have parking.

9 MR. CRANSTON: Would you describe who the State Wild-
10 life Board is and when it was created?

11 MR. NESBIT: In 1948 by the Legislature for the purpose
12 of providing capital outlay for conservation projects. There
13 was at that time and still is a capital outlay from pari-mutuel.
14 The main development is fish hatcheries. About six million has
15 been spent on that, and waterfowl areas about five million;
16 and public hunting accesses and also the development of lakes
17 for fishing -- all for the public. The composition of the
18 Board is the president of the Fish and Game Commission, Mr.
19 Jimmie Smith; the Director of Fish and Game, Mr. Walt Shannon;
20 and the Director of Finance, Mr. Hale Champion. In addition,
21 there are six advisory members -- three members of the Senate
22 and three members of the Assembly.

23 MR. CHAMPION: As a member of the Board, I hesitate
24 to show ignorance of these proceedings, but we haven't had a
25 meeting since I have become Director. Has this ever been on
26 the agenda of the Board -- as to whether this should be acquired?

1 MR. NESBIT: No sir, it has not. This is in the
2 planning level, normally handled on the staff level, and com-
3 pleted projects are presented.

4 MR. GRANSTON: I'd like to ask if Senator Regan is
5 one of the three Senate members.

6 SENATOR REGAN: No, I am not.

7 GOV. ANDERSON: Any further questions?

8 MR. CHAMPION: However, Assemblywoman Davis is one
9 of the three Assembly members.

10 MR. NESBIT: That's correct.

11 GOV. ANDERSON: Any other questions of Mr. Nesbit,
12 Mr. Hortig, or any members of the staff?

13 MR. HORTIG: No sir.

14 GOV. ANDERSON: Mr. George Difani.

15 SENATOR REGAN: To save time you might ask George the
16 same question. We are not interested in the fishing in the
17 river. What is their position?

18 MR. DIFANI: My name is George Difani and I appear
19 to represent the Associated Sportsmen of California and the
20 California Wildlife Association. These are both large organi-
21 zations. The Sportsmen group have advised me to advise the
22 Commission that we are in favor of the decision made by the
23 Bureau of Land Management, which opposes the sale of the land
24 along the Trinity River applied for by Mr. Gilzean. We feel
25 this land should be held in public ownership because if it
26 goes into private ownership certainly the availability for the

1 public to get in to the river in large numbers and park their
2 cars - - and this area would provide parking for large numbers
3 along with the day use - - I think we all recognize if the land
4 goes into private ownership, even with an access as Senator
5 Regan has mentioned, it wouldn't provide camping facilities;
6 and the Department people have pointed out the advantages that
7 will accrue to the public due to the improved fishing.

8 I also want to point out if this land is acquired by
9 the Wildlife Conservation Board in connection with Trinity
10 County -- and apparently all the public agencies in the county
11 have indicated their opposition to the land going into private
12 ownership -- Trinity County could enter into an agreement with
13 the Wildlife Board to maintain the area, as has been done in
14 many other areas where fishing is available on lakes and streams.
15 We have that in numerous counties of the State.

16 I see that all of the sportsmen groups have indicated
17 that they oppose private ownership and I am inclined to think
18 it could be developed by the Wildlife Board, acquired from
19 BLM and then an agreement entered into where the maintenance
20 and upkeep would be done by Trinity County. It is also possible
21 under the circumstances to have concessions on the area if the
22 number of people would warrant it.

23 I don't know what Senator Regan has in mind in refer-
24 ence to access for the public, but certainly with the increased
25 number of people going to the Trinity River and the increased
26 fishing due to the Federal installation there of the dam at

1 Lawiston, and the fact that the testimony has been made here
 2 that this is probably the largest area of land which is easily
 3 accessible - - It is true there are large areas of government
 4 land, government-owned land, along the river, but as I under-
 5 stand it and have been advised, it is pretty steep and prac-
 6 tically inaccessible by the public; the fishermen would have
 7 difficulty getting into the river in any of these other areas.

8 That's

9 SENATOR REGAN: George, you know better than that.

10 MR. DIFANI: Well, Senator, there is no question in
 11 my mind with that number of acres

12 SENATOR REGAN: Four and a half acres you are talking
 13 about. Four and a half acres is level, the rest is mountain --
 14 only four and a half acres we are talking about, Mr. Chairman.
 15 That's what they are talking about - four and a half acres.

16 MR. DIFANI: We are talking about the possibility --
 17 I have been advised that at least fifty areas could be provided
 18 for camping facilities for people who wanted to stay three or
 19 four days or a week. Of course, that would also provide numer-
 20 ous other parking facilities for the daily fisherman who comes
 21 to fish.

22 GOV. ANDERSON: You mentioned concessions. If it
 23 was taken over by the Bureau, is it big enough to sustain con-
 24 cessions? Wouldn't these almost have to be run by an individual
 25 operator?

26 MR. DIFANI: That depends on the area. That has been

1 done in some areas.

2 GOV. ANDERSON: I am thinking of an area this size.
3 Is it big enough to sustain a concession?

4 MR. DIFANI: That would be dependent upon the con-
5 cessionaire and the number of people using it and it would
6 also depend, in this case, on Trinity County, who would have
7 to enter into an agreement to do the maintenance after the
8 Wildlife Board acquired the land and developed it for the
9 parking area and the sanitary facilities, and so forth. That
10 could be done if it was in State ownership.

11 SENATOR REGAN: I think one question is very important.
12 Since I can't cross-examine him, would you, Mr. Chairman, or
13 somebody ask: What does he know about any agreement between
14 the State and the Federal Government that anybody can ever
15 acquire it? Maybe the witness can answer that.

16 MR. DIFANI: No, I can't.

17 SENATOR REGAN: We are just barking up a tree.

18 MR. DIFANI: We are appearing here today to keep in
19 public ownership a piece of ground on both sides of the river
20 that we want to be able to get out on and park a car.

21 GOV. ANDERSON: There is a probability it might never
22 reach State ownership.

23 MR. CHAMPION: I think Mr. Nesbit could give some
24 light on that. There have been some substantial changes in
25 policies on these lands.

26 MR. DIFANI: There is no question that the national

1 policy on national recreational areas has been changed since
2 the Democrats took over. I am proud of that.

3 MR. NESBIT: Mr. Chairman, I will try to elicit that.
4 There is a new policy and the Department of Interior has an-
5 nounced -- the Secretary has announced that they will sell to
6 the State for public purposes such as these parcels of land,
7 that can be developed for two dollars and a half an acre, and
8 we are interested under this new procedure. We have contacted
9 the Secretary of Interior and we have had some favorable expres-
10 sion from them in this regard.

11 As a matter of fact, today in the audience is with us
12 from Washington, D.C. the Special Assistant to Secretary Udall,
13 Mr. Graham Hollister, and I think he may be able to enlighten
14 you further on this policy.

15 GOV. ANDERSON: Is Mr. Hollister here? I understand
16 Mr. Hollister is a cousin of our State Senator.

17 MR. HOLLISTER: That's right, sir. What Mr. Nesbit
18 said is true....

19 GOV. ANDERSON: Would you identify yourself?

20 MR. HOLLISTER: Graham Hollister, Assistant Secretary
21 of the Interior, and it is now the policy of the Department of
22 the Interior, wherever recreation and education is concerned,
23 that states can buy from the Bureau of Land Management any pub-
24 lic lands for \$2½ an acre, or rental of 95¢ an acre per year;
25 and it is a policy that is being advertised so that states, and
26 even as far down as counties, can be aware of this and can

1 avail themselves of this opportunity.

2 GOV. ANDERSON : Thank you. I think before hearing
3 from the applicant's side, it has been suggested and, I believe,
4 rather wisely that we recess for five minutes, so that our
5 secretary can refill her pen.

6 RECESS 11:12-11:20 A.M.

7
8 GOV. ANDERSON: The meeting will come to order.
9 Senator Regan.

10 SENATOR REGAN: I'll try and shorten this as much as
11 possible, Mr. Chairman, but I'd like to see that some of the
12 issues that have been presented are clarified.

13 Number one, we want to bear in mind that prior to any
14 adoption of policies of the Bureau of Land Management or any
15 policies that appear to be coming up, as testified here today,
16 by some of the State Departments, which are slightly nebulous,
17 Mr. Gilzean as the owner of an unpatented mining claim in the
18 County of Trinity, which he had purchased many years before,
19 decided he would like to have title to it. This is nothing
20 novel; this has been going on for a long time. Many exchanges
21 have been filed with the State and have been going through.

22 The land was owned by the Red Hill Mining Company in
23 the early days and was mined up to about World War II. At
24 that time mining stopped. In fact, as I recall, Herbert Hoover
25 was the engineer for the Red Hill Mining Company. Mr. Gilzean
26 was one of the placer mining operators on the property and when

1 they broke down he bought this land for \$1600. That is not
2 particularly germane here, but that's what he paid for it, and
3 subsequently made this application to the State.

4 I say this -- that notwithstanding anything else, the
5 man is entitled to his day in court. He is following the pro-
6 cedure of the State of California and the way other people have
7 been doing this and probably will continue to do this, except
8 for the moratorium in the State here.

9 As I recall -- and perhaps Mr. Hortig can give you
10 this information -- when I was formerly Chairman of the Commit-
11 tee on Public Lands of the Senate, we found some close to half
12 million acres that still belongs to the State but the Federal
13 Government won't give it to the State because they haven't
14 surveyed it. So there is still a lot of land that should have
15 come to the State of California under the law, but that is
16 neither here nor there in this case.

17 Let me tell you how absurd this becomes -- what the
18 witnesses say. I have a map here -- In the first place, let's
19 take the over-all picture in the State. The State has one
20 million four hundred thousand acres of land, of which forty-eight
21 million acres still belong to the Federal Government -- forty-
22 eight percent of all the land in the State in excess of that.
23 In Trinity County, where this case is before us now -- Trinity
24 County has within its boundaries 1,981,440 acres. That's the
25 entire acreage of Trinity County. The United States today owns
26 1,505,894 acres of that land in Trinity County -- seventy-six

1 percent of the entire acreage of the County. What we are try-
2 ing to show and what we would like to do is show the impact in
3 a State like this that has sixteen million five -- and is going
4 to have forty to fifty if those who project in the future are
5 correct (that's what we are working on in the water program)--
6 who are going to be in Trinity County. Every county like
7 Trinity, Shasta, Modoc, are entitled to their share of local
8 economy and will never get it if they don't have a tax basis
9 and every time a man makes an application we have these spurious
10 arguments.

11 In the first place, if anybody wants to take out the
12 river acreage we will do it. We want a piece of land, where
13 the man can have a piece of land to do business. If they want
14 the river they can have it, but there is a constitutional right
15 nobody has mentioned. Furthermore, we couldn't stop them from
16 fishing there if it goes to patent.

17 If you will look at this map you will find the pink
18 places which are privately owned and then we tried to block in
19 some in blue -- or that is green -- of the public land along
20 that river. I know that river and have fished most of the river
21 not only there but in Humboldt County -- I am counsel for the
22 Hoopa Indians and we have our problems and the State has prob-
23 lems in that Indian reservoir -- there isn't any place in that
24 river you can't fish; and this business about not being able to
25 park your car, everybody I know that comes to Trinity County
26 and wants to fish goes to the river and you find cars lined up.

1 When the Department of Fish and Game talks about
 2 protecting 25,000 fish here, so many thousand fish here --
 3 why did they allow 500,000 silver salmon to be taken the first
 4 year they closed Trinity Lake? Where the Stewart Forks came in,
 5 these fish were land-locked. We tried to tell them they
 6 couldn't spawn, but they let them take them -- fifty or seventy
 7 fishermen casting and each one taking salmon out of the lake.
 8 We are talking about conservation and there is certainly no
 9 conservation in this matter of what we are talking about or in
 10 the matter of Mr. Gilzean.

11 Right now the Federal Government has now closed the
 12 upper spawning grounds because of the Trinity Dam, but there
 13 are thirty or forty miles under that. All the land there has
 14 been taken off the tax rolls, so Trinity County is completely
 15 crippled, and when I say seventy-six percent is owned by the
 16 Federal Government, the State of California has some too, so
 17 there is very little land that is subject to taxation, so the
 18 economy of the County can be sustained.

19 I have editorials and I have news items in the press
 20 that were placed there by the Shasta-Cascade Wonderland Asso-
 21 ciation, asking sportsmen and so on to get interested in this
 22 thing and send in a protest. Well, there are a few protests,
 23 you see. We did not ask anyone to appear here because we felt
 24 that under the equities of the situation we would be entitled
 25 to our day in court and the appeal would be perfected; but I
 26 can assure you that as far as local government is concerned

1 there will be plenty of protests when it is presented, if
2 they find there is going to be a policy on the part of the
3 State of California -- and it appears now to be a parking policy
4 to prevent getting some land on the tax rolls by citizens of
5 the United States. This has nothing to do with the national
6 parks, national forests. The BLM does a good job, tries to
7 do a good job of managing the lands, because its policy was to
8 get most of it on the tax rolls into private ownership. This
9 has nothing to do with the wilderness area in Washington. As
10 far as all this back country, the minerals and everything,
11 they are now locked up in the national forests and are under
12 the Wilderness Bill. We are not objecting to that because we
13 feel these should be preserved for the economic benefit of
14 the United States; but when somebody uses these subterfuges
15 here to try to stop a man from getting a piece that is four
16 and a half acres -- Mr. Hellister tells me he paced it off
17 and there is about six acres -- Let's take seven or ten, a
18 piece of land that could be used and go on the tax rolls to
19 do exactly the same thing that the public ownership would do,
20 I don't see the State's position in this.

21 I am not talking about the Lands Commission. I am
22 talking about the agency of Fish and Game. There isn't any-
23 thing in this record where Fish and Game has told you this is
24 going to be detrimental. You certainly can't read that in the
25 statement of Mr. Shannon, or the testimony today, and they
26 have the burden of proof in the item here, which they haven't

1 prove but I want to talk about equities. We are not talking
2 about the President's problem of protecting the wild life.
3 We are all for that, but this is not germane to this.

4 Pauline Davis has sent a letter. You read Pauline
5 Davis's letter and you will find the same language that you
6 find in the other letters that came here. I say, in all due
7 respect to Pauline, who is a friend of mine, she doesn't know
8 anything about the fishing down there or this piece of land
9 either -- and a lot of the expressions you get here, they
10 don't know anything about it either.

11 What I am hoping to show is that the equities show a
12 man, who since 1955, has a possessory right in the real
13 property. If he has had for six years the State working with
14 him to perfect this, and then if the State Lands Commission
15 say "We don't know about the policy, so maybe we better not
16 appeal," I think it is high time we get this established.

17 Under the law of the United States, as I understand
18 it, they cannot prevail -- the Government cannot prevail in
19 this instance. The terms of the Act itself I don't know would
20 lend itself to the protest and the adversing as done by the
21 Bureau in this case -- so that the man is entitled, as any
22 other citizen would be, to his day in court.

23 Let me show you this map. I would like you to ask
24 Fish and Game if they know of any place along the Trinity
25 River where anybody is denied fishing. (Illustrating to
26 Commission) Here at Lewiston is the dam. As you go through,

1 the public lands are here. You see little pieces in red. Now
2 these are not on the river. These are off -- some are, but
3 not many. Most of them you will find in the white or green
4 here. The river along here travels close to the highway, so
5 there is access -- absolutely complete -- and we are talking
6 about the access to this little piece of land, where there
7 is from Weaverville to the coast 109 miles and by the meander-
8 ing of the stream you can see how much more you have. The
9 whole stream is open to fishing and good fishing, too --
10 excepting, I might say, the fishing isn't good on this piece.

11 GOV. ANDERSON: What does the pink represent?

12 SENATOR REGAN: That's private ownership.

13 GOV. ANDERSON: And what is the green?

14 SENATOR REGAN: Public. Most of this is green --
15 all Federal land. We just wanted to show you the stream.
16 There is access all along.

17 GOV. ANDERSON: Where is this parcel?

18 SENATOR REGAN: (indicating on map) Right here.

19 MR. CHAMPION: Senator, you mentioned the possibil-
20 ity of exempting or taking out of your application land which
21 they might be interested in. Is there any possibility of an
22 agreement here between the owner and the people who would like
23 to develop, say, a Wildlife Conservation facility?

24 SENATOR REGAN: Along the river?

25 MR. CHAMPION: Yes.

26 SENATOR REGAN: We would exempt it or amend it out

1 any time. This never was a question.

2 MR. CHAMPION: Could this now be done?

3 SENATOR REGAN: If they wanted it -- but I think
4 they want the campground site.

5 GOV. ANDERSON: They say this is the only place
6 within fifteen miles.

7 SENATOR REGAN: That's hogwash.

8 GOV. ANDERSON: Where are the other available areas?

9 SENATOR REGAN: I'd like to take you up there fish-
10 ing and show you. The whole thing is available.

11 GOV. ANDERSON: But this is on the river and the
12 highway together. This is the river without the highway.
13 Where

14 SENATOR REGAN: In green there, along the river.

15 MR. CRANSTON: Well, the specific statement was that
16 it is the only place within fifteen miles where you can park
17 and easily have access to the camp grounds and river.

18 SENATOR REGAN: If you add to that "presently
19 developed campsites" then the answer is "yes." Who is going
20 to develop the campsites when the Federal Government owns the
21 land? If you let that land go into private ownership you
22 will find out how fast that will develop there. They just
23 can't get title to it.

24 MR. CHAMPION: Is this the intention of your client --
25 to develop facilities along there?

26 SENATOR REGAN: Yes, that's what he wants to do --

1 and we certainly want more people to build hotels, resorts,
 2 and so on. There is a crying demand for it and it is not going
 3 to be satisfied with the Federal Government coming in and
 4 building a camp ground. The people have 1,505,000 acres of
 5 land they can go out and camp on; but the point is, somebody
 6 has to start building the hotel and motel facilities and the
 7 fishermen want them. Everybody doesn't have a trailer behind
 8 him; he wants to go to a hotel.

9 The equities in this thing are on the side of the
 10 applicant and he is entitled to his day in court -- and not
 11 only that, I think he will prove it. I have a lot of other
 12 things -- I think I mentioned if there is a question that
 13 maybe the people in that area would be all in favor of this.

14 This is whipped up with some statements in the news-
 15 papers. I'll flood this place with people to see that there
 16 is an adequate tax base in all the northern California counties.
 17 You will have to hire somebody to open the mail which would
 18 say "Yes, put it on the tax rolls." But we didn't feel it
 19 was our duty to do that here today.

20 This is something familiar to me. I was counsel
 21 for the Interstate Association for Public Land Counties for
 22 many years (that was the ten western states). I was president
 23 for many years. I have in my office up here in one of the
 24 offices in the old building some very interesting statistics
 25 on this whole thing, by reason of the fact that this land will
 26 not get on tax rolls -- and it has no impact on Wildlife

1 Conservation. I think it is the duty of the State to assist
2 this man to go on with his appeal.

3 MR. CHAMPION: Senator, a lot of facts are involved
4 here and they mostly involve the Department of Fish and Game
5 and the Wildlife Conservation Board. I wonder if it wouldn't
6 be possible to have the facts involved and some understanding
7 worked out -- what the local people want, what is the best
8 for handling fishing in that area.

9 SENATOR REGAN: May I say this: I am not afraid of
10 this but I don't think we should put this out to a petition
11 situation in an area like that.

12 MR. CHAMPION: That is not what I am trying to say.
13 This Board is not competent to judge matters of Fish and Game
14 and what is best or not -- best for them. I would hope from
15 discussion of people who are competent to judge we might get
16 an opinion. The opinion of what is best comes from the
17 Department of Fish and Game -- you question some of the things
18 they said.

19 SENATOR REGAN: You let me cross-examine them.

20 MR. CHAMPION: Again, I don't think this is a matter
21 for us to judge. It is a matter for experts in that field,
22 people who have competence on that in the State, and we have
23 to pass on that policy. I'd like to see whether or not there
24 is any change in the position of the Department of Fish and
25 Game or the Wildlife Conservation Board. If there were not,
26 I'd feel the policy of the State with regard to this sort of

1 thing should be set there and we should accept their policy;
 2 but I think probably you have grounds here to open this question
 3 and discuss it with them, and see whether or not they want to
 4 take that position. We really have some factual issues we
 5 cannot decide on.

6 SENATOR REGAN: I'd like to ask Fish and Game if we
 7 amend out of the application the entire river frontage, what
 8 is their position? If they are talking about access to fishing,
 9 they have the whole thing. What else do they want? If they
 10 start talking about campgrounds, we are going to find out where
 11 it is their business.

12 MR. RIPLEY: We realize that the access we are talk-
 13 ing about is not specifically the access to the river because
 14 there is, as has been pointed out -- there is adequate access
 15 insofar as the individual fisherman is concerned to get down
 16 to the river.

17 SENATOR REGAN: That's a new one. It doesn't say so
 18 in your letter, or Shannon's letter.

19 MR. RIPLEY: In addition to that, we realize there
 20 is a great deal of public land in that area. However, the one
 21 fact we would like to bring out -- there is not very much flat
 22 land in the whole area within reach of the river for the public
 23 to use. People who fish in this area come long distances; some
 24 come from the big urban areas, even from southern California.
 25 When they come they usually bring their families. The kids
 26 and wives have to have some place to stay while father goes

1 fishing. If they don't, the fishing is not taken advantage
2 of. The individual fishermen in an area like this do have
3 access from the road. The family unit, which prosecutes a
4 lot of our fishing in the State of California, may not have
5 facilities if this is not developed as a public campground, or
6 at least a private campground. If it is, in that respect it
7 might assist the situation. This is not access to the indi-
8 vidual -- it is the access to the portion of the river to the
9 general public that comes long distances.

10 GOV. ANDERSON: What is the adequacy for fishermen
11 who want to stay in a hotel?

12 MR. RIPLEY: I can't answer that.

13 MR. CRANSTON: In Mr. Beck's letter to the Lands
14 Commission (from the Department of Interior) there is a state-
15 ment that the area provides the only camp grounds within fifteen
16 miles either way along the Trinity River; topography of the
17 Trinity River is such that available recreation sites are few
18 and far between. Does that mean in fifteen miles in either
19 direction there is no facility where people can camp?

20 MR. RIPLEY: Whose letter is that?

21 MR. CRANSTON: Walter Q. Beck.

22 MR. RIPLEY: I can't speak to that.

23 MR. CRANSTON: However, on this question of fifteen
24 miles either way - -

25 MR. RIPLEY: It is thirty miles from the information
26 I have.

1 MR. PROFFITT: There is a small campsite at the
2 Big Bar area -- perhaps ten or fifteen miles down the river.

3 SENATOR REGAN: In order not to be confused, would
4 you say "developed" site?

5 MR. PROFFITT: These are now developed.

6 MR. CRANSTON: What I mean is land suitable for
7 development. Is this the only one?

8 MR. PROFFITT: This is one of the few flat places
9 around the river with trees and shade. Hayden Flat is the
10 only area now developed comparably.

11 GOV. ANDERSON: How far is that?

12 MR. PROFFITT: Approximately thirty miles.

13 MR. CRANSTON: And there is no developable

14 MR. PROFFITT: I can't say that. This is the only
15 piece of property involved so far in this question. It is a
16 very desirable piece of flat property.

17 GOV. ANDERSON: These other lands that are areas
18 which in the future could be developed, are these under Federal
19 ownership now or who owns them?

20 MR. PROFFITT: I do not know.

21 SENATOR REGAN: Most of them....

22 MR. HORTIG: Of necessity, they would be Federal-
23 owned.

24 GOV. ANDERSON: Are there other lands, Frank, that
25 could be developed for campsites?

26 MR. HORTIG: As a matter of geography and as a matter

1 of degree and how much development it would take to flatten
2 out a humpy piece of ground compared to this flat four to
3 six acres, as the warden says this is probably the most highly
4 suitable piece of property for development now.

5 GOV. ANDERSON: If there isn't any other area in
6 there and yet there are other areas that can be potentially
7 developed, we find ourselves caught between them.

8 MR. CHAMPION: The question is: Is it better to
9 sleep in a bed at a price or on the ground for free?

10 SENATOR REGAN: I think there would be a lot of
11 developed campsites if the Forest Service had the money. I
12 think they would tell you "Yes, we could develop a lot more
13 if we had the money in the budget." But that's not our
14 problem. You let us have the land and we will put hotels and
15 things in there. There is no problem of budgeting.

16 MR. HOLLISTER: Mr. Chairman, I came out to California
17 particularly to look into some infestation problems. In doing
18 this, I had reason to look at this, and I think since this
19 area is developing a head of steam, I think it would behoove
20 you to go and see this area. We are all going to have differ-
21 ent views. I disagree with some of Senator Regan's thoughts
22 in some instances; in other, I disagree with Fish and Game.
23 I think you will find the canyon is steep, the road is steep,
24 and camping facilities are nil; and what BLM lands are avail-
25 able there could be purchased beyond this piece at two and a
26 half -- could they be developed, so the State is in a position

1 to take advantage of these and get at least some tax revenue
2 from sales tax and what not? But the expenditure would be so
3 large on the terribly steep areas. There are some lands the
4 Commission might possibly purchase. I noticed on the other
5 side of the river (check me on this, Senator) there are some
6 lands that could be dredged and flattened out.

7 SENATOR REGAN: That's correct.

8 MR. HOLLISTER: They could be developed, but also the
9 individual could do the same.

10 SENATOR REGAN: There are a lot of lands, as anybody
11 can see, that are federally-owned.

12 MR. HOLLISTER: Not only Federal lands, but private
13 lands across the highway. There are potentials there, but I
14 think this is reaching somewhat into the distance --- but I
15 think it would be well for the members of the State Lands Com-
16 mission to familiarize themselves with this other than with
17 maps.

18 MR. CHAMPION: My point is we really aren't the
19 competent judges on this. We have Beaches and Parks and Fish
20 and Game, and this is also a fairly busy Commission. I think
21 we have to rely on the people the State hires in these fields
22 to make these judgments, or at least report to us what their
23 judgments are.

24 SENATOR REGAN: Wouldn't it be profitable or equitable,
25 since the State has had this in its hands since 1955, that you
26 would say "Go on and perfect the appeal"? As I interpret the

1 remarks of the Attorney General, there is a legal point in
2 favor of the applicant that should be pursued, as he probably
3 would prevail -- or could.

4 MR. CHAMPION: However, Mr. Joseph also pointed out
5 at the outset that the Commission takes a policy on this, and
6 I don't think as a member of the Board I am prepared to do that.

7 SENATOR REGAN: Let me say what I didn't get to say
8 when the last witness was up here. If Fish and Game is going
9 to take a position on the rest of the available land of
10 Trinity County that it is taking on this, and is to oppose for
11 the reasons given in the letter Fish and Game has sent in
12 there, then there is going to be some trouble as far as local
13 government and Fish and Game is concerned because what I have
14 interpreted the remarks to mean is they would oppose every
15 application of putting the land on the tax rolls, and I want
16 a copy of the language used the last time -- I think it is
17 deplorable that it would be said.

18 MR. CHAMPION: In the light of all this, in order to
19 get some resolution here, I would like to move that the Board
20 refer this matter to the Department of Fish and Game for review
21 and for a subsequent recommendation in the light of some of the
22 questions that Senator Regan has raised, and that this Board
23 withhold action until such time this has been done.

24 SENATOR REGAN: And, further, if you would in your
25 motion -- if the river front is relinquished, what is their
26 position on it?

1 MR. CHAMPION: Yes, subject also to the possibility
2 of an agreement on land use in this area and a change in the
3 application, if that is legally feasible.

4 MR. HORTIG: May I ask of staff a question before
5 action is taken on this motion, purely as a mechanical matter?
6 There are appeal times and dates set and we would want to be
7 certain that by this action we did not exhaust appeal time if
8 it should be ultimately determined to perfect an appeal.

9 MR. SMITH: Octob er 31st the appeal must be in
10 Washington.

11 MR. CHAMPION: We do have another meeting before
12 that time.

13 MR. HORTIG: October 25th, which is only five days
14 before the appeal would have to be filed.

15 MR. CHAMPION: The appeal certainly could be prepared.

16 MR. HORTIG: The appeal could be prepared in pros-
17 pect, yes sir.

18 MR. CRANSTON: I second Mr. Champion's motion.

19 GOV. ANDERSON: You have heard the motion, then,
20 that this subject matter be referred to the Department of
21 Fish and Game for review and report back to us, so this can be
22 acted upon at our next meeting.

23 MR. CRANSTON: I would like to specifically ask that
24 that report include, on this thirty-mile strip, what else is
25 available in that strip.

26 SENATOR REGAN: I think you ought to get on the

1 whole river, too, because people will go steelhead fishing.
2 If you park your car and go steelhead fishing, you are not
3 going to stand in one place. You will be moving up and down.

4 MR. CRANSTON: That is related to where else there
5 would be parking and adequate access in this thirty-mile strip.

6 MR. CHAMFION: I think we would ask Fish and Game to
7 comment on every question raised in this record, so we have a
8 full report.

9 SENATOR REGAN: Would you also ask them how they get
10 in the picture here and who is importuning them to do it, same
11 as the Wildlife Conservation Board. I think we are entitled to
12 know, as well as other agencies. You had in the record today
13 that unless they proved their point, the Commission should go
14 forward.

15 MR. CHAMFION: I think you have everything in the
16 record.

17 GOV. ANDERSON: And, further, if the river frontage
18 were relinquished, what would that do. Moved and seconded.
19 If there is no objection, unanimously carried.

20 SENATOR REGAN: When will that report be coming in?
21 I'd like to be present.

22 MR. HORTIG: October 26th, Los Angeles. It will be
23 presented publicly October 26th.

24 GOV. ANDERSON: The next item on the agenda is item
25 6 -- authorization for Executive Officer to approve map entitled
26 "Plat of the North Property Line of Pacific Gas and Electric

1 Along the Sacramento River, Vicinity of Pittsburg, Contra
2 Costa County, California" dated April 1961 and to enter into
3 agreement with Pacific Gas and Electric Co. fixing the boundary
4 line between State lands and lands owned by said company along
5 the Sacramento River in the vicinity of Pittsburg, Contra
6 Costa County. Frank, any comment on that?

7 MR. HORTIG: Only in amplification, as stated in the
8 full calendar item, Mr. Chairman, that the form of proposed
9 agreement to establish the boundary line between Pacific Gas
10 and Electric as the private landowner on the upland and the
11 State Lands Commission as the administering agency for the
12 State lands in the Sacramento River has also been approved by
13 the Office of the Attorney General.

14 GOV. ANDERSON: What is your pleasure?

15 MR. GRANSTON: I move approval.

16 MR. CHAMPION: Second.

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

19 Item 7 is authorization for Executive Officer to enter
20 into three preferential mineral extraction leases with Cali-
21 fornia Minerals Corporation for specified areas covered by
22 Prospecting Permits P.R.C. 2445.2 in Fresno County, P.R.C.
23 2446.2 in San Benito and Fresno Counties, and P.R.C. 2599.2
24 in Fresno County.

25 MR. HORTIG: The prospecting permits which were
26 authorized by the State Lands Commission in this particular

1 instance provide, as do all prospecting permits under the
 2 mineral leasing laws of the State of California since 1921,
 3 that in the event of discovery of commercially valuable deposits
 4 of minerals within the limits of the permit that the permittee
 5 is entitled to a preferential lease. It has been determined
 6 by field inspection and analysis and sampling that commercial
 7 deposits of asbestos-bearing ore have been found within the
 8 limits of these prospecting permits and, therefore, it is
 9 recommended that the Commission authorize the issuance of the
 10 preferential mineral lease to the permittee, as provided by law.

11 MR. CRANSTON: I move approval.

12 MR. CHAMPION: Second.

13 GOV. ANDERSON: Moved and seconded -- no objection,
 14 approved unanimously.

15 Item 8 -- Proposed oil and gas lease, Ventura County,
 16 Parcel 5. Frank?

17 MR. HORTIG: The Commission will recall in connection
 18 with the proposal with respect to offering an area for lease at
 19 Montalvo, Ventura County (subsequently annexed in part within
 20 the exterior limits of Oxnard), the Commission had directed
 21 that beside the public hearing there be detailed review with
 22 the local authorities as to the desirability of offering the
 23 proposed oil and gas lease. The public hearing was held, no
 24 objections to the offering of a lease by the Lands Commission
 25 were voiced; and, uniquely, I am happy to report for the record
 26 that the City of Oxnard is on record recommending and looking

1 forward to the Lands Commission offering the parcel of tide
2 and submerged lands for lease, recognizing that further develop-
3 ment would be of economic benefit to the City. The same is
4 the stated position of the County of Ventura.

5 It is, therefore, recommended that authorization be
6 granted to publish notice of intention to receive bids.

7 MR. CRANSTON: I so move.

8 MR. CHAMPION: Second.

9 GOV. ANDERSON: It has been moved and seconded. If
10 there is no further discussion, approved unanimously.

11 Item 9 -- Authorization to file action against
12 Pacific Fluorite Co. of California for trespass and unauthor-
13 ized removal of minerals from State school lands in San
14 Bernardino County.

15 MR. HORTIG: As a result of land appraisal activities
16 in the desert area of San Bernardino County, a trespass was
17 discovered on a parcel of vacant State school land, from which
18 it has been determined that heretofore extensive amounts of
19 material were mined and sold by the Pacific Fluorite Company;
20 and the Office of the Attorney General, on the report of our
21 field examination, has recommended that necessary legal action
22 be taken to protect the State's interests in this matter.

23 Therefore, it is recommended that the Commission
24 authorize the Executive Officer to request the Office of the
25 Attorney General to take necessary legal action, first, to
26 eject Pacific Fluorite Company of California from the designated

1 section; (2) to quiet the State's title; and (3) to obtain
2 accounting for rents and profits which have been derived by
3 Pacific Fluorite Company from State lands without authorization.

4 MR. CHAMPION: I so move.

5 MR. CRANSTON: Second the motion.

6 GOV. ANDERSON: It has been moved and seconded --
7 no objection, approved unanimously.

8 Item 10 is confirmation of transactions consummated
9 by the Executive Officer pursuant to authority confirmed by
10 the Commission at its meeting on October 5, 1959.

11 MR. HORTIG: As the Commissioners can see from the
12 brief report on page 46, one assignment of an existing com-
13 mercial lease for docking facilities and one extension of a
14 geological exploration permit were the only actions taken by
15 the Executive Officer for which confirmation is sought for
16 the record.

17 MR. CRANSTON: Move approval.

18 MR. CHAMPION: Second.

19 GOV. ANDERSON: Moved and seconded. No objection,
20 approved unanimously.

21 We have one more supplemental item added to our
22 calendar: Proposed annexation by the City of Santa Barbara,
23 Designated as Santa Barbara Airport Annexation -- W.O. 2400.35.
24 Frank, do you want to read this in its entirety?

25 MR. HORTIG: I believe this would expedite presenting
26 the matter to the Commission if I may, Mr. Chairman.

1 GOV. ANDERSON: Mr. Hortig will read the entire item.

2 MR. HORTIG: On September 1, 1961, the State Lands
3 Commission and the Office of the Attorney General received
4 notice that the City Council of the City of Santa Barbara pro-
5 poses to annex certain territory designated as Santa Barbara
6 Municipal Airport, together with certain tidelands, pursuant
7 to formal City Council resolution. Time and place for hearing
8 of protests is set for September 26th. By letter dated Septem-
9 ber 6, 1961, pursuant to another resolution of the City Council,
10 the City of Santa Barbara requested the State Lands Commission,
11 in accordance with Government Code Section 35313.1, to make a
12 valuation of the tidelands proposed to be annexed.

13 These tidelands proposed to be annexed consist of a
14 corridor strip 300 feet wide, containing approximately 238
15 acres, extending southerly from the ordinary high water mark
16 of the Santa Barbara Airport area a distance of approximately
17 6,900 feet, and thence extending at a right angle easterly a
18 distance of approximately 27,700 feet where the corridor would
19 join tide and submerged lands presently within the city limits
20 of Santa Barbara.

21 The territory sought to be annexed includes only
22 500 feet below the land surface and below the land surface of
23 the ocean floor. The area below 500 feet is not proposed
24 to be annexed. A preliminary report from the Office
25 of the Attorney General indicates that exclusion of all
26 property more than five hundred feet below the land

1 surface and of the ocean floor would create horizontal strati-
2 fication of governmental jurisdiction which is not known in
3 law. In addition, it is felt by the Office of the Attorney
4 General that the Legislature never considered or intended that
5 such a division of authority could be established.

6 Future State Lands Commission administrative problems
7 would be minimized if the territory sought to be annexed were
8 limited to the surface of the ocean floor, as proposed originally
9 by the City of Santa Barbara, instead of to 500 feet below the
10 surface.

11 In view of the late receipt of the City's valuation
12 request dated September 6th it has not been possible to com-
13 plete a valuation report for consideration by the Commission
14 at this meeting today, September 14th. Approval of any valua-
15 tion report by resolution of the Commission is required by law.

16 (Parenthetically at this point, I should add that such
17 evaluation report would be particularly germane only in the
18 event that the Lands Commission were to protest at the annexa-
19 tion hearing now set for September 26th, because values are the
20 basic element on which protests may be founded.)

21 MR. CHAMPION: Are there any other grounds?

22 MR. HORTIG: That is the only ground specified in
23 the statute. Lands Commissions heretofore have proposed other
24 grounds for objection in the public interest. In this instance
25 we feel that the recommendation now to be made to the Commis-
26 sion would resolve the problems of public interest, leaving

1 only the ground of value, and if there is to be no protest
2 then the actual proportionate values are secondary to any
3 other consideration to be undertaken by the City.

4 It is recommended, then, that the Commission author-
5 ize the Executive Officer to inform the Council of the City of
6 Santa Barbara that it would not oppose the proposed annexation
7 of the tide and submerged lands on the condition that the proposed
8 annexation be modified to include only the surface of the land
9 of the ocean floor instead of 500 feet below the surface of the
10 ocean floor.

11 I should like to refer back to the recitation on the
12 previous page, that the purpose of this recommendation is that
13 it is felt that this program would minimize any future State
14 Lands Commission administrative problems in the territory sought
15 to be annexed, which problems we cannot forecast with any
16 accuracy at the present time. Neither can the City of Santa
17 Barbara, the annexing agency, warrant that there might not be
18 problems involved in annexing to as much as 500 feet below the
19 ocean floor -- which, in turn, would be minimized if only the
20 surface of the ocean floor would be annexed.

21 The second phase of this problem, which has already
22 been raised, having covered the administrative responsibilities
23 of the Lands Commission, are the legal questions -- which
24 patently it is felt and recommended should be, by authorization
25 to the Executive Officer, referred to the Office of the Attorney
26 General to take whatever legal action is necessary, if any, to

1 protect the interests of the State.

2 City Attorney Tomlinson is here to discuss this
3 matter with the Commission this morning, and particularly with
4 respect to his reaction to the staff recommendation relative
5 to the basis for nonobjection by the Commission.

6 GOV. ANDERSON: In our previous annexations in that
7 area, what has been the depth of the land -- like Oxnard, was
8 that surface only?

9 MR. HORTIG: To the center of the earth.

10 GOV. ANDERSON: Have all of these annexations been
11 to the center of the earth?

12 MR. HORTIG: Yes sir.

13 GOV. ANDERSON: Why did you recommend surface, rather
14 than going to the center, here? Why did you deviate?

15 MR. HORTIG: Prior annexations in general did not
16 involve any potential for oil and gas or other developments,
17 while the area proposed to be annexed in this instance is
18 within the Santa Barbara Sanctuary area, which might necessarily
19 and desirably, and even with the consent of the City in future,
20 be traversed by pipelines and other subsea developments that
21 we even can't envision at the present time, by reason of
22 operations conducted farther offshore some distance from the
23 sanctuary area. Therefore, because of the potentials of the
24 total area, and the Ventura-Santa Barbara submarine basins being
25 one of the large petroleum provinces in the State of California
26 in distinction to the quality of the other areas that have

1 heretofore been considered for annexation, it was felt that
2 if a program to minimize any future State Lands problems --
3 even conflict between State Lands Commission administration or
4 the City's desire to administer or control the annexation --
5 could be devised, as we feel we have here, it would minimize
6 difficulties for State Lands and cooperatively not create any
7 new difficulties.

8 GOV. ANDERSON: Is that the reason we are doing it,
9 or are we just trying to cut down the assessed valuation of
10 the land being annexed?

11 MR. HORTIG: Oh, no sir. There was no thought of
12 cutting down the assessed or appraised valuation.

13 MR. CHAMPION: The City isn't interested in this
14 except as a route, is it?

15 MR. TOMLINSON: Link of contiguity.

16 MR. CHAMPION: It is a very interesting annexation.

17 GOV. ANDERSON: Have we ever gone out before to
18 establish contiguity? This is the first time we have ever
19 gone out in the open ocean....

20 MR. HORTIG: The analogy is there. They are both
21 ocean routes, but in San Diego Bay there were no tide and sub-
22 merged lands under the jurisdiction of the State Lands Com-
23 mission.

24 GOV. ANDERSON: I think there is a little difference
25 in going out in the bay rather than in the ocean. They could
26 go out at Geleta -- they could go out contiguously 400 feet to

1 Summerland and you could have a bunch of channels out in the
2 ocean. This is different than going across a strip of bay as
3 in San Diego. In the past we have made it a policy to give
4 cities ~~clde~~lands that front on their beach.

5 MR. HORTIG: This has been the general legislative
6 policy at their request.

7 GOV. ANDERSON: Since I have been on it, this is
8 what we have done. They say "We want the beach contiguous to
9 our city." Now, if they incorporate beyond the city, we
10 can't give it to them.

11 MR. CHAMPION: We can give it to them

12 MR. HORTIG: I think I should underscore that the
13 Chairman did put his finger on probably the crux of the entire
14 problem -- that we could have something that would make the
15 picture involved in the future.

16 GOV. ANDERSON: We are starting something here that
17 kind of frightens me. I mean, I have been fairly close to
18 city government and the attempt to keep them as contiguous
19 as possible for tax purposes and everything else; but your
20 city would be one of the first to protest if Goleta went down
21 and tried to establish contiguity and annex Summerland. You
22 would say this isn't good government.

23 MR. TOMLINSON: Mr. Chairman, my reaction to this
24 discussion of this point is just this, simply: This is a
25 legislative question. When these unusual or unique or possibly
26 in some cases abuses of annexation law have occurred, the

1 Legislature has responded promptly. However, it's our duty to
 2 proceed under existing law. We rely on the San Diego situa-
 3 tion, as very ably pointed out in the opinion of the Attorney
 4 General given at the time. We rely on that implicitly for
 5 the strip portion of this annexation.

6 I have never in my own mind distinguished between
 7 the situation of a bay such as San Diego or open ocean. I
 8 think that, of course, both are under the jurisdiction of the
 9 Lands Commission. The State of California owns the territory
 10 being annexed or proposed to be annexed. The big thing, pos-
 11 sibly the thing that has alerted the members of the Commission,
 12 particularly the Chairman, is the horizontal feature of this
 13 annexation.

14 I will be perfectly frank and candid. There is
 15 certainly no secret. The case of the People versus the City
 16 of Santa Barbara terminated by denial of hearing in the
 17 Supreme Court early last month, determined that the owner of
 18 subsurface mineral rights is entitled to protest to the value
 19 shown on the last equalized assessment roll. This principle
 20 the City resisted. There is no point in reviewing that liti-
 21 gation, but under this airport we have this very unique, un-
 22 usual, probably uncommon and rare situation, of an immense gas
 23 storage field, where gas is injected, stored under pressure,
 24 and removed at will. A portion of this is under the airport.
 25 A large majority of the airport territory lies over this Goleta
 26 gas field. Now, if the owner of these mineral rights -- and

1 there are native mineral rights and gas rights involved as well
2 as the artificial and imported and injected gas rights involved
3 in the assessed valuation -- we know that owner will protest
4 this annexation. It is our duty to avoid that -- we have to.
5 The owner is taxed by the county. The City, under these cir-
6 cumstances, in order to have jurisdiction over its own airport
7 (some 900 acres) in the absolute absence, as a matter of fact,
8 of any alternative route or means of reaching contiguity or
9 obtaining contiguity, the only alternative was to repeat the
10 three-mile deep course used before in the other annexation.

11 GOV. ANDERSON: Are you speaking of San Diego?

12 MR. TOMLINSON: No, I am speaking of Santa Barbara.

13 MR. CRANSTON: You said "the City's own airport"....

14 MR. TOMLINSON: The City owns the airport in fee.

15 They obtained fee from private parties and the Federal Govern-
16 ment after the war.

17 MR. CRANSTON: May I ask your reaction to the staff's
18 recommendation that it be a surface annexation, omitting the
19 500 feet?

20 MR. TOMLINSON: I can certainly say the City of
21 Santa Barbara is going to cooperate with the State Lands Com-
22 mission and the State of California in any way it can. However,
23 we do not recognize the real necessity for distinguishing between
24 the simple surface, eliminating everything below the surface
25 and annexing only the surface. In other words, 500 feet is
26 uniform, is a uniform depth of exclusion throughout the entire

1 annexed strip,.

2 MR. CHAMPION: Could you divide them without any
3 legal problems or complications?

4 MR. TOMLINSON: I am not sure I can.

5 MR. CHAMPION: ... so that you could be surface here
6 and go to 500 feet under the airport?

7 MR. TOMLINSON: I believe I would be within the
8 purview of the five percent rule. I can't estimate at this
9 moment how that would work, for example, if we modify this
10 description to exclude the airport area to the extent of below
11 500 feet, exclude that, and then exclude everything below the
12 tidelands portion of the description -- whether we would get
13 into the five percent rule for modification of description
14 during annexation procedure at the time of protest, I'd have
15 to get the engineering figures on that.

16 Incidentally, I want to make it very clear -- Mr.
17 Hortig read the report; and as I understood him to read it, he
18 said "238 acres" of tidelands involved. It is 2.38.

19 MR. CRANSTON: How did you arrive at the figure of
20 500 feet?

21 MR. TOMLINSON: By general discussion, many hours,
22 with interested possible potential protestants; and taking into
23 consideration that so far as the airport is concerned, the
24 normal and routine subsurface structures, pipelines, and other
25 things pertinent to an airport should be protected. In other
26 words, there was this question -- Do we take just the surface

1 of one foot. Somebody comes along and says "What happens if
2 a big windstorm comes along and blows off a couple feet of
3 dirt? Have you got any City of Santa Barbara left?" This
4 whole thing has provoked comment. So, by trial and error, a
5 figure of 500 feet was arrived at. And, incidentally, so
6 far as the mineral rights are concerned under the airport --
7 and I assume this is true of the tidelands (I am almost con-
8 vinced it is) -- the Vaqueros Sands and the upper limited
9 Vaqueros zone is at the 4300-foot level, so their assessed
10 valuation, being geologically and scientifically determined as
11 to location, would be entirely safe.

12 GOV. ANDERSON: Why did you conclude to not go down
13 to the center of the earth?

14 MR. TOMLINSON: To avoid protest by an overwhelming
15 amount. In other words, Governor, there is not one dime of
16 surface fee ownership in this valuation.

17 GOV. ANDERSON: Then if you went to the center of
18 the earth, the appraised value of it would be high?

19 MR. TOMLINSON: Three-quarters of a million dollars
20 of private ownership.

21 GOV. ANDERSON: It is the basic reason, then, Frank ...

22 MR. HORTIG: Not in the case of our distinguishing
23 500 feet or one foot.

24 GOV. ANDERSON: I asked you why we didn't go to the
25 center of the earth -- was it because of the appraised value,
26 and you said it wasn't.

1 MR. HORTIG: Then I didn't understand your question.

2 GOV. ANDERSON: If we went to the center of the earth
3 the State of California would have enough appraised value, be
4 big enough a protestant to throw the whole thing out.

5 MR. TOMLINSON: We don't know what the State's value
6 would be. A 300-foot strip would be a great deal less evaluation
7 than at the time we discussed the 1957 evaluation. However, the
8 private protests that come at the termination of the proceedings,
9 fifty-one percent of private protests under the new statute
10 terminates us in the airport proper. Subsurface mineral rights,
11 or whatever they appear in the State Lands assessment roll,
12 overwhelmingly close out any other possible private non-
13 protesting evaluation. For the simple reason that the City of
14 Santa Barbara owns the airport, the surface, then, is publicly
15 owned. Publicly owned property is in competition with publicly
16 owned protesting property. What I mean to say, public-owned
17 non-protesting evaluation is in competition with public-owned
18 protesting valuation.

19 It is my personal opinion that the evaluation of this
20 2.38 acres, being valued as it would have to be by some formula --
21 I am talking about the tidelands now -- would not be a public
22 figure that would overwhelm the surface valuation and non-
23 protesting valuations of publicly-owned property on the surface,
24 including the small property on the corner belonging to the
25 Board of Regents.

26 MR. CRANSTON: I am talking about if you would make

1 a surface annexation in the tidelands and then go as far as
2 you wish at the airport.

3 MR. TOMLINSON: Certainly there is no interest
4 below the bottom of the ocean.

5 MR. CRANSTON: Would you be willing to amend the
6 application?

7 MR. TOMLINSON: I am sure the City would be willing
8 to cooperate.

9 MR. CRANSTON: I move approval that there be a
10 surface acquisition to the airport and then 500 feet.....

11 MR. TOMLINSON: No -- You mean surface on the
12 tidelands strip. The Commission would not be concerned with
13 the situation in the airport.

14 MR. CRANSTON: Do what you wish at the airport, but
15 with the tidelands area to be surface. It seems to me the
16 City owns the airport and should do what they want with it.

17 MR. CHAMPION: There is another question before we
18 proceed. As I see it, we are not really called upon to make
19 the resolution that we protest at this time. In other words,
20 we have to say that we will protest unless this is done.

21 MR. CRANSTON: And we will not take action if this
22 is done (make it surface in the tidelands).

23 MR. CHAMPION: And we take no position on the
24 desirability of the annexation at all, but we will protest
25 if this is not done.

26 MR. ROSE: It says it is not known in law to have an

1 annexation below 500 feet. Do we have a precedent as far as
2 tidelands are concerned of the surface only? Is there a
3 precedent to that? Is that known to law?

4 MR. CRANSTON: This is their problem.

5 MR. HOFFIG: In other words, to what thickness do
6 you take this horizontal strip.

7 MR. ROSE: If this motion is passed, then the State
8 Lands Commission would be taking a "hands off" position as far
9 as any future development there is concerned, just like any
10 other citizen that just decided not to protest, but the 300-foot
11 corridor would always be there and belong to that city and any
12 other city that came in would not have any right to cross it.

13 GOV. ANDERSON: They could go under it, obviously.
14 If Goleta wanted to reach inland there, they could go down
15 300 or 500 feet and go across. I think something is being
16 done that isn't good, but I don't think this Board has any
17 jurisdiction over it.

18 MR. TOMLINSON: It is born of necessity, I assure you.

19 MR. CRANSTON: Let me put this in for the record:
20 This does not touch the beaches involved. Goleta would still
21 have its beach.

22 GOV. ANDERSON: Has this area protested this annexa-
23 tion?

24 MR. TOMLINSON: Not this annexation -- the last one.

25 GOV. ANDERSON: In other words, you have exhausted
26 every other way of getting there, such as the highway --

1 everything else?

2 MR. TOMLINSON: Oh, yes. We could go on top of the
3 mountain.

4 MR. CHAMPION: I assume whatever action is taken
5 will go through a lot of examination by the Attorney General
6 to go through the legality of the proceedings involved.

7 MR. TOMLINSON: I am sure -- reasonably sure -- the
8 Attorney General would agree with me that it is essentially a
9 legislative problem -- that if it is deemed to be evil, the
10 Legislature must do something about it; and I, of course, am
11 not of a mind that it is evil. I think it is contiguity within
12 the law, and again relying on the Attorney General's previous
13 opinions with respect to San Diego I find this similarity.

14 MR. JOSEPH: Well, there is some likelihood that this
15 horizontal annexation can't be done -- the annexation of the
16 whole business or none at all.

17 GOV. ANDERSON: That is why I was wondering why it
18 didn't go down to the center of the earth like the others.

19 MR. JOSEPH: I think the reason is that fifty percent
20 of the landowners can protest and the indication is that these
21 owners of the mineral rights will protest; so to do away with
22 these protests they are only taking the upper level where the
23 mineral owners don't own anything, to do away with the protests.

24 GOV. ANDERSON: But do they know they will have
25 protests?

26 MR. JOSEPH: They know they will have protests.

1 MR. HORTIG: They have been told there would be.

2 MR. JOSEPH: As I understand it, these people pro-
3 tested before and the City says the mineral owners haven't any
4 right to protest.

5 MR. CRANSTON: We might protest if it goes to the
6 center of the earth; even if it is in the sanctuary, with
7 technological developments.

8 MR. JOSEPH: That's where the assessed value comes
9 in, because fifty-one percent of the owners of the valuation
10 of the land can protest. Owners of land valued at fifty-one
11 percent can protest and stop the annexation. It is to do away
12 with that, as I understand it.

13 MR. TOMLINSON: That's right -- because the mineral
14 rights are so highly valued as far as the area under the airport
15 is concerned, and 4300 feet down there are no comparable valua-
16 tions to match them. It is a freak situation. I don't think
17 you will find it again in the whole State of California.

18 MR. HORTIG: Mr. Chairman, may we also clear the
19 record -- the 238 acres within the area shown on the map, as
20 reported in the calendar item, appears to be a correct
21 calculation.

22 MR. TOMLINSON: 238 acres?

23 MR. HORTIG: 238 acres. While the strip is only
24 300 feet wide, it is over seven miles

25 MR. TOMLINSON: I lost a zero, I am sorry.

26 MR. HORTIG: This accumulates acreage rather rapidly.

1 MR. TOMLINSON: My arithmetic is defective
2 this morning. I must have dropped a decimal point.

3 GOV. ANDERSON: Did you get the motion?

4 MR. CHAMPION: It is seconded.

5 GOV. ANDERSON: Moved and seconded. That meets with
6 the approval of the staff? No objection, so ordered.

7 MR. CHAMPION: I would hope that the record will be
8 very clear that we haven't taken any position that this is a
9 desirable way to do business. This is our interest in the
10 thing and we backed it on that.

11 MR. HORTIG: The motion, for staff's information, was
12 revised to be in the affirmative -- that there is a protest
13 unless, rather than as stated in the draft of the motion.

14 MR. CHAMPION: Yes.

15 MR. HORTIG: That there would be no protest if

16 MR. CRANSTON: And, affirmatively, there will be no
17 protest if amended.

18 GOV. ANDERSON: Next item, then, is date, time and
19 place of next Commission meeting -- Thursday, October 26, 1961,
20 in Los Angeles.

21 MR. CRANSTON: May I ask if nine thirty would suit you?

22 GOV. ANDERSON: Nine thirty would be fine. No
23 objection -- that will be our next meeting -- nine-thirty a.m.
24 in Los Angeles. Meeting adjourned.

25 ADJOURNED 12:30 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 eighty-six pages contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION held in Sacramento, California on September 14, 1961.

DATED: September 18, 1961.

Louise H. Lillico

Louise H. Lillico