

BEFORE THE STATE LANDS COMMISSION  
4164 STATE CAPITOL BUILDING  
SACRAMENTO, CALIFORNIA

HALE CHAMPION,

CHAIRMAN.

IN THE MATTER OF THE HEARING  
BEFORE THE STATE LANDS COMMISSION  
RE: EXCHANGE APPLICATION  
NO. 65, DELBERT J. SARGENT.

SW05729

ORIGINAL

TRANSCRIPT OF HEARING  
AND PROCEEDINGS

5 FEBRUARY 64  
SACRAMENTO, CALIFORNIA

RAYMOND N. MAES  
U. S. COURT REPORTER  
231 OCHENER BUILDING  
SACRAMENTO, CALIFORNIA

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

BEFORE THE STATE LANDS COMMISSION

4164 STATE CAPITOL BUILDING

SACRAMENTO, CALIFORNIA

HALE CHAMPION,

CHAIRMAN.

IN THE MATTER OF THE HEARING  
BEFORE THE STATE LANDS COMMISSION  
RE EXCHANGE APPLICATION  
NO. 65, DELBERT J. SARGENT.

TRANSCRIPT OF PROCEEDINGS,

taken pursuant to notice in the above matter, State Capitol Building, City and County of Sacramento, on the 5th day of February, 1964, commencing at the hour of 9:00 o'clock a. m. before the above entitled commission.

BOARD MEMBERS PRESENT: GLENN M. ANDERSON, Lt.

Governor; ALAN CRANSTON, Comptroller; HALE CHAMPION, Director of Finance; F. J. HORTIG, Executive Office; FRED KREFT, Asst. Executive Officer; KENNETH C. SMITH, Public Lands Officer; PAUL JOSEPH, Deputy Attorney General.

WITNESS INDEX

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

Appearance

FOOTE, Orlando	5
HARBERGER, Alcort	6
SARGENT, Delbert J.	18
QUICK, Aaron W.	41

1 CHAIRMAN CHAMPION: I'll call the meeting to order and  
2 go on here with the one item before us, Mr. Sargent. Do  
3 you want to go ahead with the discussion by reviewing your  
4 staff recommendations?

5 MR. HORTIG: As background and summary of the pre-  
6 ceding recommendations, Mr. Chairman, the record is that the  
7 State Lands Commission on application of Mr. Delbert J.  
8 Sargent in 1954 --

9 CHAIRMAN CHAMPION: I think we are all familiar with  
10 that. You can omit that, Frank, and get to what we are all  
11 interested in.

12 MR. HORTIG: In summary of the latest action since the  
13 meeting of the Lands Commission in November 1963, at which time  
14 the Commission suggested that negotiations should be under-  
15 taken between Mr. Sargent and the County of Imperial -- to  
16 this suggestion the County of Imperial has offered a form of  
17 lease for the area desired by the County and to be occupied  
18 and utilized in the future as originally requested by Mr.  
19 Sargent. Negotiations have not reached -- we have been  
20 informed by the County of Imperial and we understand from  
21 Mr. Sargent that negotiations have not reached any conclusion  
22 or degree of acceptability as between the parties. And, in  
23 view of the fact that at the last meeting of the Lands  
24 Commission, despite the notice that the matter was to be  
25 considered by the Lands Commission, Mr. Sargent was not  
26 present. This Commission directed that the session be held

1 today with the agenda item we have before us, being certain  
2 that notice was delivered to Mr. Sargent and that he under-  
3 stood that the matter was going to be considered for action by  
4 the Commission today. Mr. Sargent is present and representa-  
5 tives of the County of Imperial and Senator Quick, in whose  
6 district the lands under discussion are located.

7 It is the recommendation of the staff that the  
8 Commission consider rejection of the application filed by  
9 Mr. Delbert J. Sargent on January 22, 1954 as amended on  
10 October 26, 1956 covering the southeast quarter, northeast  
11 quarter and the southwest quarter, northeast quarter and the  
12 balance of the described lands; to direct the return of all  
13 the deposits to the applicant except for the filing fee, that  
14 must be retained under the statute and which amounts to how  
15 much, Mr. Smith?

16 MR. SMITH: 10 dollars.

17 MR. HORTIG: And direct that a withdrawal of the  
18 Exchange Application No. 65, Serial No. 0133945, Los Angeles  
19 Land District, be filed with the United States Bureau of Land  
20 Management to select said lands for the benefit of Delbert J.  
21 Sargent and, additionally, it would be the Staff's recom-  
22 mendation for the Commission to consider such action at the  
23 last meeting, Mr. Chairman, that this action be undertaken  
24 on an understanding and commitment by Imperial County that in  
25 future negotiations with Mr. Sargent what will be offered  
26 by Imperial County as a basis for negotiations will not be on

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

any lesser based terms and conditions than the lease offered which has heretofore been offered by Imperial County to Mr. Sargent.

CHAIRMAN CHAMPION: Is there any question or comment by the Members of the Commission before we open this to discussion by Imperial and Mr. Sargent?

MR. ANDERSON: I would rather hear them first.

MR. FOOTE: Yes. I am Orlando Foote from the County Council of Imperial County. With respect to Mr. Hortig's reference to the suggestion of the last Commission Meeting in Los Angeles regarding the County's commitment as to its willingness to continue to make available to Mr. Sargent a lease on the basis that it was previously offered. I have a resolution from the Imperial Board of Supervisors dated February 3, 1964 in effect providing that the Board declares its willingness to enter into a lease with Mr. Sargent covering the area referred to in Mr. Harberger's letter upon the basis of a lease conforming to the terms of the lease attached to Mr. Harberger's letter. The offer to remain open for the remainder of Mr. Sargent's special land use permit which he has at the present time until June 30, 1964, and I would submit a copy of this for the Commission's consideration.

MR. ANDERSON: What are you offering acreage wise, what is the difference between what he wants and what you are willing to give?

MR. FOOTE: Actually Mr. Harberger undertook the

1 negotiations with Mr. Sargent, in this regard I would like  
2 him to speak.

3 MR. HARBERGER: Mr. Chairman, I am Alcott Harberger  
4 from the County Administration Office for the County of  
5 Imperial.

6 Mr. Sargent in the outset of our meeting requested,  
7 as I have indicated in my letter of November 23 -- he  
8 requested a lease on the property for 99 years. He requested  
9 100 acres and 50 percent of the total flow of certain waters  
10 emitting from the existing hot mineral wells, from that well  
11 or any future well on that 70 acres, 50 percent of that flow.

12 He wanted unrestricted use of 100 acres that he would  
13 lease from the County, subject only to regulations and  
14 requirements of the planning of the immediate area or zoning  
15 of the immediate area.

16 The rental terms that he requested were the same as  
17 those terms previously made to the Federal Government for a  
18 special land use permit which was a minimum of one dollar per  
19 acre per year or one percent of gross revenue of the first  
20 5,000 dollars, one half percent on 5,000 to 15,000 gross and  
21 one quarter percent on all of the gross over 15,000 dollars.

22 He wanted a guaranteed flow of the hot mineral waters.  
23 He wanted a bond to be issued in the event any drilling or  
24 recovery of the existing hot well was to take place. A bond  
25 for a certain amount of money that would name Mr. Sargent in  
26 the event that the well was lost as a result of this drilling

7  
1 to control the flow, Mr. Sargent would receive "x" number of  
2 dollars to compensate him for any investment that he had on  
3 his initial development.

4 And, he also requested the delivery of the water from  
5 the well to his property line in the covered system. And  
6 there were several other more minor type requests that he had.  
7 The lease that you have before you and which, as I have in-  
8 dicated Mr. Sargent does not concur, is certainly less than  
9 the request he had initially and maintained he had to have,  
10 from the very end of our discussion, at least provide for 50  
11 years lease on 70 acres and these are the 30 acres that  
12 Mr. Sargent has had leased from the Bureau of Land Management  
13 for the last 60 years. It includes 40 additional acres  
14 which Mr. Sargent has requested special land use permit from  
15 the Federal Government. That's the total of 70 acres, 70  
16 acres that he has requested himself.

17 This lease provides for certain restrictions on the  
18 use of the land. The land is to be used for a tropical fish  
19 farm operation or incidentals or related uses.

20 Now, in all previous special land use permits that  
21 Mr. Sargent has had and I understand in previous discussion  
22 from the Commission here talking about the fish farm operation  
23 and I might add right at this point that in the first meeting  
24 that Mr. Sargent and I had on November 20th decided, agreed  
25 to by both of us that in our discussions, our discussions  
26 would be limited to Mr. Sargent's need for a fish farm

**RAYMOND N. MAES**

OFFICIAL & GENERAL COURT REPORTERS  
220 OCHSNER BUILDING  
SACRAMENTO, CALIFORNIA



1 operation only and not any other type of development, but  
 2 merely the fish farm operation. So, this lease contains that  
 3 provision, can be used for fish farm operation, incidentals  
 4 or related uses or other uses allowed by the Board of  
 5 Supervisors. This is typical of our County leases.

6 The rent contained herein is 5 dollars per acre per  
 7 year for one percent of the gross revenue derived from the  
 8 operation. In the event that the County was to allow  
 9 additional uses of the land, say for a trailer court or any  
 10 other type of -- not necessarily connected with the fish farm  
 11 operation, the rental payment to the County would be subject  
 12 to change based on comparable percentages or amounts paid for  
 13 the similar type services.

14 CHAIRMAN CHAMPION: Has there been any indication that  
 15 Mr. Sargent. does now or is interested in going into some  
 16 other kind of business?

17 MR. HARBERGER: Well, I can't speak for Mr. Sargent.

18 CHAIRMAN CHAMPION: I thought you had raised the  
 19 question.

20 MR. HARBERGER: I think this is a very important point,  
 21 but the way is left open for Mr. Sargent to use that land  
 22 for some other purpose. It is not entirely restricted for a  
 23 fish farm operation.

24 CHAIRMAN CHAMPION: But that is subject to approval  
 25 by the Board?

26 MR. HARBERGER: That is right. The amount of water

1 that is included in this lease is 25 percent of the flow from  
2 the existing well or any well that is drilled to replace the  
3 existing well. However, not to exceed 100,000 gallons per  
4 day. All the surplus waters, however, that are not needed  
5 by the County less the 70 acres not needed for public use in  
6 the way of therapeutic pools, this surplus water will all be  
7 made available to Mr. Sargent and it is assumed that this  
8 surplus water will be flowing surplus for a number of years  
9 and the County recognizes that fact. The only concern that  
10 the County has is that this resource of water is on the  
11 desert like gold especially since it is hot mineral water  
12 and, without that mineral water, it's just another piece of  
13 desert that is worth perhaps 50 dollars an acre. So that's  
14 the resource and the key to our whole concern, really, and  
15 the Board of Supervisors would like to control the major  
16 portion of these waters for the future use by the public.

17 As I mentioned in my letter, the people that use  
18 these waters aren't young turks like some of us, but for the  
19 senior citizen and we will present to the Commission area  
20 photographs to show you the uses of this area at this present  
21 time by the senior citizens. They come there by the thousands.  
22 They are the ones that have the aches and pains and rheumatism  
23 and arthritis and they're the ones that give the testimony of  
24 the healing effects of these waters, whatever they are, I'm  
25 not going to go in to that but they are, or the waters are  
26 greatly beneficial to the senior citizens and we know that the

1 senior citizen population is growing and continues to grow  
 2 and this is how the Board of Supervisors is looking at the  
 3 background of their decision on this matter and their interest.  
 4 But, as the retirement age is going to be reduced in this  
 5 country and the work week is going to be reduced, the high-  
 6 ways are going to be improved, the population is going to  
 7 become more highly mobile and these senior citizens are going  
 8 to be demanding, and believe me, they are demanding. We know  
 9 that, we hear that just about every Board Meeting, but they  
 10 are demanding these hot mineral waters. The Board of  
 11 Supervisors' concern is that water be available for them when  
 12 the need arises 50 years from now, our thinking isn't limited  
 13 just to today or next year or five years, but we are planning  
 14 for the future and we are protecting what we consider a very  
 15 vital resource for the public.

16 MR. ANDERSON: I'm a little confused now. There are  
 17 two kinds of water.

18 MR. HARBERGER: Yes, sir.

19 MR. ANDERSON: There's the normal water and he wanted  
 20 50 percent of the flow, is that right?

21 MR. HARBERGER: No, he wants -- Mr. Sargent wants 50  
 22 percent of the flow of the hot mineral water flowing from the  
 23 well.

24 MR. ANDERSON: Now, are we talking now of the hot  
 25 mineral water, only hot mineral water. We're not talking  
 26 about any other kind of water?

1 MR. HARBERGER: No, sir.

2 MR. ANDERSON: There's no argument then about the  
3 other kinds of water, only hot mineral water?

4 MR. HARBERGER: Hot mineral water.

5 MR. ANDERSON: And he wants 50 percent of a guaranteed  
6 or 50 percent of the hot mineral water?

7 MR. HARBERGER: Yes, sir.

8 MR. ANDERSON: And you are willing to give him only  
9 the surplus hot mineral water?

10 MR. HARBERGER: No, sir. We are willing and it's  
11 contained in this lease to guarantee Mr. Sargent as much as  
12 we guarantee him against natural acts of God -- guarantee  
13 Mr. Sargent 25 percent of the flow of the water from that  
14 well or any well that will replace it.

15 MR. ANDERSON: So you will guarantee --

16 MR. HARBERGER: Not to exceed, however 100,000  
17 gallons per day.

18 MR. ANDERSON: I don't quite understand that. 25  
19 percent of the present usage? What is this 50 percent? 50  
20 percent of the present amount of water that is coming out?

21 MR. HARBERGER: That's right.

22 MR. ANDERSON: And you're willing to give him 25  
23 percent but not to exceed --

24 MR. HARBERGER: All right. The concern, of course,  
25 there is a aqua caliente in San Diego County, it's a hot  
26 mineral well, I don't know whether it's a well or a spring --

1 but years ago it had a very ample flow but that flow has been  
2 reduced considerably and now the water has to be heated, you  
3 see, and has to be stored because the flow has been reduced.

4 Now why we have attached this 25 percent not to  
5 exceed 100,000 gallons a day, you see, is in the event in  
6 the next 30 or 40 years something happens, that there's an  
7 earthquake in the area and it is a very tricky area, right  
8 on the San Andreas Fault, I might add, in effect the ground  
9 just shifts and the flow of water is reduced, if it's reduced  
10 below, let's say, 400,000 gallons per day, Mr. Sargent will  
11 get 25 percent of it. If it's reduced to 200,000 gallons a  
12 day flow, Mr. Sargent will get 50,000 gallons a day. He'll  
13 have a guarantee of 25 percent of any amount of water that  
14 flows from that well. If it's less than, let's say --

15 MR. ANDERSON: How much is the flow today. In other  
16 words, you're limiting it to 100,000 gallons?

17 MR. HARBERGER: Right.

18 MR. ANDERSON: How much -- what percentage of that  
19 present flow?

20 MR. HARBERGER: The present flow measures -- taken by  
21 the Imperial Irrigation District -- is 900,000 gallons a day.

22 MR. ANDERSON: You're getting better than 17 percent.

23 MR. HARBERGER: That's right.

24 MR. ANDERSON: Now you also mentioned something about  
25 surplus water?

26 MR. HARBERGER: Of this 900,000 gallons a day, water

1 that is being emitted from this well, the County's need --  
2 I can't compute, Mr. Pierson could probably talk on what  
3 The County's needs would be for an adequate development of  
4 70 acres which the County now owns to use, if I may just use  
5 an example -- if our needs were 200,000 gallons a day, Mr.  
6 Sargent was guaranteed 100,000 gallons a day, we would su  
7 plus 600,000 gallons a day. That's surplus. 600,000 gallons  
8 would be available to Mr. Sargent. He'll get that 600,000  
9 gallons a day.

10 MR. ANDERSON: Then why have you written a 100,000  
11 gallon ceiling?

12 MR. HARBERGER: Just as a safeguard for the future.  
13 That as this area is now -- we're just looking, as I say, to  
14 the future, trying to protect this resource in Imperial  
15 County. We feel that this area has just a tremendous  
16 potential and development of it is not limited in any way to  
17 the 70 acres. We feel very confident that this whole area,  
18 miles of area, will develop into trailer courts and just  
19 recreational retirement type areas. Somewhere along the line  
20 we have got to have some vision. I'd like to, if I may --

21 MR. ANDERSON: Well then, actually what you think,  
22 there will be no surplus water?

23 MR. HARBERGER: Some day there will probably not be  
24 any surplus water. Some day, and Mr. Sargent at that time  
25 would have a guarantee of 100,000 gallons of water. But I  
26 would think that whenever that time comes when the County or the

1 full remaining 800,000 gallons of water is used for the  
2 public use for therapeutic pools, I would assume that there  
3 would be such a tremendous development in that area that the  
4 70 acres which Mr. Sargent would have leased from the County  
5 that the best use of that land and the greatest return from  
6 an investment on that land, I would think, would not be from  
7 a fish farm operation but rather from some other type of a  
8 more lucrative operation and the need for water would be  
9 some what reduced.

10 I'd like to show the Council, if I may, some aerial  
11 photographs recently taken of this area, this 70 acres.  
12 Would you care to see them?

13 CHAIRMAN CHAMPION: Yes. Bring them forward, please.

14 MR. HORTIG: Over and above 70 acres, title is  
15 currently vested in Imperial County and Imperial County  
16 also does have application with the United States Bureau of  
17 Land Management for acquisition of another 570 acres adjoin-  
18 ing this 70 acres parcel.

19 MR. ANDERSON: No conflict on this?

20 MR. HORTIG: No, except that this is the basis for  
21 expanded development which Mr. Harberger has referred.

22 MR. HARBERGER: I would first like to point out that  
23 the area outlined in red is the 70 acres now owned by the  
24 County. This is the 30 acres that Mr. Sargent has had the  
25 special land use permit.

26 MR. HORTIG: In yellow?

1 MR. HARBERGER: He has requested an additional 40  
2 acres under the special land use permit from the Federal  
3 Government. These are the 70 acres that are being offered  
4 to Mr. Sargent.

5 Mr. Sargent also has requested this 30 acres in  
6 this area. This is, as far as we are concerned, a greater  
7 use. This is a County road divided by highway. This is  
8 high land. Drainage of this area is this way, as you can see  
9 from the photograph.

10 MR. HORTIG: This piece is different from what he  
11 wants.

12 MR. ANDERSON: In other words, he wants this all and  
13 you are talking about just this.

14 MR. HARBERGER: If you'll notice. Although Mr.  
15 Sargent has had this 30 acres for 6 years, he has had this  
16 20 acres for 9 years, he has developed just about 10 acres  
17 of that. So, in just reviewing the record from the November  
18 6th meeting, it appeared to me that Mr. Sargent was indicat-  
19 ing to the Commission that this whole area of 30 acres was  
20 saturated with ponds. Well, here is the photograph. So  
21 that's the land that we have on Mr. Sargent. Here's an  
22 aerial photograph of the property. Here's some existing ponds  
23 five ponds here. This is the Imperial County Riverside land.  
24 This land is all in Riverside.

25 CHAIRMAN CHAMPION: What's the rest of this? These  
26 are all trailers?



1 MR. ANDERSON: Where is this on the map?

2 MR. HARBERGER: You are looking at the entrance road  
3 right here. This is pretty well taken in --

4 (inaudible, looking over the exhibits.) Here's a better  
5 aerial photograph taken on January 24th. Now that gives a  
6 rather clear outline of the 70 acres on there.

7 MR. ANDERSON: (indicating) Now this right here  
8 is here and this here is the farm?

9 MR. HARBERGER: On January 24th there was 1,700  
10 trailers on this area and, Gentlemen, believe me, they are  
11 creating a tremendous health and safety problem.

12 MR. ANDERSON: This property ends then right about  
13 here or just about there?

14 CHAIRMAN CHAMPION: You can't proceed to clear up  
15 this problem until this is decided?

16 MR. HARBERGER: Well, let me put it this way. Has  
17 the State cleared the squatters off the Colorado River? I  
18 don't mean to be facetious. This is in a sense -- but to try  
19 and clear the entire folks off 70 acres it would be a small  
20 scale revolution, I'm afraid, and when, if we cleared them  
21 off, how are we going to keep them off -- it's an enforcement  
22 problem.

23 MR. ANDERSON: You don't want to clear them off.

24 MR. HARBERGER: No, we don't want to clear them off,  
25 but the situation is getting to be critical, believe me.  
26 The whole area is just grown up with brush and it's a potential

1 fire hazard area. The health aspects of this, well there  
2 really aren't any.

3 CHAIRMAN CHAMPION: What would you do if an earth-  
4 quake -- what action would you take?

5 MR. HARBERGER: Today, right at this time as a matter  
6 of fact, the Board of Supervisors is continuing hearings  
7 with interested individuals, individuals who have submitted  
8 proposals for the development of this 70 acres that the  
9 County now owns. We had meetings yesterday with five inter-  
10 ested parties. There are five more parties with their  
11 proposals coming in today. So the Board of Supervisors --  
12 and I believe we have some very good proposals and I believe  
13 that these -- that the Board of Supervisors from among these  
14 ten prospective lessees will select one of them to lease this  
15 property and develop it, and I expect that this will be done  
16 within the next two weeks. However, we are finding out in  
17 our discussions with the prospective lessees that 70 acres  
18 just isn't enough. You can see here that the demand is  
19 already there. These people are not indigents, not with  
20 trailers. Indigent people don't have trailers. They are  
21 people retired, they have an income of some sort and they will  
22 pay what is expected to remain right on that 70 acres, and  
23 more would come in. 70 acres just isn't enough.

24 CHAIRMAN CHAMPION: It would be set up on an  
25 organized license basis?

26 MR. HARBERGER: Absolutely.

1 CHAIRMAN CHAMPION: Would there be health and safety  
2 standards?

3 MR. HARBERGER: By the California Trailer Act and by  
4 the local health department.

5 CHAIRMAN CHAMPION: Do you have anything else you  
6 want to show us?

7 MR. HORTIG: No, sir.

8 CHAIRMAN CHAMPION: Anything further from Imperial  
9 County? Mr. Sargent.

10 MR. SARGENT: Good morning. Yes, first off I would  
11 like to add a few points to what Mr. Harberger mentioned.  
12 He mentioned that I wanted a guarantee of water. I don't  
13 want a guarantee, no one can guarantee water.

14 And then he mentioned 25 percent of the 100,000  
15 gallons. Well, that amounts to 66 gallons a minute. At the  
16 present time my ramp pump alone takes 56 gallons per minute  
17 to furnish water to the houses. How can I operate with 10  
18 gallons a minute with the 90 some ponds I have at the present  
19 time, without any expansion.

20 CHAIRMAN CHAMPION: How much do you use now?

21 MR. SARGENT: 421 gallons a minute.

22 MR. ANDERSON: You use 421 gallons now?

23 MR. SARGENT: That's right. And Mr. Harberger can  
24 substantiate that, by the fact that he went to the ranch and  
25 went through the measuring of my wares and through the calcu-  
26 lations of that.

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

MR. ANDERSON: And that guarantees you how much a minute?

MR. SARGENT: 66 gallons a minute.

MR. ANDERSON: Do they accept this figure?

MR. SARGENT: I believe they will. If you figure it out mathematically, 100,000 gallons divided by 24 divided by 60, comes to 66 gallons a minute, approximately.

And, just kind of off the record -- just a little information on earthquakes. I have made a study of earthquakes through the U. S. Geological Survey and I find that out of 28 cases earthquakes tend to cause an increase while one of those decrease. That's the ratio. There is a flow of 600 and -- incidentally, from the Imperial Irrigation District the flow is 666 gallons and from the Geological Survey it is 936 gallons a minute from the well he spoke of. So, you see, 66 gallons a minute subtracted from 936 gallons is quite a lateral.

All right now, first I would like to present these maps, I'll be referring to this. This map is put out by Imperial County. This in red is what I request of Mr. Harberger and this in green I'll refer to.

Having digested the proposed lease that the County Board of Supervisors submitted to me on January 16, '64, it appears to me that it is mandate of Imperial County that I must accept this proposed lease as a final effort to arbitrate the said subject as suggested by the honorable Commission.

1           In discussing this proposed lease, my attorney  
 2 pointed out to me certain implied articles contained therein.  
 3 These articles are compiled to meet conditions that are  
 4 intolerable. I'm also advised that they are not within the  
 5 scope of good business. Conceding that in the past our  
 6 deliberations took place, I feel that it is my duty on behalf  
 7 of those parties who are concerned in this matter that I  
 8 submit a counter proposal in an effort to clear the docket  
 9 without appealing to the Courts. This is my proposed com-  
 10 promise:

11           1. The County of Imperial shall purchase and deed to  
 12 me a strip of land partially across the south portion of  
 13 Section 2, more specifically described as the south one  
 14 quarter of Section 2 with the exception of the rest of the  
 15 660 feet, a total approximately of 140 acres. Now that  
 16 is referred to as green on the map.

17           2. The County of Imperial shall install and maintain  
 18 at the County's expense buried, waterproof and insulated  
 19 10-inch in diameter, nonrustable pipeline which will clean  
 20 out and brought to the surface of the ground at no greater  
 21 distance than 600 feet. This pipeline will run from the well  
 22 or wells, springs or spring admitting hot water where located  
 23 upon the 70 acres now held by the County at a point closest  
 24 to the northeast corner and west of the County road of  
 25 property described in Paragraph 1. County shall agree that  
 26 in the event the flow of water is reduced through no fault of

1 mine due to obstruction in or about or leakage of said pipe-  
 2 line, the same shall be repaired by the County and returned  
 3 to proper working order upon giving a 24-hour notice to the  
 4 County of such condition, provided, however, that at the time  
 5 they enter upon the property of the County to perform  
 6 emergency repairs specified by, at my own expense, necessary  
 7 to continue the flow of water to the property described in  
 8 Paragraph 1.

9 In addition, that the headquarters when making the  
 10 pipeline, a means will be provided for diverting the entire  
 11 flow from the pipeline so that when repairs are necessary  
 12 they can be accomplished. And they further agree that said  
 13 pipeline will become for all times used as a channel for  
 14 hot water emitting from wells or well, springs or spring  
 15 located upon the County's 70 acres.

16 3. A conscientious program will at all times be  
 17 maintained by the County or its successors in the interest  
 18 to conserve all waters and the temperatures thereof and not  
 19 to cause an undue hardship upon my business and investments.

20 4. It is also agreed that I will, within 30 days  
 21 after the signing of this agreement between the County of  
 22 Imperial and myself, request that the State Lands Division  
 23 cancel my State Exchange No. 65 and return to me all deposits  
 24 and to request in turn the cancellation of application  
 25 LA 0133945 filed between the State of California and the  
 26 Bureau of Land Management; request a cancellation and return

1 of my appeal filed in the Bureau of Land Management,  
 2 Washington, D. C., appealing the decision of the Land Manage-  
 3 ment, Washington D. C. referred to June 5, 1963; request  
 4 the termination of my special land use permit No. LA 0115582  
 5 and any and all other documents contained in or involved  
 6 above.

7 5. I also agree that on or before 12 months after  
 8 the completion of operation of said pipeline as described  
 9 in Paragraph No. 2 and the County's compliance with the  
 10 provisions in Paragraph No. 1 with the placing in my  
 11 possession deed to the aforementioned property, I will have  
 12 vacated my present location and relinquish all and whatsoever  
 13 herein and any and all improvements made thereon, at the  
 14 same time, will become the said property of the County of  
 15 Imperial

16 For the information to submit this, I have been  
 17 advised by my attorney that under the rules and regulations  
 18 of the Bureau of Land Management, Imperial County is a  
 19 political subdivision of the State of California. Therefore,  
 20 they acquire 140 acres under the pre-emptive rule. In other  
 21 words, they have an act or right to purchase before others.

22 CHAIRMAN CHAMPION: Thank you. What is the response  
 23 of the County?

24 MR. SARGENT: I would like to submit this in evidence

25 CHAIRMAN CHAMPION: Oh, sure. I think both parties  
 26 recognize the sympathy of the Lands Commission in this thing

23  
1 which we are not in any position to dictate to any party here  
2 the terms of such an agreement as may take place before then.  
3 In effect, we have delayed in action which is necessary to  
4 settling the differences in order to be as equitable in the  
5 settlement as possible. We can't be in a position of  
6 deciding back and forth in all these negotiations. I just  
7 want to make it clear that this Commission, we are not in  
8 a position to say. We can ask, as we have asked, Imperial  
9 County to try to do something so to clear the way to take  
10 some action.

11 MR. HARBERGER: May I approach the bench?

12 CHAIRMAN CHAMPION: Yes -- this is not the bench,  
13 it is not referred to as the bench.

14 MR. HARBERGER: I'd like to mention that the County  
15 has not heard of this counter proposal at all. And, as I  
16 understand it in listening to Mr. Sargent requesting the  
17 County to deed to him 140 acres located in Section 2, I  
18 assume.

19 CHAIRMAN CHAMPION: Do you want to come up here?

20 MR. HARBERGER: Yes. I want to make very clear what  
21 he is talking about. Other words, abandon his present holdings  
22 and move in this area if you would give him this land and  
23 pipeline to the property. That is the essence of the agree-  
24 ment, as I understand it.

25 MR. SARGENT: I would share --

26 MR. ANDERSON: You would move your farm --



1 MR. SARGENT: I would move completely out. I'll  
2 tell you what I'm trying to do. I'm trying to make as  
3 equitable situation as possible. I can understand where  
4 their development would be more concise if all in one area  
5 and mine also would be. And, I think, to put it bluntly,  
6 stay out of each others hair, if I were to move down there  
7 and they would have the entire surrounding area.

8 CHAIRMAN CHAMPION: Do you have any indication to  
9 what expense the County would have to go to in order to do  
10 this?

11 MR. SARGENT: Well, I would only say that it would  
12 be far less than my expense. I'll spend between 25 to 30,000  
13 dollars to move.

14 CHAIRMAN CHAMPION: You're asking for how many acres?

15 MR. SARGENT: 140 acres.

16 CHAIRMAN CHAMPION: Now is that instead of the 70  
17 acres here?

18 MR. SARGENT: As you recall, I believe one of you  
19 gentlemen did make a recommendation at the last meeting on  
20 November 6 so that we could arrive at somewhere between the  
21 equitable, which should be somewhere between 70 acres and my  
22 original application of 220. This 140 brings it a little  
23 bit less than that recommendation and I also figured out the  
24 ground and the number of tanks I can put on there; in other  
25 words, to expand my business in an equitable manner.

26 MR. CHANSTON: How does this affect this here that

1 you have been planning to develop for the County?

2 MR. HARBERGER: Mr. Cranston, my immediate response  
3 is that we are not just talking about the 140 acres.  
4 Mr. Sargent wants some other requests. He wants the County  
5 to be in the water supply business and running the line --  
6 I don't know just how far it would be from the well down to  
7 this property -- and we are not in the water company business.  
8 He hasn't mentioned anything about how much water he needs  
9 when he talks about the fish farm operation. This whole  
10 flow of water could be used elsewhere.

11 MR. ANDERSON: Isn't there some advantage to the  
12 operation to get him out of this area?

13 MR. HARBERGER: Yes, sir.

14 MR. CRANSTON: How does this land affect the land  
15 that you plan to develop? Does it infringe upon it as far  
16 as the land goes?

17 MR. HARBERGER: In future expansion, of course, it  
18 would be an infringement, however.

19 MR. ANDERSON: Not as much as if he stayed here.

20 MR. HARBERGER: It would not be on 30 acres. It would  
21 give us more room for expansion, very true, but not his  
22 immediate location the way it's planned. We could just  
23 develop around his area on the 70 acres.

24 CHAIRMAN CHAMPION: Your problem is not so much the  
25 land as it is the water arrangement.

26 MR. HARBERGER: We could deed the property to him.

1 I don't know if that can be done.

2 CHAIRMAN CHAMPION: You are exchanging land for  
3 some that he already has a land use permit on?

4 MR. HARBERGER: Well, possibly that is another  
5 complication that we are not aware of at this time.

6 MR. JOSEPH: Is this the land exchange, is this  
7 something coming in under a recreational application with the  
8 Bureau of Land Management. The County acquires under a  
9 recreational application -- there may be serious doubt as to  
10 whether that land can be granted.

11 MR. HARBERGER: It would be a clause under the 1926  
12 Public Purpose and Recreation Act that it may be used for  
13 public purpose and recreation.

14 MR. JOSEPH: That may very well be the case.

15 MR. HARBERGER: We have talked with the Bureau of  
16 Land Management and I am sure that they understand the  
17 situation and I am sure that they would concur with the  
18 leasing of 70 acres to Mr. Sargent.

19 MR. CRANSTON: Presumably this lease is not decided.

20 MR. SARGENT: I believe, upon investigation, I have  
21 been notified by my attorney that it can be purchased by the  
22 County and decided in due time. And also, I might refresh  
23 Mr. Harberger on his water. I mentioned specifically in here  
24 as long as the County operates a conscientious program at all  
25 times and is maintained by the County and its successors  
26 and conserve all waters thereof and cause no undue hardships

1 upon my business and investments.

2 CHAIRMAN CHAMPION: Well, I know what my view of  
3 this thing is and it really seems to me to come to this and  
4 other -- and the other Members may have an adequate view --  
5 but it seems to me that this is something that inevitably  
6 we come to the point where Imperial County should have and  
7 develop this land for the purposes of their setting forth for  
8 public use. All right there are the problems involved.

9 Imperial County Board of Supervisors are to be  
10 trusted to act in an equitable and reasonable fashion in  
11 trying to work out the problem with Mr. Sargent and, as far  
12 as I am concerned, they are as able to do that as we are.  
13 And because of this peculiar situation with the management  
14 of the lands here, we really come in as a third party who  
15 would not ordinarily be in this problem at all and probably  
16 are just as well off out of it. At least I know I would  
17 like to be out of it. Not for that reason, but because I  
18 don't think we should end up dictating the terms between  
19 Mr. Sargent and the local Board of Supervisors.

20 I would hope that we could go ahead and release it  
21 and take the action proposed here. That is reject the  
22 application of Mr. Sargent, put this in public hands and ask  
23 the Board of Supervisors to continue to work with Mr. Sargent  
24 to come to some equitable solution, although there might  
25 be another possibility here. But, in order to get that  
26 public use and health safety problem settled, we ought to go

1 ahead and take action and trust the Board of Supervisors to  
2 work this out fairly with Mr. Sargent.

3 MR. ANDERSON: If it's proven to you that he uses  
4 421 gallons and they only give him 66 gallons, don't you  
5 think there's a little inequity here?

6 CHAIRMAN CHAMPION: I think we are not here for a  
7 Court of Equity.

8 MR. ANDERSON: Yes, but our action affects it one  
9 way or the other. Whatever we do is affecting one side or  
10 the other.

11 CHAIRMAN CHAMPION: We remove ourselves from the  
12 impediment of these people.

13 MR. ANDERSON: You remove Mr. Sargent and give it to  
14 the County. You can't say you are withdrawing.

15 CHAIRMAN CHAMPION: The County still has it's normal  
16 procedures and has to clear all it's normal channels. What  
17 we are doing is removing ourselves as to the impediment as  
18 to the final settlement here and judgement as to what the  
19 settlement should be.

20 MR. SARGENT: May I say one thing. If you do that  
21 you will be literally throwing me to the dogs. Last spring  
22 I believe some people even with the County present in the  
23 room, will verify my statement that I was thrown dog bones  
24 and told to go home and gnaw on your bone, or words to that  
25 effect. I will be lucky to get anything and you will see  
26 what you are doing to me. It will end up in Court.

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

CHAIRMAN CHAMPION: Perhaps that's the proper place for it. I just don't think that we belong as a Court in this thing.

MR. SARGENT: As far as relying on his -- he stated in his lease if -- and incidentally, I state now that I am a fish farmer and I always expect to be a fish farmer. But over a period of a great number of years, my son growing, he may decide to do something else with it and to rely upon the good heartedness of the Board of Supervisors is awfully hard to follow. And, as I stated in this lease --

CHAIRMAN CHAMPION: Mr. Sargent, you don't own this land. You have a public use permit granted under certain purposes for certain reasons and the Federal laws prescribe other uses as being more important, and you do have an unfortunate case here. I think we are all quite sympathetic with the fact that you do have a substantial investment here.

MR. SARGENT: Well, mine actually is a commercial enterprise the same as the County's is a commercial enterprise. They're not going in there and developing it themselves.

CHAIRMAN CHAMPION: They could not take the land from you, they do not have a public purpose for so doing. They have to prove that to a Court. They can't -- the County can't take action as a private entrepreneur unless they can show that public recreation, health and safety is involved. And I think there is a clear demonstration of it, but it is up to the Court to decide.

30  
1 MR. HARBERGER: The Board of Supervisors, of course,  
2 indicated their willingness to enter this lease and possibly  
3 it would be a minimum and possibly there could be other  
4 changes, but that's the minimum, we know that. That's on  
5 record.

6 MR. ANDERSON: Don't you think the water guarantee  
7 is less than minimum?

8 MR. HARBERGER: What Mr. Sargent says is true to the  
9 extent that there has been 421 gallons flowing.

10 MR. ANDERSON: He says he now is using this. His  
11 statement -- he actually said there was 936 flowing from one  
12 of the wells. He said he was now using 421 gallons. That  
13 was the statement he made. Maybe it's wrong.

14 MR. HARBERGER: Mr. Sargent is not using 421 gallons  
15 per minute. Maybe on the coldest days in the year -- in  
16 Imperial County we don't have any cold days. But, on the  
17 coldest days of the year possibly he uses more than 421  
18 gallons. What is taking place in that respect is 421 gallons  
19 of hot mineral water is flowing down the stream going to  
20 Mr. Sargent's property, some of that water is going in to the  
21 holding pond, some of it is going down the drain to the  
22 Salton Sea, some of it is going to help operate a ramp pump  
23 60 gallons a minute, I believe, or 66 gallons a minute to  
24 operate a ramp pump. To operate a ramp pump with such a  
25 tremendous resource, and I'm not sure in my mind what a ramp  
26 pump is except that it builds up pressure, builds up the heads

1 so that there will be pressure to deliver water. But to use  
2 that resource for a ramp pump is not necessary. There is  
3 electricity on the property now which probably provides the  
4 same goal. But, Mr. Sargent, all that is taking place is --  
5 421 gallons is flowing down that stream, Mr. Sargent is not  
6 using at all. That water is flowing in that stream because  
7 there was a certain change made.

8 MR. ANDERSON: What is your estimate of what he is  
9 using?

10 MR. HARBERGER: Actually it is difficult to say. I  
11 can't say.

12 MR. ANDERSON: You said what he's not using, you  
13 ought to be able to say what he is using.

14 MR. HARBERGER: It would be barely a guess, a guess --

15 MR. ANDERSON: What would your guess be? Would it  
16 be one-half this amount? You are offering him about 8, or  
17 percent of what he says he uses. Now, if he's not using it,  
18 you must have some idea what he uses. I think there is  
19 equity in what they are guaranteeing him here.

20 MR. HARBERGER: I suppose --

21 MR. ANDERSON: If these figures are --

22 CHAIRMAN CHAMPION: I think this is a matter for a  
23 Court to decide, not for us. We are being asked in this  
24 thing to reject an application. Mr. Sargent has gone ahead  
25 without making firm his title or rights in this thing. He  
26 has taken a number of chances and it is an unfortunate



1 predicament. We are being asked to recognize this property  
2 for public use for Imperial County, which I feel is a valid  
3 public use. And, we would also like to see Mr. Sargent  
4 dealt with as fairly as possible. But, we are not really  
5 qualified or directed to settle in the consideration of this  
6 matter and I just think we are in the wrong jurisdiction to  
7 try and settle the amount of water to give Mr. Sargent.

8 MR. HORTIG: Purely as a matter of engineering  
9 computation, we may simplify something without going to  
10 estimates of actual usages. I have calculated from the  
11 figures these gentlemen gave us, sitting here, that on the  
12 basis of current usage, minimum guarantee is 66 gallons per  
13 minute and 132 gallons per minute which the County estimated  
14 was necessary for initial development of the County lands  
15 would leave a surplus which under the proper contract form  
16 would be delivered to Mr. Sargent as a surplus alone which  
17 would be 400 gallons per minute. Therefore the 66 gallons  
18 per minute which is minimum if nature provides only this  
19 amount.

20 MR. ANDERSON: The County doesn't know how long  
21 the initial surplus will be there.

22 MR. HORTIG: They did not indicate how long, but  
23 initially it will be there -- the utilization for, I assume,  
24 a sum of 200 gallons.

25 MR. ANDERSON: You wouldn't expect him to build an  
26 operation on a guarantee that it might go back to 66 gallons.

1 It seems to me that they ought to give him more than that  
2 much. I mean he can't build it on something he has today  
3 and not have it six months from now.

4 MR. CRANSTON: May I ask the Attorney General's  
5 representative here, what opportunity will Mr. Sargent have  
6 for grappling with this matter of equity particularly in  
7 terms of water supply with the Court, if he goes to Court,  
8 if the County does not do as he feels.

9 MR. JOSEPH: The man may assert his rights in Court  
10 either as an act of review here or to assert some sort of  
11 ownership use permit and he could assume his attorney would  
12 be able to frame something to get an opinion of a Court.

13 MR. ANDERSON: Once we release the claim, it's pretty  
14 weak.

15 MR. JOSEPH: That's what we think, his claim is  
16 pretty weak, but you never know what the Supreme Court will  
17 decide in the matter.

18 CHAIRMAN CHAMPION: Let me put it this way. If he  
19 does have some right for review of the situation, he could  
20 assert those rights. The reason you don't think to do any-  
21 thing -- you don't think he has any legal right?

22 MR. JOSEPH: I think this. Now, the rules of the  
23 Commission here -- the question is whether or not the  
24 Commission should withdraw an exchange application of the  
25 United States. That's the fundamental question and,  
26 incidentally, deny Mr. Sargent's application to the Commissioner.

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

The rules of the Commission are such that the Division of State Lands Division does all the processing of these applications, both the application to the Commission and the Commission's application to the United States. And, it's only when everything is all finished up that the Commission is asked to approve or disapprove of the application. And at that time in the public interest the Commission may approve or disapprove despite what the Division has done. And, the fact that the Division of the State Lands has processed the applications does not imply a consent of the Commission to the application or approval of the application because the Commission's hands must be left free to act either one way or the other.

In the interim, while all these proceedings are going on, the applicant may withdraw his application and get his money back. He isn't bound, so there's no mutuality of the contract in any way. And inasmuch as this applicant has only put up a minimum deposit or full deposit, he hasn't actually paid any of the purchase price, he has no vested rights, so the Commission may act one way or the other. And, of course, in a public application of the Commission, a later application takes priority over an earlier private application.

But, this isn't the question here. The question is merely whether or not the Commission could withdraw its application to the United States for the exchange of State

1 lands or Federal lands and I think it has unchallenged  
2 authority to do that and the State applicant has no right  
3 in the matter. Although this situation may be unfortunate  
4 and there has been a ten year delay on this thing, that  
5 was caused by the Bureau of Land Management proceedings and  
6 not by anything the State itself did. So, therefore, I  
7 don't think he has any rights --

8 MR. ANDERSON: He hasn't any rights if we reject,  
9 but if we do not reject his rights are pretty clear. Our  
10 action determines what his rights are or are not.

11 MR. JOSEPH: The question is whether or not -- the  
12 question before the Commission as I see it is, whether or  
13 not in the public interest to withdraw the application from  
14 the United States. Inasmuch as there's been, as I understand  
15 it, a recreational application of the County of Imperial  
16 Bureau of Land Management to obtain a larger piece of land  
17 including this land and you're talking about rights of  
18 Mr. Sargent, well, that's in your discretion whether you want  
19 to recognize -- the way the interest of the two parties --  
20 whether or not you want to withdraw the application. He  
21 hasn't any rights under his application as such. If you  
22 grant Mr. Sargent's application, of course he has rights.

23 MR. ANDERSON: If we reject it, there isn't going to  
24 be a Court of law reviewing this thing. If we do that today,  
25 that would decide it.

26 CHAIRMAN CHAMPION: We would give him some rights,

1 which I don't think we should.

2 MR. ANDERSON: My objection and yours is the same.

3 I want to have this developed in the County program as well  
4 and see if they can't work something like this, work out some  
5 sort of an agreement, if they don't want to make land trans-  
6 fers give him more water rather than our washing him out.

7 CHAIRMAN CHAMPION: Don't you feel ordinarily if we  
8 were not involved in this and Mr. Sargent owned this property  
9 the Imperial County Board of Supervisors would have to go  
10 through a Court. They would have to condemn, I concede that,  
11 but aren't they bound as a public body under whose juris-  
12 diction Mr. Sargent exists -- aren't they bound by not only  
13 by their attitudes and expressions here, but also by their  
14 general responsibility to treat Mr. Sargent as fairly as  
15 possible and why should we interject ourselves to do it  
16 working out of that relationship.

17 MR. HORTIG: I think we have touched on it and that  
18 is, if the land applications were processed to conclusion and  
19 the lands were sold to Mr. Sargent, Imperial County having  
20 established for the area at least asserted a higher public  
21 use, you would condemn the property immediately and transfer.

22 MR. ANDERSON: Then it would go to Court for  
23 decision.

24 MR. HARBERGER: If I may just bring up a couple of  
25 points. One, in this proposal that Mr. Sargent has just  
26 mentioned today, it seems that the issue here is water.

1 In this proposal Mr. Sargent mentioned, he's getting no  
2 guarantee of watter at all, only for so far as the County  
3 uses the waters for the public person in a very frugal  
4 manner.

5 CHAIRMAN CHAMPION: Your contract will not cause  
6 him any undue hardship?

7 MR. HARBERGER: That's right. Here, at least, in  
8 this contract he has a guarantee of so much water plus the  
9 fact the water is flowing at a certain temperature, emitted  
10 from the well at 178 degrees which is pretty hot and Mr.  
11 Sargent needs this water at approximately 80 degrees in  
12 temperature for his tropical fish. That is about the  
13 extent of my knowledge of his operation, I might say.

14 But another point here is that the County was  
15 presented with a request by Mr. Sargent for 50 percent of  
16 the water. When Mr. Sargent and I got together in our last  
17 meeting, prior to that time, as a matter of fact January 1st,  
18 Mr. Sargent had received draft copies of that lease with  
19 provisions in it. On January 7th Mr. Sargent and I got  
20 together over that draft and Mr. Sargent listed his objec-  
21 tions. We went over it point by point. As a result of that  
22 meeting, we made certain changes in the draft lease  
23 provision and got that to Mr. Sargent. On the 9th of  
24 January Mr. Sargent and I then met and all this time Mr.  
25 Sargent wasn't getting everything he asked for. We then met  
26 on January 13th for our final meeting and Mr. Sargent had the

1 lease with the amended provisions, filling in the blank  
 2 spaces. This to me was the height of our negotiations. Why  
 3 we had all of these other meetings, we weren't concerned  
 4 about the assignment or subletting provisions in the lease.  
 5 These are standard provisions. The water, the land, the  
 6 rent and the use were the meat of it. We filled in the  
 7 blank spaces and got down to the real hard negotiation and  
 8 Mr. Sargent found -- and I explained to him that these  
 9 intended recommendations to the Board of Supervisors -- and  
 10 he found that the lease was less than what he requested.  
 11 I mean in his letter to the Board of Supervisors, I think of  
 12 which the Commission received a copy, he broke off the  
 13 negotiation completely, indicated in his letter -- I don't  
 14 know the date of it off hand -- the negotiations were  
 15 stopped as far as I'm concerned at a very critical point.  
 16 And had Mr. Sargent tried to really negotiate at that point,  
 17 things would have been different, perhaps, and this lease  
 18 Mr. Sargent doesn't agree with the terms, the critical terms,  
 19 but he didn't make any attempt to try to make any changes,  
 20 or to any way get a compromise, not at all. Now this lease  
 21 is a minimum, a minimum of what the Board of Supervisors  
 22 would give to Mr. Sargent in this lease. Now, if we could  
 23 reach some agreement, the Board of Supervisors would consi-  
 24 der changes in these minimums.

25 MR. CRANSTON: What more can be done in regard to  
 26 the water?

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

MR. HARBERGER: I don't know. I certainly don't want to make any public statement as to -- there could be an increase. Not 50 percent certainly because the resource is too valuable. As I said earlier, that is the heart of the whole area and I am not about to advise the Board of Supervisors to give away this resource, 50 percent of it nor any majority of it.

CHAIRMAN CHAMPION: As between the two uses, the greater use is quite clearly recreational use as opposed to keeping tropical fish. In my judgment I assume it is the attitude of the Board.

MR. HARBERGER: We are looking ahead and in looking ahead thereby hurting someone today. I don't know that we are basically hurting Mr. Sargent. I sympathize with Mr. Sargent. I think he is perfectly right. He has a great deal invested in the future. I don't mean financially, but in the future and I respect his attempt to get the best deal that he can out of this. I have right along, but yet, on the other hand, we have to look in the public use which I think certainly takes a greater and more important place than unfortunately an individual.

MR. CRANSTON: Mr. Chairman, we have gone through this a substantial length of time and all we could provide was much opportunity for negotiations leading to a settlement where we would not have to make a decision that we are confronted with making now. I think all of us on the



1 Commission hope very much that you can deal as fairly as  
 2 possible with Mr. Sargent and seek, if possible, to give him  
 3 whatever time is possible a greater water supply than is  
 4 suggested in the minimum proposal. And the minimum proposal  
 5 that you have made to him, I fear that we are confronted  
 6 with the situation of where there is public health and safety  
 7 involved and risk in further delay and much to my regret and  
 8 deepest sympathy, I, therefore, move that we adopt the  
 9 staff recommendation with the explicit understanding that  
 10 the minimum proposals to Mr. Sargent be continued to be  
 11 offered to him and with the strongest possible recommenda-  
 12 tion further to the County, that you do all you can to  
 13 supply him greater water than suggested by the minimal.

14 MR. ANDERSON: You implied there that had Mr.  
 15 Sargent gone on negotiating instead of breaking off that  
 16 these minimums could be increased or something. Do you  
 17 think that he could be assured that the minimums at least  
 18 would be doubled? Say that the 66 gallons would be 125  
 19 gallons or 150 gallons?

20 MR. HARBERGER: If the Board of Supervisors would  
 21 instruct me to continue negotiations, I would not at this  
 22 time in any way divulge what my thoughts would be. This  
 23 would come out in our negotiations. I do think...

24 MR. ANDERSON: You won't assure us that there will  
 25 be a sizable increase in the minimum here?

26 MR. HARBERGER: There would be an increase.

41  
1 MR. ANDERSON: An increase from 66 to 70 is an  
2 increase but it would not change the effect of the hardship  
3 on them. If you were to double it so he got 120 or 130  
4 gallons, that would mean something, I would think.

5 MR. HARBERGER: It's a possibility. I mean, I don't  
6 mean to be just ignoring your question, Governor, but I  
7 don't feel I am in the position really to say yes, Mr.  
8 Sargent would get 200,000 gallons of water. I'm not in  
9 that position. I know what I would have gone to if Mr.  
10 Sargent would have gone on to reach some agreement. We were  
11 in the height of our negotiation, I know what I would have  
12 gone to, but I'm not going to divulge it. I don't think I  
13 should really, but there could be other changes. We want  
14 to be fair. The Board of Supervisors aren't a bunch of  
15 monsters, they're trying to be fair with Mr. Sargent and we  
16 can if Mr. Sargent will be reasonable.

17 CHAIRMAN CHAMPION: In order to move this, I will  
18 second it. Is there anyone else before we take action who  
19 would like to speak on the subject. Would you like to speak  
20 Senator Quick?

21 SENATOR QUICK: I think it has been presented well  
22 and, naturally I see the County's purpose for providing  
23 something for the aged who personally enjoy this area and it  
24 has been expanded over a period of years.

25 At the same time I am sympathetic with Mr. Sargent  
26 in his fish development there and I think it is a wonderful

1 thing for the County.

2 As explained here, I think that it definitely can  
3 be worked out to the satisfaction of the Board, the County,  
4 and Mr. Sargent, if they would just sit down and talk about  
5 this thing.

6 MR. CRANSTON: Will you do all that you can that  
7 will help all the matters go forward in as satisfactory  
8 a method as possible?

9 SENATOR QUICK: In a satisfactory manner, I will be  
10 sure to do that.

11 CHAIRMAN CHAMPION: Thank you very much, Senator.  
12 Anything further before I state the motion?

13 The motion is that we approve the recommendation of  
14 the staff with the additional understanding expressed here  
15 in accordance with the resolution of the Board of Supervisors  
16 and assurances that there will be continued negotiations to  
17 improve these conditions. I guess we better call --

18 MR. ANDERSON: I'm not going to vote against it.  
19 I hope we can token with the assurances of Senator Quick  
20 and the County of Imperial to try to work it all out.

21 CHAIRMAN CHAMPION: It will stand unanimously  
22 approved.

23 Any further business to come before the Commission?

24 MR. HORTIG: No, sir.

25 (Whereupon the meeting terminated at 11:30 a. m.)

26

C E R T I F I C A T E

STATE OF CALIFORNIA, }  
COUNTY OF SACRAMENTO. } ss.

I, MARGARET M. RITCHEY, Reporter in and for the Northern District of California, Northern Division, do hereby certify:

That I was present at the foregoing hearing, that I took down in machine shorthand all of the testimony and proceedings had therein and that I thereafter caused said machine shorthand notes to be transcribed into longhand on the typewriter; that the foregoing transcription of my machine shorthand notes is a full true and correct transcript of the proceedings had and done during the above hearing.

IN WITNESS WHEREOF, I have hereunto caused my hand to be affixed this 24th day of February, 1964, A. D.

*Margaret M. Ritchey*  
\_\_\_\_\_  
Reporter

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

STATE LANDS COMMISSION

LOS ANGELES

RECEIVED

FEB 2 1957

DEPT. OF FINANCE