

TRANSCRIPT OF
MEETING
of
STATE LANDS COMMISSION

SACRAMENTO, CALIFORNIA
February 26, 1964

PARTICIPANTS:

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

Mr. F. J. Hortig, Executive Officer

OFFICE OF THE ATTORNEY GENERAL:

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

APPEARANCES:

(In the order of their appearance)

Mr. John R. Mansell, City Manager, City of Long Beach

Mr. S. Hansen, Associate Right-of-Way Agent,
County of Contra Costa

Mr. Ronald D. Broatch, Deputy Public Works
Director, County of Contra Costa

Col. Herbert M. Turner, U.S.A. Ret.,
Consulting Engineer

Mr. Robert Langner, Manager, Marine Exchange

Mr. R. W. Barsdale, Sacramento District
Corps of Engineers

Capt. Henry Simonson, Chairman, Northern
California Marine Affairs Conference

Mr. Ford B. Ford, Executive Secretary, Senate
Factfinding Committee on Natural Resources

Mr. Harold A. Lingle, Deputy City Attorney,
City of Long Beach

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(In accordance with Calendar Summary)
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2 Confirmation minutes 11/21/63			1
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(b) Pacific Tel & Tel, Northern Division	13	3	3
(c) Ditto	14	4	3
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4 PERMITS, EASEMENTS, LEASES, RIGHTS-OF-WAY, FEE:			
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(b) Humble Oil & Refining	5	8	33
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5 OIL AND GAS LEASES			
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1 MR. CHAMPION: I will call the meeting to order.
2 The minutes of the meeting of November 21st have been sup-
3 plied to the Commission. If there is no objection, they will
4 stand approved as submitted.

5 Before we begin the regular business of the Commis-
6 sion, I would like to comment on the suggestion made yesterday
7 before the Assembly Joint Committee on the matter of tidelands --
8 that the representatives of the Lands Commission and repre-
9 sentatives of the City of Long Beach begin negotiations, this
10 time on a somewhat different basis than they have been con-
11 ducted in the past.

12 With the consent of the other members of the Commis-
13 sion, I talked to Mr. Mansell, the City Manager of Long Beach,
14 and the proposed method of conducting those negotiations will
15 be to have Mr. Hortig, the Executive Officer of the Lands
16 Commission, and Mr. Shavelson, the counsel of the Lands Com-
17 mission, represent us in staff discussions this week, setting
18 up a new agenda of differences or of problems with two staff
19 representatives appointed by Mr. Mansell; and hopefully by
20 next week they will be in a position to sit down with us.
21 I will be present; if other members of the Lands Commission
22 wish to participate, they will be welcome.

23 I think the Committee gave us fifteen days, and
24 hopefully we might be able to produce something.

25 I'd like to point out that there is a difference
26 between these negotiations and the ones we have had in the past.

1 In the past, we have been negotiating for a contract under
 2 the present legislation. What we will be negotiating here
 3 is on new legislation, which would govern a new contract.
 4 Presumably, many of the same issues would be involved, but the
 5 subject becomes somewhat different and we have somewhat greater
 6 latitude, in that we can create new conditions of negotiation.
 7 I think it is important that we understand that it is not the
 8 same negotiation that has been taking place between the two
 9 staffs up to this time.

10 Would either of the other members of the Commission
 11 care to comment on this at all?

12 GOV. ANDERSON: It's an idea. I move to authorize
 13 it.

14 MR. CRANSTON: If any authorization is required, I
 15 second the motion. I am certainly delighted that you have done
 16 this and I hope very much that it leads to a successful
 17 negotiation.

18 MR. CHAMPION: I think we will all be happy -- both
 19 the State and Long Beach, I know, would like to have this
 20 long problem settled equitably; and I hope we can arrive at a
 21 satisfactory negotiation. Would you care to add anything at
 22 this time, Mr. Mansell?

23 MR. MANSELL: No, I think you have covered the mat-
 24 ter quite well, Mr. Champion.

25 MR. CHAMPION: All right. Thank you. Are there any
 26 other observations or comments? (No response.)

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Then we will proceed to the matters on the agenda.

Item 3 -- Permits, easements, and rights-of-way to be granted to public and other agencies at no fee, pursuant to statute:

(a) State of California, Department of Parks and Recreation, Division of Beaches and Parks -- Confirmation of emergency authorization granted by staff and authorization for Executive Officer to issue permit to dredge approximately 25,000 cubic yards material from tide and submerged lands in bed of False River, Contra Costa County, for period 2/4/64 through 12/31/66, subject to conditions specified.

(b) Pacific Telephone and Telegraph Company, Northern Division -- Authorization for Executive Officer to execute agreement for submerged telephone cable, crossing ungranted tide and submerged lands of Clear Lake, Lake County.

(c) Pacific Telephone and Telegraph Company, Northern Division -- Authorization for Executive Officer to execute agreement for submerged telephone cable, crossing ungranted tide and submerged lands of Clear Lake, Lake County.

(d) U. S. Army Engineer District, Los Angeles, Department of Defense -- Authorization for issuance of temporary permit to conduct field exercises on and over State lands of Riverside and San Bernardino counties for the period from 4/15/64 to 6/15/64.

GOV. ANDERSON: May I ask Mr. Hortig a question -- not specifically on this, but prior to the meeting we were

1 having a little discussion about when we are dealing with a
 2 public agency, whether we charge them or whether we give them
 3 the land that is dredged up. In this first one, we are giving
 4 it to the Department of Parks and Recreation; in some of them
 5 we have charged. I am thinking now of the case of the San
 6 Francisco Port Authority. What would be the difference between
 7 this and the San Francisco Port Authority?

8 MR. HORTIG: The distinction is, Governor, that in
 9 the Division of Beaches and Parks project the dredged material
 10 was never removed from State-owned land. It was moved from
 11 the bed of False River and Piper Slough to levees on land owned
 12 by the State of California and under the jurisdiction of
 13 Beaches and Parks, so title never passed.

14 The San Francisco Port Authority, while it is a
 15 State agency, is funded separately in the funding process and
 16 the proposal was to remove material from lands under the juris-
 17 diction of the State Lands Commission and to construct a com-
 18 mercial venture, a loading pier, on which a profit hopefully
 19 is going to be made by the San Francisco Port Authority.

20 GOV. ANDERSON: It is a State agency, isn't it?

21 MR. JOSEPH: It would amount to a general fund
 22 appropriation. It is a special fund -- in the nature of a
 23 special fund, whereas Beaches and Parks or Parks and Recrea-
 24 tion is not. That was the distinction made at the time. In
 25 other words, it would be giving them something out of the
 26 general fund, general State property for a special activity,

1 namely, the Port of San Francisco.

2 MR. CHAMPION: In this case, it is in the nature of
3 a general activity of the State?

4 MR. JOSEPH: Yes. The other was a special activity
5 of San Francisco.

6 MR. CHAMPION: And the ownership of the land on which
7 it rests is not a critical factor.

8 MR. JOSEPH: It is one.

9 MR. HORTIG: That's one factor because in this case
10 the land is also held in a different title character for
11 Beaches and Parks than the uplands which were purchased as
12 proprietary lands by the San Francisco Port Authority, on
13 which this tideland material was to be deposited -- making a
14 further specialization in a series of specialized cases.

15 GOV. ANDERSON: I had thought we normally made a
16 charge, even if it were a bookkeeping charge, to agencies like
17 this -- Highways and some of the others, haven't we?

18 MR. HORTIG: The Division of Highways is the one
19 agency, under 101.5 of the Highways Code, to get this material
20 for free; the other agencies do not.

21 GOV. ANDERSON: Which agencies do not? Here is one
22 that is getting it for free.

23 MR. HORTIG: But they do not have specific statutory
24 authority. In this instance, it was a case of re-arranging
25 the location of the State material. Title is still in the
26 State of California. The material has not been moved off

1 State lands. This was the additional distinction with the
2 Port Authority -- that the State-owned material was going
3 essentially, in what is a bookkeeping system, into privately-
4 owned uplands.

5 MR. CHAMPION: In this case, we would be simply
6 taking it out of one pocket and putting it in another pocket
7 of the same person, whereas in the other case we would be
8 taking it into a different element.

9 GOV. ANDERSON: Well, it is a State agency.

10 MR. CHAMPION: If you treat the State as a person,
11 you take it out of one pocket and put it in the same pocket --
12 whereas in the other case, you take it out of one pocket and
13 put it another. Maybe that's a better analogy.

14 GOV. ANDERSON: All right. I'll move it.

15 MR. GRANSTON: Second.

16 MR. CHAMPION: Moved and seconded, stand approved.

17 I understand there are persons here who wish to be
18 heard on the first item in Number 4. Let me read it, and
19 then we will ask for those who wish to comment.

20 Permits, easements, leases and rights-of-way issued
21 pursuant to statutes and established rental policies of the
22 Commission:

23 (a) Contra Costa County Public Works Department --
24 Permit to dredge approximately 200,000 cubic yards of material
25 at minimum charge of three cents per cubic yard, from bed of
26 Suisun Point Channel, Contra Costa County, and grant of

1 temporary right-of-entry permit for a dredge pipeline easement
2 over State lands for transporting the dredged material, to be
3 in effect from 2/1/64 to 12/31/64.

4 MR. HORTIG: Mr. Chairman, if I may suggest also,
5 in addition to those people who have given notice of intention
6 to appear, the Commission has received a letter from the Contra
7 Costa Taxpayers Association under date of February 21st, re-
8 porting that at the last meeting of the Board of Directors of
9 the Contra Costa Taxpayers Association, the Board unanimously
10 went on record as requesting the State Lands Commission to
11 waive its fee on the ground that this is an emergency dredging
12 of navigational waters, which brings with it benefits to the
13 State. "We also feel that because of the extreme difficulty
14 of locating suitable spoils areas, there should be no charge
15 in this case."

16 MR. CHAMPION: Would you like to respond to the
17 letter and the policy involved before we call for comments?

18 MR. HORTIG: Mr. Chairman, if the Commissioners will
19 refer to the page following page 7 of their agenda item, and
20 particularly to the second map, across the upper right quadrant
21 there is designated Carquinez Straits -- which is an area
22 which is proposed to be dredged and has been authorized to be
23 dredged by Congress, an operation to be conducted by the U. S.
24 Corps of Engineers. In navigation improvement projects of
25 this type, the Corps of Engineers requires local interests to
26 furnish a spoils disposal area -- that is, an area to dump

1 the material which is dredged out of the channel at no cost
2 to the Army Engineers' project.

3 In prior discussions with the County of Contra Costa,
4 who are interested in this project, it was pointed out that
5 the permit could be issued by the Lands Commission for deposi-
6 tion of such spoils on the area designated on the map, about
7 the middle, on State lands. This, indeed, has been done with
8 other municipalities along Carquinez Straits. However, Contra
9 Costa County, in negotiation with Utah Construction Company,
10 who are the landowners of the tract so identified, which is
11 inland of the State lands, had arranged for utilization of the
12 Utah Construction Company for the spoils area and thereupon
13 made application to the State Lands Commission (1) to dredge
14 the material out of Carquinez Straits; (2) to move that material
15 over a right-of-way over the State lands, and to have the
16 material deposited on the Utah Construction Company property,
17 which is privately owned, in order to fill it and bring it to
18 something approaching a level surface.

19 The authorization of the dredging permit presents
20 no problem to the Lands Commission and would be done, the
21 consideration being the public benefit resulting from improved
22 navigation as a result of the dredging by the Army Corps of
23 Engineers. Similarly, any right-of-way to move the material
24 on to State lands, for example, could be authorized and would
25 ordinarily be authorized, being necessary in order to achieve
26 the benefits of removing the material from the channel; but

1 when we get to the point of deposition of the State-owned
2 material on privately-owned lands, enhancing the value of the
3 privately-owned lands, there is a serious consideration of
4 whether the State Lands Commission can waive its fee and ap-
5 prove deposition of the material on the privately-owned lands.

6 MR. CHAMPION: Would you advise it, even if it were
7 legal?

8 MR. HORTIG: Not as a precedent in this instance
9 particularly, because this is probably the start of a series
10 of planned programs for rather extensive operations along a
11 considerable portion of Carquinez Straits.

12 GOV. ANDERSON: What is the emergency they refer to?

13 MR. HORTIG: Actually, there is a shoaling down at
14 Carquinez Straits which it would be desirable to remove. This
15 emergency permit for removal could be issued by the Commission
16 at any time. The emergency does not involve the problem of
17 whether the material must be paid for because it goes on private
18 lands or is authorized to be done for free if it is deposited
19 on State or public lands. That is the crux of the problem as
20 far as the State Lands Commission is concerned.

21 GOV. ANDERSON: This dredged material can be put on
22 State lands without any problem?

23 MR. HORTIG: Without any legal problem; there is a
24 physical problem. The material as dredged, of course, is
25 rather fluid in nature. In order to keep it on State lands and
26 to keep it from running back into Carquinez Straits, there

1 would have to be constructed a retaining wall by whoever
2 wanted to construct the project. As it is, the Utah Construc-
3 tion has volunteered to build a retaining wall -- but, of
4 course, along their property line, to retain it in their
5 property.

6 GOV. ANDERSON: They have built this wall?

7 MR. HORTIG: The levee work has been done.

8 GOV. ANDERSON: In other words, they have already
9 done it?

10 MR. HORTIG: On representation of the County that
11 the fill material would arrive for free. This, unfortunately,
12 was not a correct statement unless the Lands Commission could
13 waive its charges for this material.

14 MR. CHAMPION: Would those who would like to speak
15 on this just come forward?

16 MR. HANSEN: My name is S. Hansen, Associate
17 Right-of-Way Agent, County of Contra Costa; seated on my
18 left is Ronald Broatch, Deputy Public Works Director; Captain
19 Henry Simonsen, Chairman Northern California Marine Affairs
20 Conference; and Mr. Robert Langner, Manager, Marine Exchange.

21 Everything Mr. Hortig said is very accurate, but I
22 want to expand a little bit on what he said. We have a
23 shoals, as Mr. Hortig said, and the main shipping channel in
24 Contra Costa County, as you see by your map, is nearly under-
25 neath the Martinez Bridge. In a recent period, we have had
26 at least one ship go aground there and while it was a ground

1 there were fully laden ammunition ships, at least one ship
2 going from the Port of Chicago ammunition depot, with a
3 potential of horrendous damage there, possibly blowing up the
4 whole bridge. That is the emergency part.

5 So, in conjunction with the County Counsel and the
6 development association that the County works with, the ques-
7 tion is "What will they do about the shoal?" This is all new
8 with the County. In our history, we have never entered into
9 such a dredging project before. We found out there was a
10 recent Federal law, four years old, where there could be
11 \$2,000 or less expended for emergency work, clearing out
12 shoals of this type. We also found out that according to this
13 statute, a responsible local agency -- which in this case was
14 found to be the County as the logical one -- would have to do
15 several things:

16 We would have to provide easements and rights of
17 way; we would have to provide an area to dispose of this
18 spoils material; we would have to pick up the tab if it went
19 over two thousand, and we would also have to give certain
20 guarantees that we would hold them harmless, and so on. I
21 think those were the three essential clauses that we had to
22 do with the Army Engineers in order to get the job done.

23 So, recognizing that, the County passed a resolution
24 assuming these obligations. Then the question of the easements
25 and where to put this was the next question. We thought we
26 had it all settled. Nearby, as you see, the Tidewater

1 property is adjoining very close. So we went to the Tidewater
2 people and they said they would take this and they made engi-
3 neering studies and the Shell people downstream were afraid
4 if we put this material in there, we would have trouble. So
5 we had to look for a new area. Physically, the engineers
6 tell us we can dump this about a mile, so we canvassed every-
7 body within the scope of a mile and the only one who was will-
8 ing to take it and put up the dikes, which was a very important
9 factor as Mr. Hortig pointed out, was Utah.

10 At that time we contacted the Army Engineers and it
11 was estimated the shoal would be 400,000 yards, maybe a half
12 million, and because this charge for this spoils was new to us
13 at this time we represented to Utah, correctly or otherwise,
14 that there would be no charge -- which puts the County in the
15 middle of this situation. We dealt with this in good faith
16 and, as Mr. Hortig said, they went ahead on these representa-
17 tions -- they went ahead with this construction. It will soon
18 be completed and it cost them \$75,000.

19 I think that pretty well capsulizes it. We feel,
20 because of the emergency nature of this and the background of
21 it, this is a benefit to the State as a navigable channel in
22 the County; and if it isn't possible to waive the charge en-
23 tirely, at least it should be minimized to wherever it could be
24 legally minimized. I see three cents here -- that's the first
25 time I have heard this figure.

26 MR. CHAMPION: What is the amount of money here?

1 MR. HORTIG: Two hundred thousand yards -- \$6,000.

2 MR. HANSEN: It's not so much the amount of money ...

3 MR. CHAMPION: What we call in finance "the principle
4 of the thing."

5 GOV. ANDERSON: Is this the forerunner of a great
6 deal more that will be coming later on?

7 MR. HANSEN: Very possibly.

8 GOV. ANDERSON: May this possibly be a million yards?

9 MR. HANSEN: We call this the "Little Ditch," but
10 under the "Big Ditch" you may. They aren't necessarily com-
11 parable; I don't think we are setting a precedent.

12 MR. CHAMPION: There is nothing that binds us. A
13 precedent is something that someone wants to regard as a
14 precedent.

15 MR. HANSEN: And I don't think the situations are
16 at all comparable.

17 MR. CHAMPION: You say the \$6,000 is not, as to
18 amount, of great concern?

19 MR. HANSEN: We don't know who is going to pay it.
20 We feel if the County could morally pay it, we could. We are
21 not sure we could legally pay it. We feel with our representa-
22 tions to the Utah Construction they have gone ahead with their
23 construction. We would be glad to put it on State lands if
24 they would put that dike up for us for \$75,000; but we have
25 been dealing in good faith. We are asking the State Lands Com-
26 mission to take us out of this position.

1 MR. CHAMPION: Is there any question about your
2 legal ability to pay it?

3 MR. HANSEN: It has been raised, I believe, by the
4 State Lands Commission. I don't know whether we can.

5 MR. CHAMPION: That hardly becomes us, to question
6 your legal capability.

7 MR. HORTIG: I am not aware of the question being
8 raised by anyone.

9 MR. BROATCH: My name is Broatch. I was born in
10 Scotland and I am in charge of the finances in the Contra
11 Costa Department of Public Works, and I would object to paying
12 the \$6,000.

13 MR. CHAMPION: I happen to have a vacancy in the
14 Department.

15 MR. BROATCH: I think there is more than principle.
16 There is hard cash money here. We are country boys in
17 Martinez. This is the first project we got into with the
18 Corps of Engineers. We entered into this in one hundred per
19 cent good faith and went along with everything everybody told
20 us to do. The end result is we entered negotiations and we
21 feel we let this company down and let them down rather hard.
22 We told them they could have 500,000 yards of spoils. They
23 signed an agreement that they would supply the dikes and now
24 this has dropped to 140,000-plus; and I have had all the way
25 from one cent to eight cents until today it is three cents.
26 We don't want to pay anything, gentlemen, and we think it is
unfair.

1 MR. CHAMPION: I am still interested if you talk to
2 me after the meeting.

3 What would be the reason -- why couldn't we do this
4 on the one-cent basis?

5 MR. HORTIG: There is no prohibition against the
6 Lands Commission determining that the public interest would
7 be served on the one-cent basis. The reason for the selection
8 of the three cents was an evaluation of comparable projects
9 which had been previously authorized to other municipalities,
10 including some in Contra Costa -- and, indeed, some of the
11 Tidewater property previously referred to has been filled in by
12 previous authorizations, as well as some of the other water-
13 front properties in Contra Costa. The average under those
14 circumstances came out at about three cents a yard, having
15 considered all the public interests, where the final disposi-
16 tion area was privately owned.

17 The range from one cent to eight cents has been
18 utilized by the Commission, one, where there is an absolutely
19 primary public interest concerned in the total project, includ-
20 ing as to the disposal area, and where the fill material is of
21 poor quality. This fill material, we are informed and we
22 understand from the soil engineering report from which this
23 map was extracted for the Commission, is of at least reasonable
24 quality and, therefore, found more nearly in the average cate-
25 gory of charges which the Lands Commission has assessed in
26 analogous situations of helping to improve navigation, assisting

1 a municipal body, but also getting a reasonable return for the
2 State's material which serves ultimately a private purpose.

3 MR. CHAMPION: Let me ask you this: What harm would
4 be done or what precedent that we couldn't deal with appropri-
5 ately would be established if we were to set what would be,
6 in effect, a nominal price for this under these circumstances?

7 MR. HORTIG: Only

8 MR. CHAMPION: I don't know whether that would be one
9 cent or even a smaller amount.

10 MR. HORTIG: Well, the Commission has never utilized
11 less than one cent as a minimum charge, where a charge had to
12 be assessed. Secondly, of course, under similar circumstances
13 which might arise in connection with the "Big Ditch" operation
14 it would certainly be alleged as a precedent -- whether a
15 legal precedent or not -- and particularly where even with
16 less cooperation with the County private landowners would
17 stand to benefit primarily by reason of

18 MR. CHAMPION: We are not, in effect, hearing that
19 and the circumstances involved in that at this moment, and
20 what would be binding in that case compared with an action
21 taken in this case. There really isn't anything - - Don't
22 we have administrative discretion to determine this price in
23 the light of situations?

24 MR. HORTIG: Definitely.

25 MR. CHAMPION: And we have charged a varying range
26 of prices?

1 MR. HORTIG: That is correct, but not a varying
2 range under similar circumstances. The ranges vary upon the
3 range of circumstances and the quality of the material and
4 its ultimate disposition.

5 MR. HANSEN: Doesn't this body have a right to
6 waive any charge, or no charge?

7 MR. CHAMPION: Not "no charge" I am sad to say.

8 MR. HANSEN: The statutes say for any public
9 consideration.

10 MR. HORTIG: The total consideration can be solely
11 the public interest, but the difficulty is matching the public
12 interest with no charge when there is a private interest in-
13 volved in this particular operation. Therefore, a nominal
14 charge, I believe counsel will agree, would both be legally
15 feasible for the Commission to determine and would be equitable.

16 GOV. ANDERSON: If the present price were maintained
17 and Utah decided not to pay it, what would they do with the
18 sand? What would be their alternative?

19 MR. BROATCH: We have no answer to that.

20 MR. HORTIG: The County, in failing in its efforts
21 for a disposal area, the Corps of Engineers' project would
22 not be undertaken and, therefore, the dredging would not be
23 done until some other spoils area would be found and made
24 available.

25 COL. TURNER: May I answer that? The Corps has the
26 right of eminent domain. They could condemn and the County

1 would reimburse the Corps, because this is a Federal project
2 for navigation. I'd like to mention that this particular
3 project is no different than each other project for flood
4 control and navigation, in which the assurances, lands and
5 easements have been furnished by the State and by local inter-
6 ests at no cost to the Government; and in many instances, and
7 I might say most instances, this has been other than State-
8 owned property. This is both for flood control and navigation.

9 MR. LANGNER: This is Colonel Herbert Turner,
10 District Engineer, Corps of Engineers.

11 COL. TURNER: I can't quite understand how this
12 particular project got involved in this particular case, be-
13 cause it is no different than any of the other flood control
14 or navigation projects that we have done. Now, where there
15 is a land enhancement, the Federal Government as part of the
16 assurances requires payment for that land enhancement.

17 GOV. ANDERSON: This is surely a land enhancement,
18 isn't it?

19 COL. TURNER: Well, we had determined -- the Corps
20 had determined that there was not a substantial land enhance-
21 ment and no payment was required. Now, this is an emergency
22 job.

23 GOV. ANDERSON: Isn't this going to be pretty valu-
24 able property on the State highway?

25 COL. TURNER: In the case of the "Big Ditch" they
26 speak of coming up, there is land enhancement and there is a

1 charge. In this particular case, the project was of such a
2 nature and the material was of such a nature that it would
3 take so long before there was a settlement. If you look at the
4 dredging in the Sacramento Channel, that stuff still hasn't
5 settled down so you can put equipment on it in the retention
6 dikes. So it would still take several years before they could
7 put equipment on it.

8 MR. HORTIG: This is an important part -- the
9 Federal Government and the Corps requires that the land be
10 compensated for.

11 GOV. ANDERSON: How do you distinguish between land
12 enhancement at the present time on the "Big Ditch?" It seems to
13 me the amount of material you put on is the same -- the same
14 in the "Little Ditch" and the "Big Ditch."

15 MR. LANGNER: In the case of the Utah Construction
16 project, they are going to have an expense of 44 cents per
17 cubic yard. Since they are paying \$75,000 for the dikes and
18 the amount of material is 175,000, they are making a substan-
19 tial payment already. As Mr. Turner says, the cost of diking
20 the material is such that it more than offsets the enhancement.
21 The question has also been raised, gentlemen, and Colonel
22 Turner has told us as to the Government's position in the
23 charge. As we read Section 6303, the Commission is permitted
24 to charge for the removal of material from State lands or dis-
25 position on State lands. We understand from the Corps of
26 Engineers, and I will submit to you a copy of letter submitted

1 from General Frye, listing the projects in the recent past on
2 which no charge has been made and the spoils have gone on
3 private lands.

4 In the case of a navigation project, we believe the
5 State of California cannot assess the United States a charge.
6 Counsel can probably verify this. This is a Federal naviga-
7 tion project and in the removal of material in a Federal
8 navigational project the Federal interest is paramount, and
9 this deposition will be on private lands. So, in effect, this
10 section is not applicable. The only application would be to
11 remove it over State lands -- not for removal of material
12 which is on State lands nor for deposition on State lands,
13 which is not involved.

14 GOV. ANDERSON: How many acres are we talking about?

15 MR. HORTIG: Eighty-five acres.

16 MR. BROATCH: Gentlemen, as I see it, and I am not
17 an expert in this thing, we entered into it in good faith, in
18 a contract with Utah. They will not be making money on this.
19 They will be happy for the State Lands Commission to take this
20 over if they will build the dikes. It was a real difficult
21 contract to lead Utah into, which we did -- and we cannot see
22 that we can ask them to pay you this money.

23 GOV. ANDERSON: Did you try?

24 MR. BROATCH: As a matter of fact, we didn't but

25 MR. LANGNER: My name is Langner and my prepared
26 statement is before you. This project will benefit all commerce

1 involved. This serves the Ports of Sacramento, Stockton, and
2 all way points. Also, in my testimony is a copy of this pic-
3 ture showing a 640-foot tanker going past the S. P. bridge.
4 You will notice on the left the bare showing of the Benicia
5 bridge. There is some question as to whether the Benicia
6 bridge might have affected the shoring. Anyway, this is a
7 close-up of the bridge and the channel. The Navy is very
8 concerned. It is entirely feasible that ships will be lost --
9 there have been some close calls already.

10 MR. CHAMPION: Let me ask you a question here. Sup-
11 pose we got in a stubborn situation where we said we have to
12 have some payment and Contra Costa said, "We won't pay," and
13 would abandon the project. What would the Army Engineers do?

14 COL. TURNER: This is an essential project, a navi-
15 gation project, and the recourse would be - - Well, when I
16 was there, I would go back to the Chief's office, of course,
17 and advise him of the situation; but they could condemn
18 property to place the spoil on and go ahead with the project
19 and charge that portion that Contra Costa County was to furnish
20 under their assurances, charge them with their portion of the
21 costs. The reason we do not normally do this is because we
22 leave it up to the County to accomplish their assurances in
23 the most economical manner that they possibly can and it also
24 gets us out of the middle, the county or local agency saying
25 we didn't do it efficiently or economically and they could
26 have done it better; and it is their responsibility under the

1 authorizing act, because they do benefit -- the County as a
2 whole does benefit from the project to a degree.

3 MR. CHAMPION: How urgent a matter do you consider
4 this?

5 COL. TURNER: I consider it urgent because of the
6 fact we must get this project under construction this summer
7 and before we can complete the plans and specifications we
8 must know where the spoil areas are. We can't advertise it
9 for bid until we know where the spoil areas are.

10 MR. CHAMPION: How much damage would a thirty-day
11 delay on final action by this Commission be to you?

12 COL. TURNER: What do you think?

13 MR. BARSDALE: I don't see any real damage as far as
14 the Federal Government is concerned, if that's your question
15 to me.

16 MR. CHAMPION: It wouldn't change your timing for
17 doing actual work?

18 MR. BARSDALE: We cannot do construction, sir, until
19 the retention dikes are in place, so any contractor who would
20 bid on the job would actually see them.

21 MR. CHAMPION: I thought the retention dikes were
22 already constructed.

23 MR. HANSEN: They will be completed in ten days.

24 MR. BROATCH: This project was supposed to go by
25 February 20th. We have had this thing back and forth between
26 the State people and the Army Corps and we have been squeezed

1 in the middle. A little government doesn't

2 MR. CHAMPION: I sympathize with your situation,
3 but you are a member of the governments involved, and you are
4 no more aggrieved than anybody else. We are simply trying to
5 solve the problem. I don't think anybody is picking on little
6 Contra Costa County. As a matter of fact, they are so well
7 represented, I don't think we could if we wanted to.

8 MR. LANGNER: A comment on the "Big Ditch" -- This
9 is something that has been worked on for many years. It will
10 amount to \$60 million dollars and will mean 7,000,000 yards of
11 material, and it is hoped there will be new refineries and
12 steel mills as a result of this deeper water.

13 We have great difficulty in Washington -- I testified
14 twice -- we have great difficulty on behalf of the State of
15 California on Small Craft Harbors, for whom I testified, in
16 justifying the State's civil works share of government buying.
17 Each year we have taken it before the House Committee. They
18 are very jealous of the amount California gets on defense
19 contracts.

20 Never before has there been in history where a
21 Federal navigation project has been assessed a fee, directly
22 or indirectly -- a charge by local government. We have
23 checked with the Corps; we have checked with the Federal Gov-
24 ernment. This precedent could have disastrous effects on this
25 matter we seek -- on the \$60 million dollar project.

26 MR. CHAMPION: I doubt it -- unless you raise it.

1 MR. LANGNER: It could be raised.

2 MR. CHAMPION: This is a discussion far beyond
3 its proper bounds.

4 COL. TURNER: Back to your question as far as delay,
5 the project should be constructed during the best construction
6 season, when the water is low during the summer months. The
7 Corps, the District office, has made somewhat of an urgent re-
8 quest on the Chief's office and this had to go to the Appro-
9 priations Committee for approval to get these funds, so that
10 we can meet this schedule, so that we can advertise on the
11 20th of February, which is already past.

12 Now, it is quite probable that with another thirty-
13 day delay we could still meet the schedule, but it is possible
14 we couldn't because there usually is some time lag that we
15 allow for the construction there, for adverse conditions and
16 in case something happens that the bids are rejected.

17 MR. CHAMPION: My reason for raising the question
18 is: Legitimate problems have been raised here. I understand
19 there is an unfortunate situation the County finds itself in.
20 I am a little curious still; I am not completely satisfied, and
21 I don't know how the other members of the Commission feel,
22 about what kind of legal precedent problems we set for our-
23 selves. We want to ease the situation, but we want to be sure
24 in doing it we don't cause ourselves a lot of other diffi-
25 culties. That's why I suggested if we had more time to con-
26 sider this, we might be able to come out with a better answer

1 for all concerned.

2 MESSRS. HANSEN and BROATCH: We have no objection
3 to the thirty-day suggestion.

4 MR. CHAMPION: You have no objection?

5 MR. HANSEN: If the equitable solution can be
6 suggested, we have no objection to thirty days.

7 MR. CHAMPION: I make one promise -- it will be
8 some solution.

9 MR. SIMONSEN: Mr. Chairman, I'd like to say a few
10 words. I am Chairman of the Northern California Marine Con-
11 ference and I think doing a good job in representing the State
12 of California in getting dredging projects through Congress
13 and cooperating with the Corps of Engineers, we were the
14 organization principally responsible for the California
15 Navigation Conference. I am also a State Pilot Commissioner.

16 In 1957 we wrote a letter to President Eisenhower,
17 pointing out the danger of this stretch of water. In view of
18 the type of materials, ammunition materials, that pass here,
19 it is a hazardous area. A major collision could eliminate
20 Contra Costa's county seat within one mile of the channel,
21 the City of Martinez, in a situation similar to the one
22 which occurred in Nova Scotia -- a situation where Shell Oil
23 Company and Tidewater Oil has a hydrogen plant within a mile
24 of this channel. We can look into the crystal ball and say
25 when a catastrophe of this kind might happen, these ships are
26 going to abandon this channel for all time. It is a very

1 dangerous situation.

2 MR. CHAMPION: From what you say, we ought to stop
3 traffic now.

4 MR. SIMONSEN: I'd say we should take a good look
5 at it and see what can be done. We have this on record as
6 far as our Commission is concerned since 1957 -- something
7 should be done; it is dangerous.

8 MR. CHAMPION: As I understand it, there is not a
9 delay in the work in itself. We would try to resolve this
10 within thirty days, and that would go on as scheduled.

11 COL. TURNER: There is a delay already because the
12 dikes have not been completed, but once the dikes have been
13 completed and then we are sure that is going to be the disposal
14 area, then we go right ahead and try to get back on schedule,
15 which we are already off; and I understand they are to be com-
16 pleted in ten days.

17 MR. CRANSTON: But will our putting this over thirty
18 days cause any delay in implementation of the project?

19 COL. TURNER: If the dikes are completed in ten days,
20 it will be the difference between ten and thirty days.

21 MR. CHAMPION: Is that a great difference since 1957?

22 COL. TURNER: What has happened -- we have permission
23 to over-dredge. The condition is not what has existed -- it
24 has been aggravated.

25 MR. SIMONSEN: I would like to add our County and
26 everyone has worked very hard to get this through and approved

1 by Congress and I think as far as the State of California, it
2 might not look too good for Congress to find the State of
3 California is making a charge against a project that is good
4 for California.

5 MR. CHAMPION: I just want to say I hope everyone
6 recognizes that this first came to this Commission some fif-
7 teen minutes ago. We are not trying to delay anything. This
8 is the first time that we have heard this discussed.

9 GOV. ANDERSON: Mr. Hortig, Utah spent \$75,000 for
10 dikes?

11 MR. HORTIG: Yes, sir.

12 GOV. ANDERSON: Apparently willing to invest this
13 because they want this land filled?

14 MR. HORTIG: Yes, sir.

15 GOV. ANDERSON: If they do not get this land, where
16 would they get this fill?

17 MR. HORTIG: I can't imagine offhand, not having
18 tried to design for filling it; but just intuitively, I
19 don't think a more economical source of fill material could
20 be obtained by Utah.

21 GOV. ANDERSON: I think aside from everything else
22 we have heard, they are not going to get anything cheaper
23 than this price. They want it. If they were willing to pay
24 \$75,000 to build the dike to enhance their land, surely they
25 will pay six thousand.

26 COL. TURNER: The price is \$140,000. The initial

1 estimate was \$75,000; it's up to 140,000.

2 GOV. ANDERSON: By Utah?

3 COL. TURNER: By Utah.

4 GOV. ANDERSON: So if they will pay \$140,000 to
5 hold it in, they are not going to pay six thousand?

6 MR. HANSEN: Governor, their \$75,000 was predicated
7 on four to 500,000 cubic yards.

8 GOV. ANDERSON: It seems to me we are raising some
9 questions that hardly hold together on the economics of it.
10 I am not opposed to delaying thirty days and perhaps cutting
11 down, but we are enhancing somebody's land; they have paid
12 \$140,000 to enhance their land, and now all of a sudden we
13 hear about ships blowing up, so we can give them the fill.

14 MR. HANSEN: Governor, when we went to Utah we said,
15 "We have a half million cubic yards of fill" on condition they
16 build the \$75,000 dike. Later, we go back and say it is going
17 to be 170,000 yards or 140,000 yards and Utah said, "We are
18 no longer in the development business; we are in the dike
19 business."

20 MR. CRANSTON: The representation the material would
21 be free was made by other than the Lands Commission staff.
22 Who made the representations?

23 MR. HANSEN: Army Engineers.

24 MR. BROATCH: At the first meeting, they told us
25 there would be no charge for the spoils.

26 MR. CRANSTON: How did that happen?

1 MR. HANSEN: As the Colonel says, it is precedent,
2 This is the first time this happened,

3 COL. TURNER: There has never been an instance where
4 there is a royalty charge, and if there is enhancement of any
5 substantial amount the Government collects for it.

6 Back to Utah, I also understand Utah would be happy
7 never to get into this whole proposition because they are not
8 going to make any money on it.

9 MR. BROATCH: We have been mentioning six thousand,
10 We feel that Utah is a small corporation compared to the State.
11 So far as the \$6,000, the State should reverse it -- it is
12 small compared to the State.

13 MR. CHAMPION: I withdraw my offer.

14 MR. HORTIG: Mr. Chairman, before this goes to a
15 vote, I think this matter should be clarified. On all of the
16 material along Contra Costa County, Alameda County, everywhere
17 where it has been deposited by the Corps of Engineers' dredg-
18 ing projects on privately-owned lands, there never has been a
19 charge assessed to the project insofar as the Army Engineers
20 are concerned; but where the spoils disposal area was privately-
21 owned, the private owner paid the State of California for the
22 spoils that were deposited on his land.

23 COL. TURNER: This I am not aware of, because I have
24 never known where there has ever been a payment for either
25 flood control dredging or navigation dredging. Now, most of
26 the dredging previously done in that area has been by hopper

1 dredge. This is the first time we have gone to a pipeline
2 dredge. We have found that by use of hopper dredging that the
3 dredging backed, is washed back into the channel; so we have
4 changed our method in this channel. But in the case of the
5 construction of the Stockton Channel, there was no royalty paid
6 for material put on privately-owned property. In the case of
7 the Sacramento project, in which the State first obtained
8 easements, there has been no payment for royalty.

9 MR. HORTIG: This, of course, has been in connection
10 with the State contribution. The Stockton Channel actually
11 is a project on which the State of California cooperated in
12 terms of purchasing and making available spoils areas avail-
13 able to the Army Corps of Engineers. In that sense again,
14 this was a governmental project. There was no spoils disposal
15 under those circumstances where the City was involved, where
16 materials were being deposited on privately-owned lands for
17 private benefit.

18 COL. TURNER: I'd like to add one more thing: We
19 have made a charge for land enhancement and we do have in the
20 review report for the deep channel a charge for the land en-
21 hancement, because it will be substantial and it can be
22 measured; but this will be paid to the Federal Government.

23 MR. CRANSTON: Is it possible for this project to
24 be accomplished, leaving out the price? We can work out the
25 price by the next meeting.

26 MR. HANSEN: I believe that's possible.

MR. CRANSTON: I move that we approve it, subject

1 to fixing the price at the next meeting.

2 GOV. ANDERSON: How do you work out price?

3 MR. CRANSTON: We will just have to work at it and
4 approve it at the next meeting.

5 GOV. ANDERSON: Wouldn't it be better to get the
6 price settled, if they are willing to compromise?

7 MR. CRANSTON: We are not ready to.

8 MR. LANGNER: Could I ask in considering this that
9 you consider our interpretation -- and certainly your counsel
10 will be able to provide his -- that the section under which
11 this charge is being made is not applicable, we feel, to this
12 project? The project is a Federal project by the Federal
13 Government and the spoils are removed on contract by the
14 Federal Government, and the spoils are to be removed to
15 private lands -- which does not come under 6303.

16 MR. JOSEPH: The whole subject is removal from
17 sovereign land, and sovereign land is what you are talking
18 about.

19 MR. LANGNER: We find that there never has been a
20 charge against the United States. You cannot maintain a
21 charge against the Federal Government.

22 MR. CHAMPION: There are two parallel lines of
23 precedent, which don't engage except when it comes to making
24 our decision, so I don't think you are necessarily in conflict;
25 there are two different lines of precedent here.

26 MR. CRANSTON: I would include in my motion language

1 that the price, if any, will not exceed three cents per cubic
2 yard or less, so it is understood it might be three cents --
3 and the words "or less" mean we will consider it.

4 MR. CHAMPION: This bothers me. How do you nego-
5 tiate that for which you have already negotiated? How do you
6 collect?

7 GOV. ANDERSON: Once you have given the right to go
8 ahead, you are through. If you want to negotiate, I'd rather
9 negotiate right now.

10 MR. CRANSTON: It need not necessarily be a matter
11 of negotiation. I believe we have the power to fix the price.
12 We will fix the price at our next session, if my motion is
13 approved,

14 GOV. ANDERSON: We have already given them the
15 right to go ahead, and they say they won't do it.

16 MR. CHAMPION: I'd like the advice of counsel.
17 What position are we in, once having given consent and later
18 determining a price? What if the parties say, "I am sorry.
19 You gave your permission and that's it.?"

20 MR. JOSEPH: If they have begun taking the material
21 off there, they have the material and can deposit it; but if
22 the consent is conditional upon paying the money afterwards,
23 then you have something to base yourself on.

24 MR. CHAMPION: Then they are stuck with whatever
25 price we determine.

26 MR. CRANSTON: Yes. I asked them if we could determine

1 it on that basis and we would be fair in our decision.

2 MR. BROATCH: Gentlemen, I can't speak for the Board
3 of Supervisors; we understood there would be no charge. But
4 I am sure there will be a workable solution to move it, and I
5 am sure we will stand by whatever you decide.

6 MR. JOSEPH: I think Section 6303 of the Government
7 Code applies to this very situation. There is a large area
8 of discretion in the State Lands Commission as to what con-
9 sideration should be charged and there are all these various
10 considerations to be taken cognizance of at that time; but it
11 must be remembered that this is largely a discretionary matter.

12 MR. CHAMPION: I think we are aware of that already.
13 If you leave that in the form of a motion, I would second it --
14 the understanding would be that we give permission to proceed
15 as outlined; that we will fix a price at a meeting within
16 thirty days, and that price will be the one that will apply
17 to the application. Any question?

18 MR. SHAVELSON: It was approved on Mr. Cranston's
19 motion that the price, if any, will be three cents a yard or
20 less and also on the condition of their promise to pay the
21 price?

22 MR. CHAMPION: Right, right, We haven't taken any
23 formal action on that. I will put the question: Is there any
24 question on that procedure? (No response) It will stand
25 approved then. We will continue with the calendar.

26 (b) Humble Oil & Refining Company, et al: Issuance

1 of new lease, in exchange for Oil & Gas Lease P.R.C. 145.1, in
2 accordance with Sec. 6827 of the Public Resources Code, in
3 order that lessee may take advantage of the more flexible oper-
4 ating and development conditions specified.

5 (c) John C. Ruckmick -- Two-year prospecting permit
6 for minerals other than oil and gas, 159.7 acres vacant State
7 school land, San Bernardino County, at standard royalty rates.

8 (d) San Diego Gas and Electric Company -- Deferment
9 of operating requirements for lease year ending 3/9/64, tide
10 and submerged lands of San Diego Bay, San Diego County, Mineral
11 Extraction Lease P.R.C. 2094.1. Third electrical generating
12 unit of lessee's South Bay Power Plant scheduled for completion
13 by July of this year. There is possibility that this unit
14 could necessitate further dredging.

15 (e) Standard Oil Company of California -- Deferment
16 of drilling requirements through 10/4/64, Oil and Gas Lease
17 P.R.C. 2199.1, tide and submerged lands, Santa Barbara County,
18 to continue conducting intensive reservoir evaluation program
19 to provide sound engineering bases for estimating potentials
20 and requirements for future development.

21 (f) Suisun Pacific Ltd. -- 15-year lease, 5.933
22 acres tide and submerged lands in old channel of Suisun Slough,
23 Solano County, for small-craft marina; annual rental \$4,713.18.

24 GOV. ANDERSON: I'll move it.

25 MR. CRANSTON: Second.

26 MR. CHAMPION: It has been moved and seconded that

1 we approve Item 4. Any questions? (No response) Stand
2 approved.

3 Oil and Gas Leases: (a) Authorization for use of
4 combined bid-lease form approved in July 1962 in the offer for
5 extraction of oil and gas from area of tide and submerged
6 lands in the Elwood Field, Santa Barbara County, and approval
7 of amendment of paragraph 22 of combined bid-lease form adopted
8 July 19, 1962, to conform to provisions of Chapter 1945/1963.

9 (b) Rescission of 1/30/64 authorization to offer
10 Parcel 18, Santa Barbara County, for oil and gas lease; and
11 authorization for Executive Officer to re-offer area as Parcel
12 18A, using therefor amended basic bid-lease form reflecting
13 changes required by Chapter 1945/1963.

14 (c) Authorization for Executive Officer to offer
15 5,535 acres tide and submerged lands, Santa Barbara County,
16 designated as W. O. 5050 (Parcel 19) for oil and gas lease.

17 MR. HORTIG: Mr. Chairman, page 22 of the Commis-
18 sion's agenda, third line, reads: "Of X = 1,543,160 Y = 360,620."
19 There is a transposition which should be corrected to read:
20 "Y = 306,620." This is as to the legal description of the
21 parcel proposed to be offered for lease.

22 MR. CHAMPION: With that amendment, what is the
23 pleasure of the Commission?

24 GOV. ANDERSON: I'll move it.

25 MR. CRANSTON: Second.

26 MR. CHAMPION: Any questions? (No response) Stand
approved.

1 MR. CHAMPION: (continuing) Proposed Legal Actions:

2 (a) Mansfield-Benbow Corporation, Timber Trespass, State lien
3 land, Humboldt County. Authorization for Executive Officer to
4 refer to Office of Attorney General for such action as may be
5 necessary to secure settlement for any and all costs and dam-
6 ages suffered by the State as a result of the trespass.

7 (b) Trespass, Commercial Pier and Wharf, State
8 sovereign lands, Monterey Bay, Monterey County, Wilbur C.
9 Sandholdt, et al. Authorization for Executive Officer to
10 request Office of Attorney General to take necessary steps for
11 collection of damages and to secure removal of trespass.

12 (c) - -

13 We have some other matters there and I think I will
14 omit that for the moment and read it separately. So if we
15 could have action on (a) and (b), we will take up (c)
16 separately.

17 GOV. ANDERSON: I'll move.

18 MR. CRANSTON: Second.

19 MR. CHAMPION: Moved and seconded that we approve
20 (a) and (b). Any further questions? (No response) If not,
21 they will stand approved.

22 (c) Proposed Settlement Agreement in the matter of
23 Long Beach Amusement Co. v. City of Long Beach, Los Angeles
24 County Superior Court Nos. LBC-22801 and LBC-25199. (1)
25 Approval by Commission of agreement that provides for estab-
26 lishment of mean high tide line of 1911 as last natural

1 position of the shore in the areas in question; (2) authori-
2 zation for Executive Officer to execute necessary documents;
3 (3) request to Office of Attorney General to take necessary
4 action to secure dismissal of pending litigation.

5 Now, with respect to that item I have a letter from
6 Senator Virgil O'Sullivan which reads as follows:

7 "With regard to Item 6(c) of the Calendar Summary
8 of the State Lands Commission, to be discussed at
9 the Commission meeting February 26, 1964, it is
10 my understanding that the Commission is being ad-
11 vised by its staff and the Attorney General's
12 representative to stipulate to a boundary deter-
13 mination in the matter of Long Beach Amusement
14 Company versus City of Long Beach, Los Angeles
15 County Superior Court Nos. LBC-22801 and LBC-25199.

16 "In the first place, I do not understand why the
17 subject cases are not carried through to a Court
18 decision, especially in view of the sensitive
19 nature of the location of the boundary of the
20 Long Beach tidelands. Further, is it not possible
21 that a stipulation in this case to the 'mean high
22 tide line of 1911 as last natural position of the
23 shore in the areas in question' is likely to
24 prejudice any contention of the State as to an
25 earlier date in the determination of boundaries
26 of adjacent areas?

"The Court cases initiated in this matter are
more beneficial to the public interest than the
proposed stipulation. I wish to lodge a strong
objection to such stipulation and request that
the State pursue its responsibility of securing
boundary determination on the basis of exhibits
and other evidence available reflecting furthest
possible inshore boundary. The State responsibil-
ity to the public interest cannot compromise such
a matter."

On receipt of that letter, I asked the staff to
discuss the matter further with Senator O'Sullivan, since
they have explained to me their reasons for this proposed

1 action, and to discuss it with Senator O'Sullivan and members
2 of his staff and other legislative staff; and it might be
3 interesting to see if there were any further matters of fact
4 or questions to be taken up in the basis for the recommendation.

5 That, as I understand it, was done -- or at least it
6 was done to the extent of the staff's ability to speak to the
7 people concerned; and it was also suggested to them that we
8 would be very happy to have them come to this meeting to dis-
9 cuss the matter, to see whether we could get it all handled
10 at this time. I don't know whether there were any responses
11 to that invitation or not. Mr. Hortig, did either Senator
12 O'Sullivan or members of the Factfinding Committee staff
13 evince any interest in presenting further testimony?

14 MR. HORTIG: Both Mr. Shavelson and I were in con-
15 sultation with Mr. Ford B. Ford, Mr. Shavelson later than I
16 was, and Mr. Ford is in the audience and could answer the
17 question whether there is to be further presentation on this
18 matter.

19 MR. CHAMPION: Mr. Ford?

20 MR. FORD: Mr. Chairman, all that I can say is that
21 Senator O'Sullivan was unable to be here today and, of course,
22 I am not authorized to try to interpret the letter or to ex-
23 pand on his request; and I just tried to recall the letter to
24 the best of my memory in talking to your staff last night, and
25 there is nothing I can suggest to resolve his contention.
26 Perhaps the staff could get in touch with Senator O'Sullivan.

1 MR. CHAMPION: In other words, there has been no
2 direct contact from Senator O'Sullivan?

3 MR. HORTIG: No, sir.

4 MR. CHAMPION: So you do not know if there is any
5 satisfaction in the result being offered?

6 MR. HORTIG: No, sir.

7 MR. CHAMPION: What is the position if we could delay
8 this until it could be discussed with Senator O'Sullivan? Mr.
9 Lingle, would you like to speak to this matter?

10 MR. LINGLE: I suppose that I have been the last one
11 in contact with the other side, and when we talk about delay
12 I wouldn't want to warrant or guarantee anything about what
13 would happen on delay. I certainly recognize it would be
14 legitimate for you to think about that because the matter has
15 carried on for such a long time. However, there also is a
16 problem in that I do know the Long Beach Amusement Company's
17 counsel thinks that they have a very strong case for not more
18 landward but more seaward than the line we have talked about;
19 and I know they will have a board meeting before your next
20 meeting, and this matter has gone on - - as with many of these
21 things, it has taken a long time, and different forms of
22 negotiation to try to work it out. I think the 1911 Sonderegger
23 line -- the City is willing to stipulate with the State that
24 this is the line; this is the best evidence we have got. We
25 think it is a good settlement and I wouldn't want - - whatever
26 misapprehensions and risks there are about delay, I don't want

1 them, sir, I'd like to dump them on you, frankly. I am not
2 trying to run a bucket shop in a bank either.

3 MR. CHAMPION: Our staff is in complete agreement
4 with yours; there is no question about that -- and so is the
5 representative of the Attorney General. This is a matter of
6 courtesy to the Senator and we attempted to resolve it before
7 this meeting.

8 MR. LINGLE: I recognize the problem and I don't
9 feel at all secure about delay. When we knew the matter was
10 up for approval, it seemed to take a little of the heat off
11 because it has been a long time and I have known they are
12 asking for a considerable amount of money where they think we
13 drained oil -- "we" being the City as trustee for the State;
14 and the line we have here is this 1911 Sonderegger-Fitzgerald
15 line -- which, frankly, I as the City's attorney in private
16 negotiations for the City am convinced is the best line as the
17 last state of nature and I have recommended the settlement to
18 our City Council.

19 MR. CHAMPION: I think it might be well if the
20 other members of the Commission could have the benefit of the
21 conversation which I had with Mr. Shavelson.

22 MR. SHAVELSON: I will deal with that specific
23 question. Perhaps it might be more orderly to give a brief
24 background of these negotiations, that have been going on for
25 over seven years. Originally, the action was filed by the
26 Long Beach Amusement Company against the City of Long Beach,

1 to which the State was a necessary party because of the provi-
2 sions of Section 6308 of the Public Resources Code, which
3 make us an indispensable party in any proceeding involving
4 title to or boundary of granted tidelands. The complaints in
5 those actions alleged that the legal high tide line was the
6 present ordinary high tide line -- which, if I am not mistaken,
7 is some seven hundred feet - - is that correct?

8 MR. HORTIG: Yes.

9 MR. SHAVELSON: - - seven hundred feet seaward of
10 this 1911 line, which is the stipulated line. Originally,
11 back in 1957, we were presented with a proposed agreement which
12 fixed a line somewhat seaward of the 1911 line, but still land-
13 ward of the present high tide line. This agreement was, for
14 technical purposes, submitted to Colonel Leeds, of later the
15 firm of Leeds, Hill and Jewett, who I understand are one of
16 the most reputable firms for seacoast engineering in Southern
17 California. Colonel Leeds, who is now deceased, recommended
18 in his report - - I'll just read the last part of it:

19 "Therefore, the mean high tide line as it existed in
20 1911 should be considered as the seaward boundary
21 of all natural accretions, and all accretions sea-
22 ward thereof should be considered as artificial
accretions. The tentative agreement now under
consideration should in equity be modified to
accord with the above views."

23 The agreement now before the Commission has been so
24 modified and, therefore, in the opinion of our expert analysts
25 is the correct line of ordinary high tide.

26 The considerations that are involved in the pending
litigation against the City of Long Beach involve two contentions

1 as to the effect of artificial influence in the vicinity of
2 the mouth of the old San Gabriel River. Those influences are
3 of a local nature. They do not extend as far easterly as the
4 area we are considering there and, therefore, the fixing of
5 the line in this area as of the 1911 line is in no way against
6 our contention that the line was fixed in 1891 in the area of
7 the old San Diego River, which is involved in our pending liti-
8 gation with the City.

9 GOV. ANDERSON: Then, your feeling is that to stipu-
10 late to this, would not prejudice our case?

11 MR. SHAVELSON: Yes, sir.

12 GOV. ANDERSON: It would not?

13 MR. SHAVELSON: It would not prejudice our case.

14 GOV. ANDERSON: These court cases referred to in
15 this letter are "more beneficial" to our position.

16 MR. SHAVELSON: The 1911 line would be the position
17 of the City and the State in litigation. In other words, the
18 City and State would be on the same side; our common contention
19 would be that the line would be the 1911 line. What the court
20 would have to decide would be whether it would be the 1911
21 line or whether it was a line seven hundred feet seaward of
22 that line, as contended by the Amusement Company. So it is
23 hard to see how we would get any benefit.

24 GOV. ANDERSON: Then you would feel these court
25 cases would not be of benefit?

26 MR. SHAVELSON: No. Court cases are always a gamble.

1 The fixing of a high tide line fifty or sixty years ago, there
2 is possibly some contention. We think we are right on it.
3 There is possibly a gamble.

4 MR. CHAMPION: In which we would have nothing to
5 gain insofar as this point is concerned.

6 MR. SHAVELSON: No, sir.

7 MR. CHAMPION: This is why I thought once this was
8 explained to Senator O'Sullivan, we might be able to proceed.

9 MR. CRANSTON: Mr. Chairman, I move we proceed in
10 accordance with the staff recommendation.

11 GOV. ANDERSON: I'd rather wait. I don't want to
12 delay matters, but I don't like to go in the face of Senator
13 O'Sullivan, either. I think there is some politics involved
14 here and we have a whole program we don't want to get Senator
15 O'Sullivan too worked up over. I mean, if this is a simple
16 thing, I think it better we should talk to him.

17 MR. CHAMPION: I was trying to think of a provisional
18 action that would take care of it and have a discussion with
19 Senator O'Sullivan.

20 MR. CRANSTON: I move we approve it, subject to a
21 conversation by the Chairman with Senator O'Sullivan; that
22 we proceed after the Chairman's conversation.

23 GOV. ANDERSON: I am willing to go along with that
24 if it can be done.

25 MR. CHAMPION: The only thing that makes me hesitate
26 is that last

1 MR. CRANSTON: I move the approval take effect
2 after the conversation with Senator O'Sullivan.

3 GOV. ANDERSON: Suppose they don't agree?

4 MR. CRANSTON: I don't think they will agree.

5 GOV. ANDERSON: I think Hale's feeling is if he
6 explains this to him, he will agree.

7 MR. CRANSTON: If they don't, I think we have to
8 proceed in the light of our responsibility here.

9 MR. SHAVELSON: I think the statute requires that
10 consideration of the action be public.

11 MR. CRANSTON: We could fix the date following the
12 conversation with the Senator.

13 MR. SHAVELSON: If we make a final commitment to

14 GOV. ANDERSON: Why can't we put it over until next
15 meeting?

16 MR. CHAMPION: I think Mr. Lingle has raised the
17 critical question as to whether we can afford to take a
18 chance. If there is anything the Long Beach situation is,
19 it is an unstable situation.

20 I will second that motion of Mr. Cranston. If I
21 now properly understand it, the exact nature of this action is
22 to authorize the Executive Officer to sign a stipulation and
23 is that the way it is approved? We have to approve the
24 agreement.

25 MR. HORTIG: Right -- of the location of the line.

26 MR. CHAMPION: Could we do this, then, in terms of

1 these three things: We could approve the agreement; we could
2 authorize the Executive Officer to execute the documents and
3 to make the request to the Office of the Attorney General,
4 subject to delay at my request. In other words, if we go
5 ahead and do all of these things, he holds it until after I
6 have a chance to consult with Senator O'Sullivan; if there is
7 some further problem, I could ask him to hold it; if not, the
8 Commission action would stand. It would simply be a matter of
9 fixing the date. May that be done?

10 MR. SHAVELSON: I think what I would suggest, Mr.
11 Chairman, is that the approval be made effective at some sub-
12 sequent date, as suggested by Mr. Cranston, subject to abroga-
13 tion by the Commission at a public meeting if you should
14 determine to do so, and after the approval it would take
15 effect. I would not like the Commission's action today to be
16 effective by any action not taken at a public meeting. I
17 have some concern there.

18 GOV. ANDERSON: I hardly understand that. Suppose
19 Senator O'Sullivan and Mr. Champion do not agree. Then what
20 happens to our action?

21 MR. SHAVELSON: If it is determined to go ahead any-
22 way, then we would simply allow the date to go without any
23 further action by the Commission and the approval would take
24 effect; but if it were determined that the Senator had valid
25 objections and that you wish to consider the matter further,
26 then I would suggest an emergency meeting of the Commission

1 to abrogate its approval.

2 MR. CHAMPION: In other words, after my conversation
3 I consult with the other members to see if there is any further
4 action to take and nothing would be done until the decision of
5 that meeting would be made.

6 MR. SHAVELSON: Yes, sir.

7 GOV. ANDERSON: What you are saying is we approve
8 this today, then if you decide after you talk to him we made
9 a mistake

10 MR. CHAMPION: Then there should be a further hearing.

11 GOV. ANDERSON: Then in a sense you call a further
12 hearing to reverse our action. Is this what you are doing?

13 MR. SHAVELSON: And make the action effective as of
14 some future time -- I don't know what exact date, say ten or
15 fifteen days from now -- and reserve to yourself the right to
16 abrogate it at an emergency meeting prior to that time; and in
17 the absence of any such meeting it would take effect.

18 MR. CHAMPION: Let's do it that way and set the
19 date as of a week from Friday, which is what day?

20 MR. HORTIG: A week from tomorrow would be March 6th,
21 a week from this coming Friday.

22 MR. CRANSTON: I restate my motion to that effect.

23 GOV. ANDERSON: Then you will meet prior to that
24 time with Senator O'Sullivan.

25 MR. CHAMPION: And I will convey the result to you,
26 to the two members. If you think we should have another

1 meeting, we will do so; if not, it will go through.

2 GOV. ANDERSON: If Senator O'Sullivan agrees with
3 your explanation, then there will not be another meeting.

4 MR. CHAMPION: Right.

5 GOV. ANDERSON: But if there is a difference of
6 opinion, then you will convey it to us and we will have
7 another meeting.

8 MR. CHAMPION: Yes. I will not try to repeat the
9 matter before us, but if there is no objection that will be
10 the order.

11 Number 7 -- Authorization for Executive Officer to
12 execute agreement, pursuant to Government Code Section 13110,
13 transferring control and possession, for park purposes, to
14 Department of Parks and Recreation, Division of Beaches and
15 Parks, subject to Easement P.R.C. 2462.9 and preserving all
16 mineral rights, over 25.16 acres sovereign tide and submerged
17 lands in Santa Monica Bay, Los Angeles County, for inclusion
18 in Will Rogers State Beach.

19 What is the pleasure of the Commission?

20 GOV. ANDERSON: I'll move it.

21 MR. GRANSTON: Second.

22 MR. CHAMPION: Stands approved. Number 8 -- Authori-
23 zation for Executive Officer to execute form of petition for
24 annexation to the East Bay Municipal Utility District of the
25 area of tide and submerged lands in Carquinez Straits, Contra
26 Costa County, contained in Lease P.R.C. 618.1, issued to

1 American Smelting and Refining Company.

2 MR. CRANSTON: So move.

3 GOV. ANDERSON: Second.

4 MR. CHAMPION: Stands approved. Approval of Maps
5 and execution of boundary agreements: Authorization for
6 Executive Officer to approve and have recorded --

7 (a) Sheet 1 of 1 of map entitled "Map of the Grant
8 to City of Vallejo, Chapter 1501, Statutes of 1957, Vicinity
9 of Mare Island, Solano County, California," dated October 1963;

10 (b) Sheet 1 of 1 of map entitled "Map of the Grant
11 to City of Vallejo, Chapter 63, Statutes of 1963, Vicinity of
12 Mare Island Strait, Solano County, California," dated
13 October 1963;

14 (c) Sheets 1 and 2 of 2 of maps entitled "Map of
15 the Grant to City of Vallejo, Chapter 24, Statutes of 1963,
16 Vicinity of Mare Island, Solano County, California," dated
17 November 1963;

18 (d) Sheet 1 of 1 of map entitled "Boundary of State
19 Tide and Submerged Lands Along the Shore of Carquinez Strait,
20 Vicinity of Benicia Arsenal, Solano County, Calif.," dated
21 November 1963; and authorization for Executive Officer to exe-
22 cute boundary agreement with the United States and the City of
23 Benicia fixing the boundary of State tide and submerged lands
24 along the shore of Carquinez Strait, Solano County.

25 GOV. ANDERSON: I'll move them.

26 MR. CRANSTON: Second.

1 MR. CHAMPION: Stand approved.

2 Confirmation of transactions consummated by the
3 Executive Officer pursuant to authority confirmed by the Com-
4 mission at its meeting on October 5, 1959.

5 MR. HORTIG: Which consisted of extensions of the
6 time period for two geophysical exploration permits and one
7 geological survey permit previously authorized for issuance
8 by the Commission.

9 GOV. ANDERSON: I'll move it.

10 MR. GRANSTON: Second.

11 MR. CHAMPION: Stand approved. Report on status
12 of major litigation.

13 MR. HORTIG: The only amplification over the written
14 matter is with respect to the first case listed. The People
15 versus the City of Long Beach, which is Long Beach boundary
16 litigation, has now been calendared again for pretrial confer-
17 ence April 6th of this year.

18 MR. SHAVELSON: May I just amplify on that a little
19 bit? The reason for the delay had nothing to do with the
20 preparation of either of the parties, but the judge assigned
21 was ill and had to be taken off the case, and we had to get a
22 new judge; but we do have the new judge and we hope to appear
23 on this date.

24 MR. CHAMPION: Confirmation of next Commission meet-
25 ing Thursday, March 26, 1964 at ten a.m. in Sacramento. Does
26 that pose any problem?

1 MR. CRANSTON: No, that's fine.

2 MR. CHAMPION: Is there any further business to come
3 before the Commission?

4 MR. HORTIG: Yes, Mr. Chairman, for the record, one
5 telegram addressed to State Lands Commission, Sacramento:

6 "OIL LOT OWNERS ASSOCIATION OF LONG BEACH REQUEST
7 THAT NO CONTRACTS BE LET OR APPROVED WHICH MAY OR
8 WILL DRAIN PRIVATE LOTS OF OIL AND GAS WITHOUT
9 JUST PAY.

10 (Signed) CARL WHITSON, President "

11 There being no agreements or contracts of the type
12 that would accomplish hazards of this sort, we will so inform
13 Mr. Whitson.

14 MR. CHAMPION: Do you have any idea what would cause
15 Mr. Whitson to send such a wire?

16 MR. HORTIG: It is a little difficult to get such
17 indications from Mr. Whitson.

18 MR. CHAMPION: The meeting stands adjourned.

19
20 ADJOURNED 4:00 P.M.

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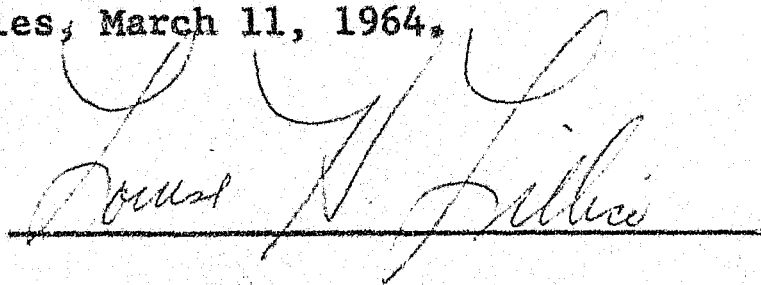
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CERTIFICATE OF REPORTER

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2
3 I, LOUISE H. LILLICO, reporter for the Office of
4 Administrative Procedure, hereby certify that the foregoing
5 fifty pages contain a full, true and correct transcript of
6 the shorthand notes taken by me in the meeting of the State
7 Lands Commission at Sacramento, California, on February 26,
8 1964.

9 Dated: Los Angeles, March 11, 1964.

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