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TRANSCRIPT OF
MEETING
of
STATE LANDS COMMISSION

SACRAMENTO, CALIFORNIA

April 27, 1967

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

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<u>ITEM CLASSIFICATION</u>	<u>ITEM ON CALENDAR</u>	<u>PAGE OF CALENDAR</u>	<u>PAGE OF TRANSCRIPT</u>
1 Call to order			
2 Confirmation of minutes of meetings 3/23/67 and 4/10/67			1
3 PERMITS, EASEMENTS, AND RIGHTS-OF-WAY, NO FEE:			
(a) City of Napa	19	1	1
(b) City of Pittsburg	1	2	1
(c) State Dept. Public Works, Division of Highways	10	4	1
(d) State Dept. Public Works, Division of Highways	14	5	1
(e) County of San Joaquin	11	6	1
(f) County of San Luis Obispo	22	7	1
4 PERMITS, EASEMENTS, LEASES, RIGHTS-OF-WAY, FEE:			
(a) Clarence D. Jones	23	9	2
(b) Gordon Homes Inc. dba Paradise Cove Sportfishing	17	10	2
(c) San Clemente Sportfishing	21	11	2
(d) County of Imperial	16	12	2
(e) Marconi Cove Marina, Inc.	12	13	2
(f) Pacific Tel. & Tel. Co.	18	14	2
(g) H. K. Porter Co., Inc.	20	15	2
(h) Standard Oil Co. of Calif. dba Signal Oil Company	13	16	2

continued

I N D E X
(In accordance with Calendar Summary)
continued

<u>ITEM CLASSIFICATION</u>	<u>ITEM ON</u>	<u>PAGE OF</u>	<u>PAGE OF</u>
	<u>CALENDAR</u>	<u>CALENDAR</u>	<u>TRANSCRIPT</u>
5 OIL-AND-GAS AND MINERAL LEASES AND PERMITS:			
(a) Atlantic Richfield Co.	5	17	3
(b) Union Oil Co. of Calif.	2	18	3
(c) Atlantic Richfield Co.	6	19	3
(d) Shell Oil Co. and Standard Oil Co. of California	15	20	3
(e) Texaco Inc.	9	21	3
(f) Union Oil Co. of Calif. & Humble Oil & Refining Co.	7	22	3
(g) Great Basins Petroleum Co. Acceptance of bid W.O.6275	24	23	3
(h) Authorization to publish notice re 5600 acres T&S lands Solano and Contra Costa Counties, W.O. 6560	26	25	3
6 CITY OF LONG BEACH			
(a) Expenditure \$2,125,000 for 23 parcels in east and central beach areas	25	26	4
(b) Ratification of Modified Exhibits C and D, 1967 Plan, Long Beach Unit	8	29	4
(c) Authorization to obtain proposals re audit of Field Contractor, Long Beach Unit	3	30	4
7 BOUNDARY LINE AGREEMENTS			
(a) McNear Co., Sonoma County	27	31	6
(b) City of Petaluma	28	37	6
(c) City of Santa Barbara annexation 71-TL	4	43	6

continued

I N D E X
(In accordance with Calendar Summary)
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<u>ITEM CLASSIFICATION</u>	<u>ITEM ON CALENDAR</u>	<u>PAGE OF CALENDAR</u>	<u>PAGE OF TRANSCRIPT</u>
8 MAJOR LITIGATION			
(a) Informative	29	46	6
9 BIDDING PROCEDURE FOR PURCHASE OF OIL FIELD TUBULAR GOODS, LONG BEACH UNIT			
	Reproduced on stencils, pages 1 through 70		
10 10 NEXT MEETING			8

I N D E X
(In accordance with item numbers)

	<u>ITEM ON</u> <u>CALENDAR</u>	<u>PAGE OF</u> <u>CALENDAR</u>	<u>PAGE OF</u> <u>TRANSCRIPT</u>	<u>ITEM ON</u> <u>CALENDAR</u>	<u>PAGE OF</u> <u>CALENDAR</u>	<u>PAGE OF</u> <u>TRANSCRIPT</u>
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ITEM 30, Page 50,
REPRODUCED SEPARATELY
ON STENCILS

NEXT MEETING 8

APRIL 27, 1967 - 10:10 A.M.

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GOV. FINCH: We have a quorum. I will call the meeting of April 27th to order.

Unless there is objection, we will consider the minutes that were sent to the members approved.

Do you want to cover item 3, Mr. Hortig?

MR. HORTIG: Yes, Mr. Chairman. The Commission has before it applications for permits, easements and rights-of-way to be granted to public and other agencies at no fee, pursuant to authorizing statutes, and the consideration for issuance is the public use and benefit.

The applications are as listed: City of Napa; City of Pittsburg; Department of Public Works, Division of Highways; and two applications, one from the County of San Joaquin and one from the County of San Luis Obispo.

It is recommended that these permits, easements and rights-of-way be authorized to be issued.

GOV. FINCH: What is the phrase, "Normal rental to be required should a charge be made for public use and access"? Does the State get any use out of that at all, on the City of Napa item?

MR. HORTIG: Yes. Normal rental would be required if the City of Napa used it for other than municipal purposes and if it goes into commercial development of the type that the State Lands Commission could authorize for these same lands.

1 GOV. FINCH: Do they have to bring that back to us
2 at that time?

3 MR. HORTIG: Yes.

4 MR. SMITH: I move that item 3 be adopted.

5 GOV. FINCH: Adopted. Item 4?

6 MR. HORTIG: Item 4 before the Commission consists
7 of permits, easements, leases, and rights-of-way to be issued
8 in accordance with established rental policies of the Commis-
9 sion -- which are predicated, as the Commissioners will recall,
10 on either the fee established by statute for recreational per-
11 mits or regulatory fees in connection with commercial struc-
12 tures on tide and submerged lands, which are in turn based
13 upon appraised value of the property to be occupied; the
14 items being as listed in (a) through (h) -- with respect to
15 either the issuance of a new permit for an easement or lease,
16 or the assignment of existing leases. All the fees are in
17 accordance with the requirements of the statutes and rules
18 and regulations of the State Lands Commission.

19 Therefore, it is recommended that authorization be
20 granted for the issuance of permits and approval of the
21 assignments.

22 GOV. FINCH: Without objection, item 4 is approved.
23 Item 5?

24 MR. HORTIG: Item 5 represents, with two exceptions
25 -- items (a) and (b) -- requests for deferments of drilling
26 requirements in all the remaining items, on existing leases.

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Item (a), the geological survey permit -- the term would be extended for Atlantic Richfield Company, this permit having been authorized by the Commission.

Under item (b), a new geological survey permit would be issued to Union Oil Company of California for offshore geological exploration, in accordance with the statutes and rules and regulations of the Commission.

The remaining items are requests for deferment of drilling requirements under existing leases; that is, I should say, (c) through (f) -- deferments of drilling requirements under existing leases, where the staff has recommended that the granting of these deferments is equitable under the terms of the lease and in view of the development of the lease.

GOV. FINCH: Are these for a period of time?

MR. HORTIG: Yes, sir; they are for a period of six months.

Item (g) is the recommendation for acceptance of a cash bonus payment offer, pursuant to competitive bidding, for oil and gas lease on 480 acres in Butte County, which high cash bonus offer was offered by Great Basins Petroleum Company.

Item (h) is recommendation for authorization to the Executive Officer to publish a notice that the Commission intends to consider offering an oil and gas lease for 5,600 acres tide and submerged lands in Solano and Contra Costa counties. Under the statutes, the Commission may not proceed

1 with the offering of such a lease until a notice has been
2 given to the counties in which the lands are located, and
3 giving the counties an opportunity to object and to ask for
4 a hearing with regard to offering such lands. Failing such
5 request for hearing, there is the authorization to proceed
6 with the offer for competitive bidding. *

7 GOV. FINCH: I move item 5.

8 MR. FLOURNOY: Without objection, so ordered.

9 Item Number 6 -- three items relating to the City
10 of Long Beach. Is there any discussion or objection to any
11 of those items, gentlemen?

12 MR. HORTIG: Item (c), Mr. Chairman, is not in
13 the normal routine of continuing operations of Long Beach,
14 as the matters have been to this Commission for approval at
15 previous meetings; but it is recommended in view of the ex-
16 tended period of time that has elapsed since the start of
17 operations at the Long Beach Unit Wilmington Oil Field, and
18 in view of the inability of the State Lands Division to con-
19 duct an in-depth audit of the field contractor's books and
20 operations, that the Lands Commission obtain from interested
21 certified public accountants with oil industry experience
22 proposals to conduct an extensive audit of the field con-
23 tractor and its operating company, and to report back to the
24 Commission the estimated costs and benefits, together with
25 proposed financing and recommendations to consider whether
26 a consulting contract should be issued for this purpose.

* Mr. Flournoy came into meeting at this point.
OFFICE OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA

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GOV. FINCH: Do I take it we have not had an independent audit of the operations to date?

MR. HORTIG: Not a complete audit. There have been....

MR. SMITH: Who is authorized to conduct audits?

MR. HORTIG: The Auditor General conducts an audit; but both the auditors of your division, Mr. Smith, and the auditors of the State Lands Commission who are on the ground.

MR. SMITH: And they did audit it?

MR. HORTIG: That's correct.

MR. FLOURNOY: I notice in your write-up you say we are short about four budgeted auditors in the Division itself, on the staff.

MR. HORTIG: This is correct.

MR. FLOURNOY: And presumably once we are able to fill those vacant positions and upgrade the specifications and whatever, this would be a function that the Lands Division itself would perform. If we were in a position to do it ourselves, we would do it now, but we are unable to do so.

MR. HORTIG: This is correct; but we have a two-year backlog that we should do before this.

MR. FLOURNOY: And you are requesting an auditor to do that?

MR. HORTIG: This would be the proposal to the Commission, after receiving proposals from organizations qualified to do the work.

MR. FLOURNOY: That would be on open competitive

1 bidding?

2 MR. HORTIG: On proposals.

3 MR. SMITH: What would be the difference between
4 the audit conducted by the private concerns and one by the
5 Auditor General's office?

6 MR. HORTIG: The one by the Auditor General's
7 office is for the Legislature and is not reported in detail
8 to the State Lands Division or to the State Lands Commission.
9 Second, the administrative responsibilities that are charged
10 to the State Lands Commission, toward which the audit should
11 be conducted to see that these are being properly conducted,
12 are not always inquiries for the Legislature. So you have
13 the difficult question of one audit for a particular purpose,
14 whatever is directed by the Joint Legislative Committee on
15 Auditing, as against the control audit for the operating
16 administrative agency.

17 GOV. FINCH: I move approval of item 6.

18 MR. FLOURNOY: Without objection, it will be so
19 ordered.

20 Item Number 7, boundary line agreements -- three
21 items involving lands along the Petaluma River and the City
22 of Santa Barbara. Is there any discussion or objection to
23 approval of those items? (No response) Without objection,
24 they will be approved -- which brings us to information or
25 discussion on the status of litigation.

26 MR. HORTIG: Nothing beyond that which is reported

1 for the Commission's information in the written agenda item.

2 MR. FLOURNOY: I notice that the position that we
3 had taken with regard to requesting some six months on the
4 Long Beach-Los Angeles suit has been denied by the court and
5 they gave us thirty days or something to get in our position.
6 Where do we stand on that?

7 MR. HORTIG: After that denial -- and the Deputy
8 Attorney General who is handling that action is not with us
9 this morning, but I did check with him as of yesterday --
10 the Office of the Attorney General is filing a demurrer in
11 connection with this action, and so the determination of the
12 court or the decision of the court on that demurrer will be
13 the next step. Then that will determine the procedure that
14 will be carried on by the Attorney General's Office in refer-
15 ence to this litigation.

16 In the interim we are proceeding with attempting
17 to secure, however, as consultant to the Attorney General's
18 Office, the consultant authorized by the Commission at the
19 last meeting.

20 MR. FLOURNOY: We haven't been able to do that yet?

21 MR. HORTIG: Not specifically. We had hoped we
22 might arrange an in-service contract -- that we might be
23 able to avail ourselves of the services of the Public Utili-
24 ties Commission -- but found they did not have, in the final
25 analysis, extra time available.

26 MR. FLOURNOY: Very good. Any other questions?

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(No response).

Then we will move to Item 9. -- Bidding procedure for the purchase of oil field tubular goods, Long Beach Unit, Wilmington Oil Field.

(This item reproduced in stencil form)

(Following presentations on Item 9:)

MR. FLOURNOY: The only other matter is the next meeting, which we have set for the 25th of May, which I assume will be some place around here, and due notification will be given.

With that, the meeting is adjourned.

ADJOURNED 2:55 P.M.

CERTIFICATE OF REPORTER

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3 I, Louise H. Lillico, reporter for the Office of
4 Administrative Procedure, hereby certify that the foregoing
5 pages one through eight, and pages one through seventy on
6 Item 9 which have been reproduced on stencils, contain a
7 full, true and accurate transcript of the shorthand notes
8 taken by me in the meeting of the STATE LANDS COMMISSION
9 held at Sacramento, California, on April 27, 1967.

Dated: Los Angeles, California, May 16, 1967.

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Louise H. Lillico

File

STATE LANDS COMMISSION

MEETING AT

SACRAMENTO, CALIFORNIA

April 27, 1967

TRANSCRIPT OF THAT PORTION OF THE MEETING IN REGARD
TO CALENDAR ITEM 30, ITEM CLASSIFICATION NUMBER 9 --

BIDDING PROCEDURE FOR THE PURCHASE
OF OIL FIELD TUBULAR GOODS
LONG BEACH UNIT, WILMINGTON OIL FIELD

1 PARTICIPANTS:

2 THE STATE LANDS COMMISSION:

- 3 Hon. Houston I. Flournoy, Controller, Chairman
4 Hon. Robert H. Finch, Lieutenant Governor
5 Hon. Gordon P. Smith, Director of Finance
6 F. J. Hortig, Executive Officer

7 OFFICE OF THE ATTORNEY GENERAL:

- 8 Warren J. Abbott, Deputy Attorney General
9

10 APPEARANCES: (In the order of their appearance)

- 11 Jack Gomperts, President, Scandinavian Cooperative
12 Wholesale Association of California, appearing
13 on behalf of California Council for International
Trade

- 14 Robert J. Kilpatrick, Attorney-at-Law, Long Beach,
representing Pipe Sales Company

- 15 A. S. Hayes, Union Pipe, Inc., representing
16 Sumitomo Metal Industries, Ltd.

- 17 David A. Hayden, Attorney-at-Law, representing
California Council for International Trade

- 18 Albert Parrish, Chairman of the Board of Foreign Trade
19 Association of Southern California, and Director
of West Coast Metal Importers Association

- 20 Nelson A. Stitt, Director, United States-Japan Trade
21 Council, Washington, D.C.

- 22 Richard C. Bergen, Attorney-at-Law, representing
California Oil Field Suppliers Association

- 23 John R. Van de Water, Economic Consultant, domestic group

- 24 Gerhard Kostvold, Consulting Economist

- 25 Lee Peake, Manager of Sales, Kaiser Steel Corporation

- 26 Robert F. Rooney, Economic Consultant to foreign group
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1 MR. FLOURNOY: We will move to Item 9 -- The Bidding
2 Procedure for the Purchase of Oil Field Tubular Goods, Long
3 Beach Unit, Wilmington Oil Field.

4 We have a rather long list of people who have indi-
5 cated they wish to make presentations to the Commission on this
6 calendar item. I think it is fair to say at the outset that the
7 members of the Commission have a good deal of information on
8 the background at the present time, so I hope the witnesses will
9 restrict themselves to the most pertinent aspects of their
10 presentation, so that we can proceed on this matter.

11 The first witness is Mr. Jack Comperts, President ...

12 MR. HORTIG: Mr. Chairman, might I interrupt? I
13 believe for the record and before hearing the witnesses, the
14 following should be added to the record, if I may.

15 First, the City of Long Beach, as Unit Operator, has
16 transmitted for itself and the Field Operating Contractor, a
17 statement that the City endorses a policy recommended by THUMS,
18 the field contractor, favoring domestic purchase of tubular goods.
19 This report adds a possible third alternative for Commission con-
20 sideration to those reported on page 51 of your agenda --
21 specifically, rescission of the existing resolution and concur-
22 rence in the recommendations of the Field Contractor and the
23 City of Long Beach relative to pipe purchasing procedure and
24 standards.

25 Second, the Commission has received letters supporting
26 continuation of the existing pipe purchasing procedures from the
27 following:

28 Letter dated April 19th from Paul Lucas, General Mana-
29 ger, Western Division, Mannesman Export Corporation;

30 Letter dated April 21st from Mr. Rae F. Watts, Port
31 Director, Port of San Francisco; and

1 Letter dated April 24th from William F. Flay, Jr.,
2 Vice President, Tricon, Incorporated.

3 MR. FLOURNOY: Now we will proceed with Mr. Comperts.
4 I would suggest, as we have ten people who have to appear, that
5 we try to hold it down, if we can, to somewhere around five
6 minutes if that is feasible; otherwise, we can be here all day.

7 MR. COMPERTS: Mr. Chairman, my name is Jack Comperts.
8 I am president of the Scandinavian Cooperative Wholesale Society
9 of California which annually exports Pacific Coast agricultural
10 products worth about ten million dollars. Also, I have the
11 privilege of serving on Governor Reagan's Advisory Committee on
12 Foreign Trade. However, I appear today before this Commission
13 as president and in behalf of the California Council for Inter-
14 national Trade, which consists of firms and individuals involved
15 in California's international commerce, representing import, ex-
16 port, transportation, financing and investment, law, licensing,
17 manufacturing, and agricultural production.

18 Gentlemen, permit me to respectfully point out that
19 today's hearing and the decisions to be made by the California
20 State Lands Commission based on the testimony here presented
21 have a vital relationship to the well being of millions of people
22 here and abroad. The issue at hand is of imperative concern to
23 the commerce of not only the State of California, but also to
24 that of our great nation and of much of the free world; and be-
25 cause of the subject's great importance, I plead with you that
26 you give us, as well as the other side, at least one and one-
27 half hours including fifteen minutes for rebuttal.

28 The world at large recognizes the dominant position
29 of the United States in all areas of human endeavor, not the
30 least of which is to strengthen the world's economies by expand-
31 ing international trade between men of good will everywhere.

1 As much as it might serve some interests to have your Commission
2 consider this issue as a purely local matter, the facts should
3 speak against this.

4 The policy decision of this Commission on a matter
5 that has a direct bearing on the international commerce of the
6 United States will be regarded in any quarters as American
7 policy or, at least, as a barometer of our nation's regard for
8 international trade relations.

9 Certainly it is obvious there is a widespread interest
10 in California's new Chief Executive and in the policies of
11 Governor Ronald Reagan's administration. The decision of your
12 Commission on an issue so very closely related to the economy
13 of California, to the trading practices of our country, and to
14 the international commerce of our trading partners undoubtedly
15 will be viewed as reflecting the policies of our Governor's
16 administration.

17 The issue at hand, in our opinion, is not only,
18 "Bidding Procedure for the Purchase of Oil Field Tubular Goods,
19 Long Beach Unit, Wilmington Oil Field"; it is also California's
20 policy on international commerce. Is it our policy to strength-
21 en our own economy by selling California products in foreign
22 markets while preventing our overseas trading partners from
23 selling in California? Or is it our policy to recognize inter-
24 national trade as a two-way street, with the country which buys
25 from us being allowed to sell to us?

26 As the distinguished members of this Commission are
27 well aware, the pros and cons on the question of open competi-
28 tive bidding on purchases for the THUMS project were presented
29 at a Commission hearing in August of 1965. And, in the light
30 of the facts presented, the Commission ruled accordingly.

31 The facts remain the same. Added to them, however,

1 is the evidence of substantial savings for the taxpayers and the
2 citizens of California -- or, to put it another way, the very
3 real potential for considerable increased revenue for the State
4 of California -- as a result of a policy and of a procedure of
5 purchasing quality products from the lowest responsible bidder
6 in open competitive bidding by all interested suppliers.

7 There are those who would have this Commission ignore
8 the facts, take no heed of the savings realized, who plead for
9 special privilege and who ask that the Commission ruling of 1965
10 be reversed for their own benefit. It behooves us, therefore,
11 to again state the facts for the record. We welcome the oppor-
12 tunity to do so because in stating the case for open competitive
13 bidding we reiterate our faith, basically our faith in the
14 American system of free enterprise.

15 As the staff of your Commission has been informed, we
16 have here today a panel of men intimately acquainted with the
17 case at hand, experts in their respective fields. In the time
18 allotted we will endeavor to present the pertinent facts with as
19 little duplication as possible. I have been asked by those who
20 share my views to act as coordinator for our side and with your
21 permission I will introduce them in a logical order.

22 First, I should like to dispel some misconceptions
23 about the actions of the Commission that have been bandied
24 about our State lately. I have before me a clipping from a
25 Compton, California, newspaper dated March 12, 1967, which says,
26 and I quote: The following is a statement released by the
27 California Manufacturers Association concerning California and
28 U. S. firms losing 91% of the East Wilmington oil field steel
29 business to foreign firms."

30 The statement goes on to say, quote: "THUMS of Long
31 Beach, -- T - Texaco, H - Humble, U - Union, M - Mobil, S - Shell --

1 in April of 1965 requested they be allowed to give business to
2 the domestic producers.' Has the Commission, we ask, ever pro-
3 hibited the THUMS management from giving business to the domestic
4 producers? Furthermore, it is ironic if, in truth, these Ameri-
5 can oil companies forming the THUMS consortium actually favor a
6 protectionism policy. After all, Texaco through Cal-tex has
7 heavy investments in the petroleum business in Japan. Hubble is
8 the principal domestic subsidiary of Standard of New Jersey,
9 which operates world-wide. Union enjoys huge sales of crude oil
10 to Japan and has an equity position in a Japanese refining com-
11 pany. Mobil has refinery and sales outlets in Japan, as does
12 Shell. Also, I understand both Union Oil and Mobil buy consider-
13 able quantities of Japanese pipe for use in the United States.
14 Why, we ask, is it all right for these companies to invest and
15 sell abroad, but in their management decision on THUMS close the
16 door on their good customers?

17 In asking for special privilege for an industry that
18 does not produce in California the pipe being discussed here to-
19 day, they say nothing about the State's stake in the \$213 million
20 worth of commercial aircraft and spare parts sold to foreign
21 customers by Convair, a California producer, from 1957 through
22 February of this year. Nor is there any mention made of the
23 great contribution to California's economy made by the Douglas
24 Aircraft Company, another California producer, through its
25 sales to overseas customers. In the years 1950 through 1965
26 Douglas sold more than one billion dollars in commercial air-
27 craft to foreign buyers, and as of February of this year,
28 Douglas had on hand unfilled orders from foreign customers of
29 \$1.1 billion.

30 What about the \$137 million Japan spent in California
31 buying Douglas commercial air transports? Is it proposed that

1 this Commission tells Japan: "We welcome your spending your
2 hard-earned dollars in California buying our commercial aircraft
3 and millions upon millions of dollars worth of our agricultural
4 products, but we will not allow you to bid in competition with
5 America's steel industry on pipe for the Long Beach Unit of the
6 Wilmington Oil Field."

7 I submit, gentlemen, this would be immoral, unfair,
8 unbusinesslike, and, if permitted, a shameful blow at Cali-
9 fornia's international commercial interests, and a taint upon
10 our own integrity.

11 Those asking for special State government favor also
12 state, erroneously, that the Federal Government "has asked for
13 all kinds of voluntary restraints to restore our balance of pay-
14 ments so that the funds we send overseas more nearly match what
15 are spent here."

16 Yet, the record of the Commission's 1965 hearing on
17 this matter includes a statement by the then U. S. Secretary of
18 Commerce that it was not the policy of our Federal Government
19 to deal with the balance of payments problem by tampering with
20 our import-export trade. This is still our Federal policy.
21 Permit me to read a letter from the Acting Secretary of Commerce
22 dated April 21, 1967. It is addressed to me as president of
23 the California Council for International Trade. It reads:

24 "Dear Mr. Gomperts:

25 This is in response to your inquiry regarding
26 the current applicability of a statement made by
Secretary Connor in August 1965."

27 Then he gives the statement that Secretary Connor made in August:

28 "In your telegram of August 23 you asked if
29 we favor curtailment of imports as a method
30 of helping adjust our balance of payments."
31 We have excluded this as a technique to im-
prove our balance of payments since it would
be inconsistent with our policies for the
expansion and liberalization of world trade.

1 " 'I cannot comment on the specific case
2 mentioned in your letter of August 19,
3 but we expect choices between domestic
4 and foreign goods to be based solely on
5 commercial considerations.'

6 The letter continues:

7 " I am aware of no significant difference
8 in prevailing policy that would necessitate
9 changing that statement.

10 Sincerely yours,

11 (s) A. B. Trowbridge
12 Acting Secretary of Commerce"

13 The statement attributed to the CMA also says:

14 "Good management should be allowed to manage without second-
15 guessing by government" Is it good management, we ask, to
16 deprive the taxpayers of California, who, after all, are paying
17 85% of the cost of the THUMS project, of the substantial savings
18 made possible through open competitive bidding? Is it good
19 management to be blind to California's vital interest in an ex-
20 panding international trade and to favor the domestic industry
21 while slamming the door on the buyers of California-manufactured
22 and agricultural products in our overseas markets? Is it good
23 management to ask this Commission for special privilege and
24 obvious protection from competition by reversing the 1965 policy
25 ruling -- yet, at the same time, suggest to this Commission
26 that the management is better qualified to determine what is
27 best for California in the THUMS matter?

28 Contrary to the view expressed in the statement I
29 have just referred to, and with all due respect to the manage-
30 ment of THUMS, we say that this State Lands Commission has the
31 responsibility to look out for the interests of all the people
of California and is obliged to decide the issue at hand in
terms of what is best for California today and with a view to
the future.

1 In taking issue with the published statements of the
2 California Manufacturers Association, we wish to point out the
3 fallacies of the arguments advanced by them. We intend no
4 criticism of the organization itself.

5 In concluding, I would like to conclude with a state-
6 ment by the Baus & Ross Company of Los Angeles, representing
7 the California Manufacturers Association and the California Oil
8 Field Suppliers Association, under the heading "Suggested Edi-
9 torial #2." It begins: "It's time to take another look at the
10 curious 'free trade' clause affecting operation of the largest
11 tideland oil field in the State of California." It goes on to
12 say, "Now that we have three new men on the State Lands Commis-
13 sion, it may be possible to change the wording from 'lowest
14 bidder' to 'lowest U. S. bidder.' With \$60 million of Cali-
15 fornia oil field business at stake, let's hope so." End of
16 suggested editorial.

17 Gentlemen, with California's more than four and one-
18 half billion dollars of international trade at stake, we hope
19 not.

20 Thank you very much; and now I would like to intro-
21 duce our next witness, Mr. Kilpatrick. *

22 GOV. FINCH: That firm of Baus & Ross is the same
23 firm that handled Governor Brown's campaign.

24 MR. KILPATRICK: Gentlemen, Mr. Gomperts started out
25 his remarks with a request that we be allowed an hour and a
26 half with fifteen minutes for rebuttal. The Commission has
27 suggested we keep to five minutes. I think I need a ruling,
28 because if I am limited to five minutes I would have to tear
29 out half of what I want to say. May we have the time we have
30 asked for?

31 GOV. FINCH: The members of the Commission have to be

*Mr. Flournoy left room

1 out of here at twelve. I propose that we proceed on the basis
2 that you make your total presentation in an area of thirty-five
3 minutes. We will give you some rebuttal time, depending on the
4 timing. We want to resolve this today!

5 MR. KILPATRICK: I was not aware that the members had
6 to leave at twelve.

7 GOV. FINCH: So I would suggest that you try to make
8 your full presentation in the magnitude of thirty-five or forty
9 minutes and that will give us time for rebuttal and some ques-
10 tions on it.

11 MR. KILPATRICK: Then I would like to file with the
12 Commission a written statement which I prepared. *

13 I want to make three points: First and most important,
14 this is the only agency that represents the interest of the
15 people in this case; the agency which has the clear duty to
16 decide this in the interest of the people is the State Lands
17 Commission.

18 Twenty months ago this same matter came up. You now
19 have had twenty months of experience and should know what the
20 results have been. You have been purchasing superior pipe of
21 equal or better quality. You have saved 13.4%. If it were
22 Japanese, it would be over 15%. The estimated savings for 1967
23 are over one million dollars. That is enough to drill five free
24 wells.

25 There has been declining bidding by both domestic and
26 foreign producers in the twenty months, in the face of more
27 exacting bid requirements and rise in price of steel. In the
28 face of these facts, THUMS makes a vague statement that it is
29 the policy of the domestic producers to buy domestic steel.
30 That is not the fact.

31 Twenty months ago we told you that there was not

1 unanimity among the members of THUMS that they should buy domes-
2 tic. We also told you that Standard Oil Company of California
3 and numerous other domestic producers use exclusively imported
4 pipe in their operations. Union Oil has been using large
5 amounts and Tidewater has been and still is using large amounts
6 in California and elsewhere.

7 In the light of these facts, the statement of THUMS
8 can only be regarded as irresponsible. I suggest it is irre-
9 sponsible simply because THUMS has no financial stake in this
10 thing. THUMS gets approximately 3% of the net revenue, but also
11 gets 3% of the costs; so it makes no difference whether the
12 drilling is cut in half or double.

13 The same thing applies to the City of Long Beach.
14 The City is entitled to 20% of the revenue, but the maximum they
15 can receive by the law is \$250 million. I understand that the
16 net revenues will far exceed the limit the City can receive.
17 The cost could be increased by twenty million and the City
18 would have no interest in that.

19 There is only one organization that has any interest
20 in saving the cost to the people -- because the people are the
21 ones who will be affected by the saving, or save the extra cost.
22 That is this Commission. That is why the law says you have the
23 ultimate authority to obtain the maximum economic return out of
24 the tidelands.

25 If this were simply a technical operation, you would
26 leave it to the contractor and City, but where you fail to make
27 a policy to save millions of dollars for the people of the State,
28 I would say you were derelict in your duty to the citizens.

29 The second thing -- you must protect yourself from a
30 conspiracy in restraint of trade. This was brought out in
31 detail in the Subcommittee on Economic Development of the

1 California Legislature, in considering the consequences of the
2 Buy American Act. Those people in their report - - which, by
3 the way was concurred in by all the Republican and Democratic
4 members of the committee except for Assemblyman Lanterman, who
5 is here - - conclude that it eliminates competition and the
6 report says in part (I will try to summarize it because of the
7 time limit and again I remind you there is agreement by the
8 committee) - - It emphasizes the high cost of State and local
9 purchases due to total and arbitrary elimination of foreign
10 competition; the ban on foreign suppliers has created near
11 monopoly conditions and notable lack of vigorous competition
12 among bidders. The report winds up:

13 "The repeal or reform of the California Buy
14 American Act would produce substantial savings
15 for both the State and local governmental units
16 and would thus reduce need for either additional
17 burdensome taxes and/or excessive and unnecessary
18 deficit financing. In the search for a solution
19 of the often very serious fiscal problems, this
20 reduction in cost of government purchases must
21 not be ignored."

22 I heard yesterday in Long Beach that the administra-
23 tion hopes to save \$20 million a year toward the present
24 deficit. Here is a million dollars that can be saved in 1967
25 alone and a conservative estimate of \$6 million over the life
26 of the project.

27 When it comes to the price of tubular goods, the
28 Commission has reason to be concerned about the danger of ex-
29 cessive prices. We said twenty months ago that of the seven
30 producers in this country, they publish their prices for every
31 point in the country, what it will cost you to buy one foot or
ten thousand feet. These are the earmarks of a fixed price.

We also said out of seven of the producers, four
have been convicted of fixing prices in steel products. At
the same time, U. S. Steel has just been convicted of fixing

1 prices and rigged bids for steel forgings; and, again, U. S.
2 Steel has been convicted recently of a price fixing conspiracy
3 on cement-lined steel pipe.

4 Let me say that today I understand there are some
5 350 Federal, State and local bodies and private companies which
6 have civil actions pending against the cement-lined and other
7 steel industries. The complainants include the City of Long
8 Beach, City of Los Angeles, and States of California, Washington
9 and Oregon.

10 You don't have to have convictions against price fix-
11 ing to solve this problem and I suggest the only way you can
12 protect yourself against that problem is open competitive
13 bidding.

14 My final point is on the argument made by the pro-
15 ducers to get away from open competitive bidding by saying that
16 a number of their non-profit services make them equivalent.

17 Let me back up to make one additional point. I told
18 you how the prices are set in this country. Well, we can docu-
19 ment it if the Commission wants -- that outside this country the
20 producers will, when they have to, throw away the book and in
21 one instance set a price 16% below their U. S. price.

22 Now we get back to services to the State of California
23 that make their prices equivalent. Their claim is that the
24 State of California derives economic benefits from the local
25 distributors of domestic pipe that they would lose if they
26 bought foreign pipe. This is based on several erroneous assump-
27 tions that only the commissions on domestic pipe stay in Cali-
28 fornia. The commissions that Pipe Sales Company makes are
29 earned in California, spent in California, and the corporation
30 pays local and State and Federal taxes. The same statement can
31 be made for Union Pipe Company.

1 The second is that the oil field supply industry de-
2 pends on seamless tubular goods for survival and if they don't
3 get this, they will go to the wall. This is erroneous. We
4 have appended a list of companies who supply everything from
5 hoses to rigs, who have nothing to do with tubular goods.

6 Finally, the argument assumes that jobs of technical
7 and engineering personnel will be lost if we buy imported pipe.
8 Again, this isn't true. In the first place, THUMS makes very
9 little use of technical or engineering personnel or anybody.
10 Secondly, if they call upon distributors of imported pipe for
11 technical services, the distributors call to their aid the
12 independent California companies which provide the finest
13 technical and engineering services to the whole California
14 industry.

15 The whole argument is based on erroneous assumptions.
16 To summarize, there are no benefits to the State of California
17 to buying domestic over buying imported, and the State saves
18 millions of dollars which go directly to the Treasury and are
19 multiplied in jobs created far in excess of what domestic pro-
20 ducers contribute.

21 You need protection against excessive domestic prices
22 and you are the only body who has any interest for the people
23 of the State of California in the savings to be effected.

24 GOV. FINCH: May I ask a question? Supposing this
25 State Lands Commission were simply to rescind the action of the
26 earlier body, with no injunction that they buy domestic, what
27 evidence do you have that THUMS would then not, on the basis of
28 its own self interest, resort to open competitive bidding?

29 MR. KILPATRICK: Because THUMAS has said to the City
30 of Long Beach and to the State that it recommends buying domes-
31 tic. It says this is the usual policy of its members and good

1 oil field practice among domestic producers, and they ask
2 permission to do it.

3 GOV. FINCH: But by your own testimony, or maybe
4 the prior witness's, they were not in agreement with it. It
5 was not a unanimous vote.

6 MR. KILPATRICK: It was not unanimous, but it was a
7 majority.

8 GOV. FINCH: What was the vote?

9 MR. KILPATRICK: I can't tell you for sure. I think
10 it was three to two. It is my understanding that Mobil voted
11 against it. Let me answer you a bit further....

12 MR. SMITH: What about the other participants --
13 what are their views?

14 MR. KILPATRICK: I can only say what THUMS and the
15 City said -- that their views are the views of the majority of
16 the participants.

17 MR. SMITH: In terms of their own self interest, the
18 prior witness made a long case about each of these companies
19 having vast interests abroad and I don't think it will necess-
20 arily follow that they will prejudice their own interests
21 abroad by necessarily purchasing domestic steel.

22 MR. KILPATRICK: Let me answer you this way: The
23 procedure the law sets up is that THUMS will make this recom-
24 mendation, the City will decide and the State will tell them
25 what to do. The Commission has forty-five days to order a
26 hearing to consider a modification. When this came up, THUMS
27 asked for domestic supplies and the City said, "Yes." I am
28 sure that letter is in your file from 1965. I don't see any
29 other conclusion that if they can't go their way, they will go
30 the way you recommend they can. I don't see how you can risk
31 this and take no position. These people have no interest in

1 this. It is your interest in protecting the people.

2 MR. SMITH: In our job of protecting the people the
3 State Lands Commission is in a sort of paradox. It is a State
4 agency, not a private business. As a State agency, it has the
5 responsibility to abide by State laws. We have the paradox of
6 protecting the people on one side; whether or not it is pur-
7 chased in California or abroad, the Attorney General says it does
8 not apply to THUMS. I am speaking about the State Lands Commis-
9 sion, so we do have a sort of paradox.

10 MR. FLOURNOY: If I read the Attorney General's opin-
11 ion correctly, it does not apply to any governmental purchase
12 which is for resale -- which covers THUMS as well as the State
13 Lands Commission. We are in the production of oil.

14 MR. KILPATRICK: You are correct. The Buy American
15 Act does not apply here or to THUMS for two reasons -- one is
16 the Lands Commission is a State body and THUMS is a private
17 contractor.

18 As I said, the act is under heavy fire by both
19 Republicans and Democrats in the Legislature.

20 MR. FLOURNOY: What you are saying about the rescis-
21 sion of this resolution, on the best evidence we know what
22 THUMS will do if we take that position.

23 MR. KILPATRICK: Yes.

24 MR. FLOURNOY: They could change at a subsequent time,
25 of course, it is conceivable; but it is not conceivable on the
26 evidence we have today.

27 MR. KILPATRICK: Procedurally, under the law this is
28 what has to happen if you were to rescind your previous position:
29 THUMS would make a decision and the City would say yes or no.
30 If the City - - - I see one of your staff members shaking his
31 head - -

1 MR. ABBOTT: Mr. Chairman, Chapter 138 gives what we
2 call economic control to the State Lands Commission, and this is
3 handled by the annual plan. This matter under consideration is,
4 in my opinion, of such a nature that it could be in the plan --
5 but it is not. The City, recognizing the economic aspects of
6 the problem, notified the State Lands Commission in 1965 that
7 it proposed to go this way, by endorsing the recommendation of
8 TRIMS, and it asked, in effect, for the views of the Commission.
9 The City accepted those views. It didn't have to, because it
10 was not in the plan.

11 The Commission reserved jurisdiction when it made this
12 first resolution. It wanted to review the policy after there
13 had been some experience, and this is the time for the review.

14 MR. FLOURNOY: My understanding of the relationship
15 here is that the resolution, according to information that we
16 got from the Attorney General, as it was brought up the last
17 time, falls in the nature of an advisory proposition; but the
18 action itself is the day to day kind of action which is the
19 responsibility of the field operator.

20 MR. ABBOTT: I wouldn't say that -- not on this par-
21 ticular item, because of its vast economic effects.

22 MR. FLOURNOY: Because of its economic effects it
23 could be our problem?

24 MR. ABBOTT: I have no doubt it could be in the plan,
25 but it is not. Not being in the plan, the City is free to do
26 what they wish.

27 MR. FLOURNOY: So whatever we decide, the City can do
28 what they want to do?

29 MR. ABBOTT: That is correct; but I would say that the
30 City has sought the advice of the staff.

31 MR. KILPATRICK: Could I respectfully dissent from the

1 position stated? I do not see how -- when you are charged under
2 the statute with the duty of getting the maximum economic recov-
3 ery out of the operation -- the City could say, "Costing six
4 million is not part of the plan and we won't tell anyone about
5 it and go ahead with it the way we want." I know of no way this
6 could be done.

7 MR. COMPERTS: Mr. Chairman, our next witness is Mr.
8 Hayes....

9 MR. FLOURNOY: Would you identify yourself, Mr.
10 Kilpatrick?

11 MR. KILPATRICK: Robert J. Kilpatrick, representing
12 Pipe Sales Company, a California corporation, which is the sales
13 company for a Japanese producer.

14 MR. FLOURNOY: Mr. Hayes is our next witness.

15 MR. HAYES: Mr. Chairman, my name is A. S. Hayes. My
16 company, Union Pipe, Inc., is an American-based corporation
17 representing the interests of Sumitomo Metal Industries, Ltd. of
18 Japan.

19 We of Union Pipe began our sales efforts with THMS
20 before its incorporation on March 25, 1965. Understandably, we
21 were advised that it was too early for official purchasing policy
22 covering pipe or any other commodity.

23 However, in April, in a sudden move, all casing and
24 tubing requirements for the remainder of 1965 were ordered from
25 firms handling domestic pipe. Local suppliers carrying stocks
26 of imported pipe were overlooked. The action was unanticipated
27 and in the interest of expediency and definitely not policy,
28 it was explained.

29 We were confident we could earn a position with THMS
30 if given the chance. Quite naturally, with the most fabulous
31 drilling program in California history taking place in our own

1 back yard, we wanted to take part. We believed there was logic
2 in our participation. (1) We were an established California
3 distributor; (2) we represented one of the most modern seamless
4 API pipe mills in the world; (3) our prices were very competi-
5 tive; and (4) our products had been acceptable to American oil
6 companies, including individual THUMS members, for over ten
7 years.

8 Then, in mid-summer, the climate changed dramatically.
9 Sides were formed and battle lines drawn. THUMS' board of direc-
10 tors voted three to two favoring the use of domestically pro-
11 duced pipe. Surprisingly to us, the internationally-minded City
12 of Long Beach concurred with this decision, apparently overlook-
13 ing California distributors storing high quality API Japanese
14 casing and tubing in a Long Beach pipe yard and ignoring the
15 distinct price advantage of these products; and evidently dis-
16 regarding the tremendous export-import traffic generated by
17 Japanese ships in Long Beach Harbor, plus the opportunity to
18 extend relations with California's number one trading partner.

19 Reluctantly, but imperatively, Union Pipe entered
20 this battle to retain a position. Eighteen months have now
21 elapsed since the first open competitive bidding, and as a
22 major pipe supplier for THUMS during this period, we would like
23 to describe our performance to the Commission. Selling to oil
24 companies is not a one-shot performance of order writing and
25 goodbye and good luck. It means genuine, forthright personal
26 relations in the office and in the field; it means accurate and
27 efficient attention to detail; it means integrity of delivery
28 promises; it means high quality of product; and it means service
29 before and after sale.

30 Our personal relations with THUMS have been among the
31 very best we have ever encountered. Cooperation was complete.

1 Our attention to detail, or paper work, was cited as outstanding
2 ing by all parties concerned -- the pipe yard people, the in-
3 spectors, the perforators, and THUMS. We have always met dead-
4 lines. The quality of our pipe has been complimented by all
5 those handling it -- once again, the pipe yard people, the
6 inspectors, the perforators, and THUMS. Recently, THUMS held a
7 special inspection in an effort to isolate flaws that might not
8 be found in API procedural inspections. Special equipment was
9 used and a well known consultant was called in to judge. The
10 Sumitomo pipe was judged as outstanding.

11 Rendering service after sale to THUMS has been minimal
12 because of the performance of our pipe and because of the tre-
13 mendous five-company pool of engineering talent within THUMS.
14 However, our storage yard provides emergency phone numbers and
15 manpower to accommodate on a 24-hour-a-day basis. We have ser-
16 viced customers at midnight and on weekends. On two occasions
17 during the eighteen months, THUMS changed specifications after
18 delivery of product and subsequently asked us as a favor to
19 return the pipe to our stock. Though the total money involved
20 was in excess of \$50,000, we did return the pipe to our
21 inventory.

22 Recently, there have been publicity releases issued
23 by the side favoring exclusive use of domestically produced
24 pipe, emphasizing the importance of trouble-shooting teams in
25 servicing pipe for THUMS. The inference seems to be that this
26 side has an exclusive on the talent in this department. On this
27 point, I can speak only for my company -- Union Pipe. I was
28 born into the California oil industry; my education and prac-
29 tical experience were aimed in that direction; and I once held
30 a position as mill representative for an eastern mill, in which
31 my only duties were pipe inspection and handling complaints.

1 In other words, I was paid to be a pipe troubleshooter.

2 In our eighteen months working with THUMS, we have
3 never once been called upon for pipe troubleshooting services.
4 However, should the occasion demand it, our company would enlist
5 the specialized talents of independent inspectors, testing
6 laboratories, or even consulting petroleum engineers to service
7 and satisfy the customer. We have done this in the past --
8 although, as I said before, it is hardly necessary with a
9 talent-laden organization such as THUMS.

10 It has been mentioned from time to time that the
11 price differential between domestically produced pipe and im-
12 ported pipe has not been as great as anticipated, that it was
13 only 9%, or a later figure of approximately 13½%. This is a
14 true composite for all imported pipe but not true for the two
15 California distributors for Japanese pipe. Generally speaking,
16 on the large tonnage items, the differential has been 15%; al-
17 though because of the recent price rise of domestic pipe, the
18 current differential is 16 or even 17%.

19 I would like to point out at this time that throughout
20 the 18-month period of open competitive bidding, suppliers of
21 domestic pipe have been disqualified for not submitting firm
22 prices. However, we have remained firm.

23 I would like to make one point: Until this year our
24 mill, Sumitomo Metals, could not produce welded pipe in dia-
25 meters above 18 inches; and, consequently, we forfeited a large
26 share of the pipeline market. However, this year our diameter
27 will be increased to 48 inches by a new mill. That new mill is
28 being manufactured now in Torrance, California.

29 Sumitomo Metals is a great modern steel-producing
30 facility, functioning in a great democratic government. The
31 ships of Japan are daily visitors to the great Port of Long

1 Beach. And California is its number one trading partner.

2 That is our package. We thank the Commission for
3 allowing us to reveal its contents at this meeting.

4 MR. FLOURNOY: Any questions? (No response)

5 MR. GONPERTS: Mr. Chairman, our next witness is
6 Mr. Hayden.

7 MR. FLOURNOY: We are running a little long on this,
8 so if you can expedite it we will be much obliged.

9 MR. HAYDEN: Mr. Chairman, in view of the time prob-
10 lem I will try to make my presentation as brief as possible.

11 I am David L. Hayden of the law firm of Graham James
12 & Rolph in Los Angeles. On behalf of the California Council
13 for International Trade, I wish to submit the following state-
14 ment concerning the procurement procedures of the THUMS Long
15 Beach Company for purchase of oil well casing and tubing.
16 The Council has a keen interest in the procedures to be used
17 in the THUMS project and wishes to respectfully draw the atten-
18 tion of the State Lands Commission to the following facts:

19 (1) The Buy American Act does not apply to the THUMS
20 project.

21 Proponents of restrictive bidding often advance the
22 Buy-American Act as a ground for a policy which would restrict
23 bidding on tubular goods to domestic producers. It is clear
24 that the Buy American Act by its terms does not apply to the
25 THUMS project; it applies only to purchases made by the State
26 Government or its agencies. THUMS Long Beach Company is a
27 private company and is therefore exempt from the express terms
28 of the Buy American Act.

29 (2) The statute creating the THUMS project expresses
30 a policy of economy.

31 In determining the policy of the State of California

1 it is necessary to look to that statute which created the THUMS
2 project. That statute makes no mention of a restrictive pro-
3 curement policy. Rather, it provides a policy that the oil,
4 gas and other hydrocarbons of the Long Beach tidelands should
5 be developed for the benefit and profit of the State of Cali-
6 fornia. Furthermore, the statute imposed upon the Commission
7 the responsibility and, indeed, the duty to look at the plans
8 submitted by THUMS and the City of Long Beach to accomplish the
9 most beneficial and economic development and exploitation of
10 tideland oils for the benefit of the people of California.

11 Section 5(b) of the statute provides;

12 "After the hearing, the Commission may order
13 modification of the plan in any respect if it
14 finds that such modification is necessary to
15 promote good oil field practice, to prevent
16 waste of oil or gas, to promote the maximum
17 economic recovery of oil and gas covered
18 in whole or part by the contractors' agreement."

19 The statute envisages a review by the State Lands Com-
20 mission of the proposed plan of THUMS and imposes upon the Com-
21 mission the responsibility to review the plan for the greatest
22 economic recovery of oil and gas. This review is intended to
23 insure the development of the tidelands' hydrocarbons in a man-
24 ner consistent with the interests of the people of the State of
25 California. Based on the statute, the Commission in 1965
26 adopted a policy of free and competitive bidding for the THUMS
27 project.

28 The staff of the Commission have determined that there
29 have been savings of 12.62% through June of 1967 as a result of
30 the free and competitive bidding procedures adopted by the Com-
31 mission in 1965. Projecting this through 1969, the staff pre-
dicts \$3 million would be saved if the present policy of open
bidding is continued.

1 It is clear that continuation of the present bidding
2 policy would result in the most economic recovery of oil and
3 gas from the tidelands. We believe it is the responsibility
4 of the Commission to exercise its clear statutory authority to
5 accomplish this purpose.

6 In accordance with Section 5(b) of the statute, we
7 wish to call to the attention of the Commission a letter of
8 THUMS Long Beach Company to the State Lands Division dated
9 October 10, 1966. THUMS pointed out that imported pipe has
10 been satisfactory. In the letter THUMS expressed some concern
11 about the delay which might be occasioned by the use of import-
12 ed tubular goods, although they indicated that there was no
13 delay so far but they feared delay might occur in the future,
14 so they suggested that future purchases be made from the domes-
15 tic California suppliers. THUMS did not express any dissatis-
16 faction with imported pipe or recommend that bidding be re-
17 stricted to domestic pipe. We understand that THUMS did recom-
18 mend this restriction to the City of Long Beach. We have been
19 unable to determine the reasons for this change in their posi-
20 tion since last year.

21 In view of the performance, economy and efficiency
22 with which foreign mills have supplied pipe to the THUMS pro-
23 ject, the proponents of restrictive bidding have discarded
24 their arguments concerning the quality and cost of pipe.
25 They now seek to frame the argument in terms of protectionist
26 as opposed to free trade policy. They have conceded that the
27 quality and performance of imported products has been equal to
28 or superior to that of domestically produced goods.

29 (3) Importation of pipe would not be harmful to the
30 United States.

31 The position of the United States Government is that

1 procurement procedure for pipe should be determined on the
2 basis of commercial considerations. Furthermore, the welfare
3 of the United States, and especially of California, is directly
4 dependent on foreign trade. California business depends
5 directly on trading with our foreign customers.

6 We believe the interest of the people of all of the
7 State of California exceeds that of any industry. As we
8 pointed out, California industry depends on markets abroad to
9 develop California products. It is our understanding that the
10 Port Director of the Port of San Francisco points out:

11 "Aside from the potential saving in public
12 funds, we feel the Commission is making a
13 meaningful gesture to countries abroad whose
14 purchases of California exports add substan-
tially to this State's manufacturing, agri-
culture, and maritime economies."

15 Also, in a letter from Funkist Growers, there is
16 the following conclusion:

17 "We are not experts in the percentage of im-
18 porting of pipe, steel, and so forth; but we
19 feel strongly that the California exportation
20 of citrus fruit and, undoubtedly, manufactured
21 products of others, is far more. Therefore,
22 we would urge the Commission to include foreign
23 suppliers, as well as domestic suppliers, in
24 the purchases of the Wilmington Field."

25 I would also like to put into the record a statement
26 of Mr. A. Setrakian of the Raisin Committee. The statement
27 concludes:

28 "I would remind you that California agriculture
29 does not have any monopoly in any market of the
30 world, either in assortment or volume or in
31 quality. We therefore urge you to use all your
persuasiveness to see that the State Lands Com-
mission allows free bidding on pipe and tubular
products. We want to see two-way trade expanded
not restricted."

Other statements have been given to the Commission of a simi-
lar nature.

And let the record show, gentlemen, that this

1 overseas commerce benefits other industries as well as Cali-
2 fornia's agriculture. May we point out that exports account
3 for approximately 10% of the total sales of one of the State's
4 major companies, Kaiser Steel. Kaiser owns 40% of the Hamersly
5 Mine in western Australia; almost all of its abundant iron ore
6 is being bought by Japan. Kaiser Steel currently sells Japan
7 an annual average of \$10 million in iron ore and \$24 million
8 in iron pellets. All of this is shipped through California
9 ports.

10 Can anyone in good conscience seriously argue
11 against the advantages to us as well as to our overseas trad-
12 ing partners of open, competitive international business?
13 Certainly not those who benefit from two-way trade.

14 In closing, gentlemen, I would like to point out
15 that the responsibility of the State of California and the
16 State Lands Commission is to develop the tidelands in Long
17 Beach consonant with the benefit of the people of the State of
18 California. It is not the responsibility of the State Lands
19 Commission or the City of Long Beach or THUMS to make deci-
20 sions affecting our trade policies. It is especially important
21 that this Commission not make a decision to jeopardize our
22 position abroad. The responsibility of the State Lands Com-
23 mission is to develop the THUMS project in the most economic
24 and beneficial manner, which can be accomplished by free,
25 competitive bidding.

26 MR. HORTIG: Mr. Chairman, might I request, for the
27 benefit of the reporter, it would be helpful if future wit-
28 nesses would be requested to summarize their statements as
29 much as possible, in lieu of speedy reading?

30 MR. FLOURNOY: Mr. Perrish is your next witness,
31 also representing foreign trade.

1 MR. PERRISH: Gentlemen, my name is Albert Perrish,
2 Chairman of the Board of Foreign Trade Association of Southern
3 California, and a director of the West Coast Metal Importers
4 Association, both of which organizations I represent today.

5 In business life, I am the President of Winter, Wolff
6 and Co., Inc., a steel jobbing firm in southern California,
7 which handles primarily imported steel, but also domestic steel.
8 Our firm also handles tubular products from West Germany and
9 Japan, and although we do not supply casing -- which is the
10 issue today -- we would be in a position to bid on it in the
11 future and it is conceivable we could be a supplier at a future
12 date. The point is our operation is typical and could be typi-
13 cal of the steel importers that are existing and operating in
14 our area, and their place in the economy of Southern California.

15 We employ 35 Southern Californians, all of whom are
16 American citizens and pay taxes in southern California, in
17 exactly the same way as the oil field equipment supply houses
18 do. We operate the same way they do; we pay taxes; and carry
19 stocks on hand -- and all the money we have, we feel, goes into
20 the economy of Southern California.

21 The difference in our operation is that most of our
22 material comes from abroad, whereas all of theirs comes from
23 various other parts of the United States.

24 It has been stated in the newspapers and there have
25 been many arguments that the imported tubing used on the THUMS
26 project puts many Americans out of work. They also state it
27 takes money out of circulation and sends it abroad. They give
28 the impression that we who handle imported steel are a different
29 class of citizen than those who handle domestic steel. They
30 feel it is incumbent upon them to legislate against us, as
31 though we were not a part of the Southern California economy.

1 I should like to make it very clear that as a result
2 of the material we handle -- and let's assume it's API casing --
3 as much or more of our money goes into Southern California as
4 theirs, using as an example a thousand tons of tubular goods
5 coming from abroad. If it comes, it must come in a vessel.
6 For each thousand tons of steel that hits the dock, approximately
7 \$2,000 is paid to the Harbor Department for wharfage and dockage
8 fees. Another \$7,000 is paid to longshoremen and stevedores for
9 removing the steel on to the dock. We feel these longshoremen
10 are part of the economy, just as much as the oil employees are.
11 From the dock, the material is moved to a place of storage, and
12 another four or \$5,000 goes to the brokers and transportation
13 people and is circulated into the Southern California economy.

14 The above figures do not include the 20 to \$30,000
15 that goes into the U. S. Treasury as duty, but part of it goes
16 to support the people who serve as customs brokers and other
17 people in this activity. All these moneys are placed in the
18 economy of Southern California.

19 In addition to that, is the profit that goes to the
20 local agent or broker. The local broker of domestic steel makes
21 a \$15 per ton profit on the steel he sells. The balance of it
22 returns to the steel mill or producer of the pipe. If the agent
23 or jobber for the mill abroad makes half as much gross profit,
24 the total dollars per ton go to the local economy and would still
25 be greater than that produced by the purchase of domestic pipe.
26 The residue goes to the mill abroad, whereas the residue from
27 the domestic pipe goes back to Ohio, Pennsylvania, or some other
28 state, because none of it is produced in California.

29 If it goes to Japan, that money is used in the over-all
30 balance of trade to purchase planes, agricultural products, and
31 equipment, as stated earlier. The same would apply if it went

1 back to Ohio, Pennsylvania or any other American state; but the
2 big difference is that the taxpayers of California would be sav-
3 ing approximately a million dollars. We don't believe the citi-
4 zens of California should subsidize steel mills a thousand miles
5 or more away. It has been estimated on the tonnage to be used
6 in four years, these savings would approximate one million dol-
7 lars per year. With the Governor's campaign at the present to
8 reduce the budget and secure as many economies as possible, we
9 cannot see the consistency in paying a million dollars a year to
10 go back east. We think the policy should be to secure these
11 economies.

12 There are two notable examples I should like to point
13 out: In 1959 the City of Los Angeles Department of Water and
14 Power issued a tender for two electric generators. Three Ameri-
15 can firms bid on these generators and each bid was approximately
16 \$15½ million. The prices were not fixed, but were subject to
17 escalator clauses in the event of labor or material increased
18 costs. A Swiss firm bid \$9,260,000. The savings to Los Angeles
19 was approximately \$6 million on this one issue alone.

20 Then two years later the same tender was issued on two
21 generators; and, in spite of increased labor cost, labor and
22 material cost, they were able to reduce their bid to \$10,219,000,
23 whereas the Swiss firm bid \$8,000,000. The factor that is most
24 important in this case -- the threat of competition reduced the
25 American manufacturers' price some 30%, whereas without this com-
26 petition from abroad, they would have been secure in their high-
27 er prices.

28 A second example refers to the City of Pasadena. In
29 1962 they issued a tender for a transmission cable. Four firms
30 bid in various parts of the United States and yet every one was
31 exactly the same unit price, despite the difference in freight,

1 and so forth. A Japanese firm bid 11.2% below them. The City
2 fathers of Pasadena had an open hearing and the domestic pro-
3 ducers used the argument at that time that our boys in Korea
4 would be unhappy if the City accepted the bid on the foreign
5 product; but they did save that money and have been doing it
6 ever since.

7 Therefore, it is our contention it is not only the
8 dollar saving that is important on the individual bid, but it is
9 the ability to keep American firms, particularly those where the
10 suppliers are limited and the prices are posted, in line. I am
11 not suggesting collusion -- I don't believe it exists; it may
12 have years ago -- but it seems to be that where the prices are
13 posted, they keep them there. However, if there is competition
14 from abroad, if there is an outside bidder that doesn't repeat
15 published prices, there is a tendency for them at all times to
16 take a second look.

17 Thank you very much.

18 MR. FLOURNOY: Mr. Stitt is your last witness, and
19 then we will move to the other side of the argument.

20 MR. STITT: Mr. Chairman and Commissioners, I realize
21 you are becoming impatient at the time that has been spent here.
22 I have provided Mr. Hortig with copies of my complete statement,
23 therefore I am going to hold my time down to three minutes. I
24 am a lawyer, though, and three minutes usually means five.

25 My name is Nelson Stitt. I am a carpetbagger because
26 I am the Director of the U.S.-Japan Trade Council in Washington,
27 D.C. I am here to represent the total trade interest of Japan.

28 As you know, the pipe suppliers in the case of this
29 Long Beach project have been predominantly Japanese. I have
30 been reading in the California newspapers a number of charges
31 about Japan. I had much in my statement and I don't want to

1 duplicate previous testimony, but I would like to deal with a
2 few subjects which we have read in the press, that I think are
3 totally unfounded, and I am hopeful that I may disabuse you of
4 some of the notions you may have gotten from reading your daily
5 newspapers.

6 The one thing that has considerably bothered me has
7 been the suggestion that these foreign steel imports, including
8 casings, are subsidized abroad; in other words, the lower prices
9 have been occasioned by subsidies from foreign governments. I
10 don't know anything about the European situation, but I do know
11 about Japan. In the middle of last month I was back in Tokyo,
12 and I took this up with both the highest officials of the govern-
13 ment and leaders of the steel industry. I was unequivocally as-
14 sured there is no subsidizing of the steel industry in Japan.
15 The steel industry in Japan runs its own business and it is not
16 run by government.

17 Then the question arises: How is it Japan can under-
18 bid on seamless tubing for this location?-- and they do, 15%.
19 Very briefly, the reasons are these: First, the Japanese mills
20 are located on deep water locations, where they can bring in
21 their coking coal, which comes from Virginia. They bring it in
22 from the United States most economically. Their iron ore comes
23 in in big hundred thousand ton vessels and they can unload eco-
24 nomically. Furthermore, when the steel process goes on, again
25 they are in deep water, so they can load it right in an ocean
26 vessel to Long Beach.

27 Therefore, I say the first reason that the Japanese
28 can underbid the Americans is that they are very efficiently
29 located geographically.

30 Secondly, their wages are lower, as we all know.

31 The third reason - - Japan has been very quick to pick

1 up the newer technology in steel production in furnaces. 63%
2 of the steel in Japan is produced in the oxygen furnace; in the
3 United States, 25%. The oxygen furnace can cut the cost of
4 steel eight to ten dollars a ton. The domestic producers, I am
5 sure, would verify this.

6 Second, or fourth, whatever it is -- I am making this
7 up as I go along now -- the Japanese steel management is will-
8 ing to accept a lower level of profit on dollar sales than is
9 American steel management. Now, I make no accusations against
10 the American steel industry, except this one -- that they do be-
11 lieve in a high level of profit on steel.

12 Finally -- and most important, I think, is the cost
13 of the freight. As we all know, this seamless casing is made in
14 the east. The most economic way of getting it to Long Beach,
15 perhaps, would be from Pittsburgh by way of Baltimore, loaded on
16 an intercoastal vessel around Panama, and to Long Beach. From
17 Japan, it is from the docks at Yokohama, or wherever it is,
18 straight to California. There is a saving here that could be
19 fifteen or twenty dollars a ton just getting it to Long Beach.
20 So my point is -- naturally, the Japanese can underbid the
21 Americans.

22 Another accusation which you have read in the paper --
23 As an attorney, I have represented the Japanese steel industry
24 in a number of dumping cases which have been brought before the
25 Department of Interior. I can think of cases on steel wire rods,
26 welded steel pipe, hot rolled sheets, cold rolled sheets, steel
27 wire strands. Each case investigated by experts in the U. S.
28 Department of the Treasury -- and they are experts; they are
29 not dummies -- after careful investigation none of these com-
30 plaints have been found to exist. Dumping, I might say, is not
31 selling in the U. S. at a lower price than U. S. products; it

1 is selling in the United States at a lower price than at home;
2 and they sell at the same price at home or even a lower price
3 than they sell abroad.

4 With regard to the great talk of the increase of steel
5 imports and how it is going to ruin our domestic steel industry,
6 frankly I have been in the steel industry a number of years and
7 I don't believe this. I think the U. S. steel industry, after
8 about fifteen years of sleeping, is now in the process of invest-
9 ing over two billion dollars a year in new, modernized equipment.
10 This goes all the way from beneficiation plants, improved high
11 capacity blast furnaces, basic oxygen furnaces (which they are
12 now continuing to adopt) and continuous castings. My feeling
13 is imports are not their problem and I think many steel econo-
14 mists agree with me.

15 Future years are going to see a diminution of steel
16 imports in the United States because finally U. S. steel industry
17 is becoming aware of the fact that they have to become efficient.
18 Why? -- because of competition from abroad.

19 So why should the great State of California protect
20 them? Protection is the worst way in the world of making the
21 U. S. steel industry efficient. Let's expose them to worthy
22 competition. Let them get their prices down. They are getting
23 their costs, down -- why shouldn't their prices come down? I
24 say they will.

25 All right. I said I'd take three minutes; I don't
26 know what I have done. Let me just close. California is the
27 number one trading state in this nation. Now, you folks ought
28 to be proud of this our here. You are the number one trading
29 state. You export and import more than any other state in the
30 Union. In fact, you export and import more than most of the
31 common market countries taken singly. Where does your future

1 lie? Does your future lie in improving your export trade and
2 import trade? I am just guessing that protectionism, if adopted
3 by this Commission in this particular instance - - and I am
4 representing the U.S.-Japan Trade Council and I speak intimately
5 for the people of Japan - - is going to be resented by the people
6 of Japan. They buy your rice; they buy your airplanes; they
7 buy your machinery. They're competitors and now you are not
8 going to buy their steel. I can't say, obviously, if you make
9 a decision adverse to our interest the trade is going to stop
10 between California and Japan; but you are building a core of
11 bad feeling which, in the long run, is going to work against
12 not only the interest of California but the national interest
13 of the whole United States.

14 So let me respectfully urge you gentlemen to continue
15 the open procurement policy and let competition take place.

16 GOV. FINCH: I am glad everybody didn't say they would
17 take three minutes.

18 MR. FLOURNOY: We will now proceed to the other side,
19 with Mr. Richard Bergen, attorney for an informal group of
20 domestic steel producers and suppliers.

21 MR. BERGEN: Mr. Chairman, we won't insist precisely
22 on equal time; but in all due honesty, to make our case I would
23 estimate it would take forty-five minutes. I will do the best
24 I can. I have been hacking away the best I could.

25 MR. FLOURNOY: Why don't we try to give you forty
26 minutes now and then we will adjourn until two and let each side
27 have ten minutes to sum up. I think this is the only way we can
28 give you a balanced presentation. Is there anybody that is
29 unduly inconvenienced by that? (No response) Then that will
30 be the procedure.

31 Can we get in here at two o'clock?

1 MR. HORTIG: We hope.

2 GOV. FINCH: If not, we will do it in the corridor.

3 MR. FLOURNOY: Proceed.

4 MR. BERGEN: My name is Richard C. Bergen, and I am
5 a partner in the firm of O'Melveny & Myers, Los Angeles. We
6 represent the California Oil Field Suppliers Association, whose
7 members supply United States manufactured tubular goods to Cali-
8 fornia oil fields. We will emphasize in our presentation what
9 we regard as the two real issues -- namely, the economic effect
10 upon the people of the State of California of buying domestic
11 vs. foreign tubular goods for the Long Beach Unit operations;
12 and, secondly, and possibly more important, the legal, mana-
13 gerial and governmental principles which should be applied by
14 you to this situation.

15 Although the others have talked to you at length about
16 world trade versus domestic trade, we do not believe this is the
17 proper forum to decide the relative merits of these contentions.
18 Extensive hearings have been and even now are being and will be
19 conducted in Washington on this. You haven't the power to make
20 a decision, and certainly this is not the proper forum to take
21 the matter up.

22 This calendar item can be and should be disposed of
23 on another ground -- namely, the long run economics involved
24 and the legal, managerial and policy considerations inherent
25 herein. Accordingly, except for a brief presentation at the
26 end of our discussion, we will not treat this emotionally
27 charged controversy as a real issue in this proceeding.

28 The first such issue is the aggregate economic effect
29 upon the people of the State of California and the Long Beach
30 operations of the decision to be made by you. You have before
31 you in the record a report made by an outstanding firm, indi-

1 caring that the resolutions in question have resulted in an
2 apparent saving of 12.00% in comparison to prices quoted for
3 U. S. tubular goods. The report says no consideration was given
4 to property taxes, domestic employment, and the many other non-
5 price factors and services borne and furnished by domestic pro-
6 ducers and suppliers. All economists agree that non-price fac-
7 tors have important and economic value and must be weighed
8 against apparent savings predicated on a pure price differential
9 We do not quarrel with the report as far as it goes.
10 We say it does not go far enough. We have had prepared, and
11 will submit to you, a report of an equally outstanding firm.
12 When all these things are put on the scale, not put on a pure
13 price differential, there are no savings at all.

14 This report was prepared under the supervision of
15 Dr. John Van de Water, a management consultant and economist
16 now of U.C.L.A., who will be our next witness. He will point
17 out that the non-price services of domestic steel suppliers are
18 of sufficient value, considered purely on the basis of economic
19 considerations, to counterbalance pure price considerations;
20 and a domestic purchasing policy is indicated.

21 Prior to Dr. Van de Water's presentation, I want to
22 point out that the former State Lands Commission, which purport-
23 ed to decide this matter on the economics involved, itself recog-
24 nized that non-price factors were very significant. Indeed,
25 your predecessors recognized that non-price considerations --
26 and, in particular, the manufacturers' warranties provided by
27 domestic producers and the superior testing and other procedures
28 followed by such producers -- had sufficient value to counter-
29 balance any pure price consideration on line pipe to be laid on
30 the ocean floors.

31 In March 1965, the Lands Commission modified its

1 order on its policy for all line pipe and granted permission for
2 THUMS to limit bidding to U. S. manufacturers on submarine pipe-
3 lines. This illustrates that if pure economics are to be made
4 the only issue here, the decision would turn upon a judgment
5 factor, which necessarily cannot be precise, on how heavily to
6 weigh these non-price considerations against this pure price
7 differential.

8 The members of the former State Lands Commission obvi-
9 ously decided that these non-price considerations did counter-
10 balance the pure price differential with respect to pipe for
11 submarine pipelines, but did not counterbalance for other tubu-
12 lar goods. To put it another way, they said the non-price fac-
13 tors may counterbalance the pure price differential when pipe is
14 to be laid on the ocean floor, but not when pipe is to be in-
15 serted in a well and submerged beneath the ocean floor. This is
16 indeed an anomalous situation and evidence of the tenuous nature
17 in their analysis.

18 Before Dr. Van de Water gives you the economic reasons
19 why long run economics do favor the use of American-manufactured
20 domestic goods for pipelines, I want to point out how important
21 these things may be by referring to the recent taking over of
22 the Hilton Hotel in Tokyo by the Japanese. The financial section
23 of this Monday's Los Angeles Times pointed it up. Veteran re-
24 porter Richard Halloran pointed out that the Japanese have a
25 different attitude toward the sanctity of contracts. He speci-
26 fically stated:

27 "In Japanese business ethics, a contract or
28 agreement is considered valid only so long as
29 both parties want to continue it..... If the
30 conditions under which a contract was signed change,
31 then a Japanese businessman feels that it is proper
to renegotiate or to cancel the agreement without
further ado. Further, a contract in Japan is
generally observed only so long as both parties
have some kind of power to enforce it. If one
party has no power, it is considered cricket for
the other to do as he pleases.

1 "The Japanese legal code reinforces this custom.
2 Courts here are notoriously slow and the legal
process cumbersome...."

3 and so forth. I cite this incident only to make evident how
4 very important non-price considerations should be in establish-
5 ing purchasing policies for the Long Beach Unit. Shutdowns or
6 limited delays during the developmental stage of this field
7 could cause a loss far in excess of the pure price differential
8 that concerns everyone so much. The domestic producers can be
9 prevailed upon to deliver their goods according to their con-
10 tracts; and, in the event of shortage, they have a policy of
11 prorating their supplies among their many purchasers. These
12 rights are not available to purchasers of foreign steel, and I
13 feel figures to be submitted shortly weigh strongly in our favor.
14 I will leave to our economist in our case the rest of the mat-
15 ters involved.

16 I return now to one of the major issues in our calendar
17 item, if not the controlling item -- namely, the legal, mana-
18 gerial and governmental principles that should be applied by
19 you. To do this, I will have to touch on the legal situation
20 briefly, but will try to limit it.

21 As you know, the City of Long Beach is the State's
22 trustee in these tidelands and has approximately a 15% interest
23 in the profits therefrom. Contrary to Mr. Kilpatrick's state-
24 ment, this is a vital interest and a very significant interest
25 to the City, that they are going to protect.

26 The City has hired as its contractors the various
27 contractors constituting THUMS, which in turn have about a
28 four and one half percent profit interest, which in turn makes
29 them have a very significant interest in the operation.

30 This statute gives the State Lands Commission certain
31 specific rights of approval on limited matters which were

1 regarded by the Legislature of major concern, such as oil and
2 gas sales contracts. The purchase of materials is not included
3 in the group of contracts which require your specific approval.
4 The statute states that all matters pertaining to the tideland
5 portion of the field are to be agreed upon by the City of Long
6 Beach and the State Lands Commission; and in the event of a
7 disagreement, the matter is to be decided by the courts. The
8 provisions in the statute are broad enough to cover purchasing
9 policies if the State and City so desire; and, in contemplation
10 of that, the statute provides for plans of development -- which
11 plans cover a period of time not more than one year.

12 The law does not give the State or the City the right
13 to order the other to do anything; but, rather, they must agree
14 on a formal plan, and this is specifically spelled out, or it
15 must be reviewed by the courts. It was not the intent of the
16 Legislature that the State Lands Commission act as a board of
17 directors, controlling the operation, or that the State Lands
18 Commission should act as the managing officers of such a company.

19 However, the members of the State Lands Commission
20 adopted this philosophy, and at their meeting in September 1965
21 adopted the resolution in question -- which contains an outright
22 order to the City and THUS, which favors the foreign pipe
23 producers. Although the City had requested your predecessors
24 to concur in the proposal of THUS or advise of any disagree-
25 ment, they responded with an outright order, set forth in the
26 resolution before you. I will not take the time to read it be-
27 cause it is apparent on the face of it. It says: "Oil well
28 casing, tubing and line pipe requirements are to be
29 purchased..." and lists the procedures.

30 This language was further modified March 11, 1966 --
31 which, as stated previously, permitted deviation from the

1 previous order for submarine pipelines. This modified resolu-
2 tion granted a permit for THUMS to limit bids to domestic pipe
3 for pipe to be laid on the ocean floor in the Long Beach Harbor
4 area. Instead of talking in terms of agreeing, disagreeing, or
5 recommending, as provided by statute, your predecessors saw fit
6 to make an order and then granted a deviation in the order in
7 purchasing submarine pipelines. The fact is they had no authoro
8 rity to make this order and then the deviation.

9 I have taken time to state the law in this proceeding
10 not only to point out your predecessors did not apply the
11 statute in adopting the resolution now under consideration, but,
12 even more important, to show these resolutions up for what they
13 are -- namely, a startling example of the former members of the
14 State Lands Commission implementing their philosophy as to the
15 omnipotence of the State. Your predecessors not only asserted
16 but insisted that they knew more about the policies and proce-
17 dures that should be followed in an oil field than the City and
18 THUMS.

19 Apparently, your predecessors presumed they had the
20 full legal right and business expertise to order specific pur-
21 chasing policies in this oil field, even though the procedures
22 they ordered were and are contrary to the established procedure
23 of all significant segments of the oil industry in California.
24 These resolutions present a clear and dramatic example of the
25 erroneous philosophy of the former administration in California
26 of issuing orders to private businesses and municipalities.
27 Moreover, such orders were contrary to applicable law, good
28 economics, and the wishes of the persons or municipalities
29 involved.

30 The former Commission, in adopting the resolution now
31 reviewed by you, was wrong -- legally, economically and

1 philosophically. Should you affirm the order of your predeces-
2 sors, you should recognize that you are taking a major step and
3 probably an irreversible one toward assuming the responsibilities
4 of this oil field. If you affirm, the next facet you will be
5 asked to consider will be part "C" concerning the proper lead
6 time for these procedures. Although last year a lead time of
7 thirty days was suggested, the calendar today suggests ninety
8 days in advance of requirements. Although you have hired ex-
9 perts, an affirmation of this resolution would mean that you
10 will determine, and your staff, such matters as lead time and
11 other details in running this oil field.

12 If you are going to specify one purchasing procedure
13 for pipeline, what about other purchases? If you are to act as
14 a board of directors for this operation, then certainly you
15 should do it properly and develop the expertise and staff to do
16 it properly. If you perpetuate the management philosophy inher-
17 ent in this resolution, then it should be done consistently and
18 properly.

19 The endeavor of the State to operate other businesses
20 clearly shows that an affirmation of this resolution will cost
21 the people of the State of California more money than if the
22 pure price consideration was not counterbalanced by non-price
23 factors.

24 The next alternative was simply to rescind the reso-
25 lution. This alternative has been suggested, and it certainly
26 is called for simply by looking at the resolution and the subse-
27 quent resolution. It is apparent on its face that it has ex-
28 ceeded the legal power of the Commission. However, if you
29 simply rescind the resolution, you would not be necessarily
30 agreeing or disagreeing with the policy of THUS; and in this
31 plan they are entitled, under Chapter 133, to your answer.

I do not ask that you order domestic goods, since to

1 ask you to do so would be asking you to accept the same philosophy
2 as your predecessors. I do ask that the City of Long Beach and
3 THUMS are entitled to a concurrence in the recommendations be-
4 fore you and a rescission of the resolutions adopted by your
5 predecessors. I trust your decision will be made clearly and
6 emphatically, so it will be shown the State Lands Commission is
7 running its affairs with due deference to the law, consistent
8 with policies established in the oil industry. You can't solve
9 the country's import-export problems, as that is not within your
10 power, but you can and should rescind these resolutions.

11 I now give you as our next witness Dr. John Van de Water
12 -- a lawyer and management consultant and presently Adjunct
13 Professor with the Graduate School of Business Administration at
14 U.C.L.A. I will hand the reporter a statement of his qualifica-
15 tions, rather than go into it all here. Dr. Van de Water will
16 submit the considerations which we feel counterbalance any pure
17 price differential. In addition, he has standing by Dr.
18 Gerhard Rostvold, formerly a Professor of Economics at Pomona
19 College, now a consulting economist and President of the Western
20 Economics Association.

21 Is it all right now, Mr. Chairman, to go ahead with
22 Dr. Van de Water?

23 MR. FLOURNOY: Yes. I think our plan would be to wind
24 up this section of the proceedings in about ten minutes. We
25 cannot reconvene in this room after one, but we will reconvene
26 in room 4164 at two o'clock, at which time we will then allow
27 about ten minutes for rebuttal on both sides and whatever other
28 action the Commission wishes to take.

29 MR. BERGEN: If you will release Dr. Van de Water and
30 Dr. Rostvold, within about five minutes I will close up.

31 MR. FLOURNOY: I will be happy to release them, if
they will release us.

1 I might point out, while we are waiting, I think all
2 members of the Commission have received a copy of this report
3 and are familiar with it. Maybe that will help you to expedite
4 your remarks.

5 DR. VAN de WATER: I must say I am grateful to be
6 here and hear the conflict going on and whether we ought to re-
7 turn to local government and local determination in decisions
8 of managerial concept, as they have been in the past. I might
9 say as a director of management and as senior director of
10 the consulting firm of John R. Van de Water Associates, that I
11 personally espouse the principle that Ralph Cordiner, Chief
12 Executive Officer of General Electric, suggested -- that where
13 managerial decisions should be made in particular is on the
14 delegation of authority at points where information is readily
15 available and contacts can be made, and by allowance of this
16 and delegation properly, it is serving as an aid in California
17 government as it is in private industry in general.

18 Our research findings are in accord with the proper
19 allowance of decision making by operating management in the area
20 of tubular purchasing policy.

21 What I will do, gentlemen, is to briefly summarize
22 the findings in this report -- not in detail. You will have
23 before you the full report from Dr. Rostvold and Dr. Knapp.

24 First, domestic suppliers stand ready to supply a
25 complete range of products and services essential to the effi-
26 cient operation of the THUMS project.

27 Second, foreign operations stand ready to supply only
28 the standardized seamless tubular items, leaving the other
29 items to domestic suppliers.

30 Three, in addition to carrying a complete line for
31 the THUMS producers, domestic suppliers have a complete range

1 of services, such as technical service, new product development,
2 shorter lead time, and so forth.

3 Four, the non-price services of domestic suppliers
4 carry an economic value to THUMS and the people of California
5 sufficient to offset the value of the differential between
6 domestic and foreign pipe prices.

7 Five, it is a fact that the THUMS producers could not
8 operate without the complete line of products and special ser-
9 vices provided by California-based suppliers and any significant
10 weakening of these domestic suppliers would handicap the long-
11 range efficiency of THUMS and any future operation like it.

12 Six, the California-based suppliers of domestic prod-
13 ucts have a more significant employment, income and tax revenue
14 generating effect on the economy of California than the much
15 smaller suppliers of foreign tubular products. These macro-
16 economic effects must be weighed against the price differential
17 of foreign products over domestic products.

18 Seven, the multiple income generating effect in Cali-
19 fornia from the 6% profit on domestic pipe will range between
20 \$7 million and \$10.5 million, and the statistical evidence here
21 should be given careful consideration.

22 Eight, there are strong reasons for doubting the
23 stability and permanence of lower foreign steel prices; and
24 increased reliance on foreign firms increases future risks.

25 Nine, there are sufficient additional risks in buying
26 abroad to avoid heavy dependence on foreign sources. These
27 risks could severely hamper the operations of THUMS in the long
28 run.

29 Ten, after all the long range factors are weighed
30 against the pure price differential and the aggregate economic
31 effects on the California economy are considered, it is not true

1 that foreign products make for any long range gain for either
2 THUMS or for the California economy.

3 These are the conclusions of the Western Economics
4 Association of outstanding economists and of Dr. Gerhard Rostvold,
5 with the research assistance of Dr. Robert W. Knapp.

6 All these factors lead to the recommendation that the
7 business judgment of THUMS be allowed to prevail on the important
8 matter of purchasing policy. Business decisions in our free mar-
9 ket system are best made by those most expert, closest to the
10 project at hand, and with a vital interest in its success.

11 MR. FLOURNOY: Could I ask just a few questions here?
12 I hate to do this because I am violating my own problem on time.

13 DR. VAN de WATER: Dr. Rostvold, would you join me?

14 MR. FLOURNOY: First of all, may I ask - - This report
15 you prepared and the summary basically compares the non-price
16 economy effects of buying domestic with the price differential;
17 is that not right?

18 DR. VAN de WATER: Right.

19 MR. FLOURNOY: And does not, at the same time, intend
20 to offset or evaluate the non-price economic effects in connec-
21 tion with foreign-bought goods?

22 DR. VAN de WATER: That is true.

23 Any comment?

24 DR. ROSTVOLD: That's correct.

25 MR. FLOURNOY: You are not asserting that all these
26 domestic supplier activities are going to cease if somehow we
27 don't buy the tubular casing from them?

28 DR. VAN de WATER: That is true. I might say that the
29 key point is with all the complexity involved with local decisions
30 like this, rather than your taking your time to make decisions
31 on these, delegation of authority is a sound policy.

1 DR. ROSTVOLD: This study attempted to look at the
2 problem within the context of the total operation of the THUMS
3 field; and, actually, in looking at the total operation one has
4 to be highly cognizant of the efficiency aspects and the economic
5 value of maintaining a schedule. So we attempted to place on
6 the scale the non-price factors within the context of ongoing
7 operation which is efficiently run and scheduled to its greatest
8 economic value. So that is sort of the background.

9 MR. BERGEN: Now, I want to make one further point
10 concerning the economic situation. Although we believe the over-
11 riding economic situation just discussed would justify ruling in
12 our favor alone, we submit that considering the recommendation
13 of THUMS, as I said in our favor and with the deference due them,
14 and particularly if you view that with the legal, managerial and
15 philosophical features espoused by us as being applicable, it is
16 only necessary for you to decide that economic considerations do
17 not compel any other decision. I think, in fact, we are right
18 but I think in the long run the interest of the people of the
19 State of California is affected by the managerial philosophy you
20 apply to this situation.

21 I would now like to introduce Mr. Lee
22 Peake, Manager of Sales, Kaiser Steel Corporation, who will dis-
23 cuss the import-export situation.

24 As I said previously, we don't feel the import-export
25 policy is an issue here, but since a great deal has gone in the
26 record about it, we think a brief statement about it is in order.

27 MR. PEAKE: Good afternoon, gentlemen. I will also
28 abbreviate my comments here.

29 My name is Lee Peake. I am Manager of Sales, Kaiser
30 Steel Corporation, with offices in Oakland. If time were not
31 such a factor, I would comment on Kaiser Steel's position in

1 international trade. We are very definitely in it. I would
2 also take time to comment on some of the statements and infer-
3 ences that Mr. Stitt made, a couple of which I think are inaccur-
4 ate; but neither of these issues are pertinent today, so I will
5 not discuss them.

6 Our company does not manufacture oil casing and tubing,
7 the principal items being purchased by THUMS. We feel justified
8 in asking for a few minutes to testify because the procurement
9 policy of the State Lands Commission is important to the entire
10 domestic steel industry.

11 The steel industry is an important sector of the
12 California economy. In California steel industry we are the
13 largest producer, largest employer, and generate the greatest
14 tax revenue to the State. Beyond that, we have further meaning-
15 ful potential for investment in California. Furthermore, what
16 is important to us in this issue is important to the State as a
17 whole, even though we don't make these particular items. The
18 importance of the procurement policy of THUMS relates to what is
19 involved in principle.

20 The principle at stake is whether a private agency,
21 working in this case in behalf of the City and State, should be
22 able to exercise its own judgments. I refer here to decisions
23 based on analysis of values received, rather than short range
24 considerations -- short range consideration of prices.

25 We are faced throughout the country with the hard fact
26 that it is increasingly difficult for us to hold our own in our
27 own domestic markets. As we all know, our foreign competitors
28 have much lower labor costs relating to their lower standards of
29 living. This is only the beginning. Tariff structures here and
30 abroad are inequitable to American producers.

31 More important, steel industries overseas are

1 subsidized, either directly or indirectly, particularly to en-
2 courage these industries to expand for export. The objective
3 of these governments is to utilize steel as an instrument of
4 international policy.

5 Here is what we face in California: Foreign steel
6 imports have more than trebled from less than half a million
7 tons in 1962 to almost a million and a half in 1966. This mil-
8 lion and a half would represent jobs for 9500 steel workers,
9 plus many other jobs in supporting industries. It represents
10 the output of a company almost as big as our own -- a company
11 which has paid State income tax and property tax alone of
12 \$13 million in the two years, '65 and '66; and during this
13 period our payroll in California was in excess of \$200 million.

14 Now, the steadily increasing penetration of foreign
15 steel imports has brought about deep concern to the officials of
16 our company. This concerns not only our replacement investment
17 but potential investment. This has already caused us to delay
18 decisions on future investment. Steel labor costs would be one
19 thing, but with these other factors included we find ourselves
20 in the situation we described.

21 To conclude, we now refer to the State Lands Commission
22 resolution affecting the procurement policy of THUMS. We feel
23 that the welfare of our State and the United States is certainly
24 not best served by the current policy. The current policy ad-
25 vances the primary criterion in terms of price alone and prevents
26 domestic industry from bidding on the long term basis of value.
27 It prevents expansion in the years ahead.

28 We, therefore, respectfully urge that the resolution
29 of the former State Lands Commission be revoked and THUMS and
30 the City be permitted to purchase in accordance with their own
31 wishes.

1 MR. FLOURNOY: May I ask one question? You brought
2 out a difference between long range and short range value. I
3 am not sure what that related to.

4 MR. PEAKE: As far as THUMS are concerned, I think
5 the answers are laid out specifically in the report that Dr.
6 Van de Water has prepared, in which he goes into all these non-
7 price factors. The health of the steel industry in California
8 is something that is aside from that and we are not asking to be
9 favored. We are not asking for protection. We are just asking
10 for a right to compete, so we can sell in terms of these less
11 specific things than price. If we are able to do this, in the
12 final analysis it is in the hands of the sales people of the
13 domestic people to sell the accounts.

14 MR. BERGEN: Mr. Chairman, I'll wind up with just a
15 very brief summary.

16 MR. FLOURNOY: We appreciate that and we will have an
17 opportunity for ten minutes on each side in room 4164.

18 MR. BERGEN: I'd just like to say very briefly that
19 besides the economic case I feel we have made -- and I continue
20 to emphasize this, because I feel it strongly -- it is very im-
21 portant in this case, here and now, for you to establish proper
22 management procedures for this field. In my judgment, your
23 predecessors did not follow the law. They did not follow good
24 management principles. They did not give due deference to their
25 operators, to their municipalities.

26 Any affirmation of these resolutions would necessarily
27 involve you in perpetuating these principles and they were wrong
28 legally; they were wrong economically; they were wrong philo-
29 sophically.

30 As I said, I prefer you go further than revoking these
31 resolutions, as I think everyone is entitled to the answer.

1 Sooner or later, you are going to have to give it. You have
2 been through this procedure; you have had a chance to analyze
3 this thing. I see no point in postponing it and later have a
4 hassle over a plan. Your position should be made clear one way
5 or the other.

6 To summarize, if you do rescind these resolutions and
7 concur in the request of THUMS and the City of Long Beach, in
8 my judgment you will be assuring the people and everyone con-
9 cerned that your Commission as now constituted is going to fol-
10 low the announced policy of our Governor -- namely, and I quote:
11 "... define broad objectives, not to form blueprints which
12 localities must adopt in detail."

13 Thank you.

14 MR. FLOURNOY: Thank you, and we will recess until
15 two o'clock in 415A.

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17 ADJOURNED 12:20 P.M.

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1 AFTERNOON SESSION - 2:05 P.M.

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3 MR. FLOURNOY: The Commission will come back to
4 order -- and where were we?

5 MR. HORTIG: Rebuttal time.

6 MR. FLOURNOY: We are at the time we have set for
7 ten minutes on each side to rebut and I suppose the rebuttal
8 should be in the same order as the original presentation, so
9 we will revert back to Mr. Comperts for ten minutes on the side
10 in favor of open competitive bidding, if you wish to sum up and
11 rebut.

12 MR. COMPERTS: Mr. Stitt is going to take care of the
13 rebuttal, gentlemen.

14 MR. FLOURNOY: As everybody was forewarned they would
15 have ten minutes, I suspect we will keep a closer watch on the
16 clock.

17 MR. HORTIG: Mr. Chairman, it might also be well to
18 announce, since there is no public address system in this room,
19 will you please speak up?

20 MR. STITT: Mr. Hortig, I have a loud voice and I can
21 fill this room and some. Gentlemen, I am some what of a master
22 of ceremonies.

23 In rebuttal on the side of those who believe in open
24 competition in procurement of pipe casing for the Wilmington
25 oil field, my own contribution will be kind of brief. I am go-
26 ing to raise a few points. I am going to call upon Mr.
27 Kilpatrick to comment on some of the legal questions that have
28 arisen and call on Dr. Rooney to go into some of the economic
29 problems.

30 My testimony at this stage is going to be largely a
31 matter of questions. We have heard so much about the THMS Long

1 Beach Company and the City of Long Beach for some reason or
2 another wishing to have a restrictive bidding policy. Why is
3 not a representative of either the company or the City, or both,
4 here to tell us why they believe they should pay more money for
5 casing than they are already paying? They are not here. We
6 have heard from the opposition that they believe in a restrict-
7 ive bidding policy, but the fact remains that they are not here
8 to testify and give us their reasons why they think it should
9 be so much better.

10 Now, the second point I'd like to raise is this busi-
11 ness of the sanctity of contracts in Japan. I went into Japan
12 in 1945 in the Air Corps, they called it in those days. I was
13 there five years. I have been in business with Japanese since
14 1953 as an attorney. I have had many contracts with Japanese
15 and I must say in my own experience I have found them to be
16 nothing but people of their word; and in no contract in my ex-
17 perience -- and I have had many -- has there been any problem
18 of sanctity; misunderstandings, yes, just as with the Hilton.
19 We are not going to go into that, but I dislike the idea that
20 the impression has been raised here that the Japanese do not
21 meet their contracts. They do -- frequently more religiously
22 than some of the American clients I have.

23 There has been talk about warranties and the fact
24 that if THURS were to procure casings from a supplier of
25 Japanese pipe that some way or another, if the pipe is defec-
26 tive or for some other reason there might be a claim, they
27 would have difficulty reaching the Japanese manufacturer. The
28 truth is they don't have to reach the Japanese manufacturer.
29 The suppliers here are American corporations, who have over the
30 past year and a half supplied performance bonds and in the
31 event there is something wrong -- that they didn't deliver on

1 time or the pipe was defective -- the bond was there. In fact,
2 it has reached the point that THUMS no longer requires a per-
3 formance bond because their performance has been excellent and
4 there is no need for a performance bond. So all this talk
5 about reaching the foreign supplier is a misstatement to me.

6 Now, there has been a question raised about the fluc-
7 tuation of world steel prices and the fact that you can't depend
8 upon a world price, and the truth is you can't. Outside the
9 United States the steel market is a competitive market and
10 prices go up and down with demand -- sure they do; and if we
11 have a big strike here and there is a big shortage of supplies,
12 by the force of supply and demand the price is going to go up.
13 However, we are talking about competitive bidding practices --
14 where, if the foreign prices go up and the domestic prices do
15 not go up, the domestic man gets the bid. There is no ques-
16 tion - - I don't get the matter of stability of prices. If
17 world prices go down and the casing becomes available to THUMS
18 at a lower level than the domestic, why shouldn't we use it?
19 If the prices go up, the situation is different. We are talk-
20 ing about the open competitive system of bidding and that's all
21 we are pleading for.

22 My last point, and then I am going to give you Mr.
23 Kilpatrick to deal with the legal argument: California is the
24 leading foreign trade state of this nation and is very proud of
25 that fact; at least, it has been in the past. This is the
26 question: Does California want to continue to be the leading
27 exporting state of the United States and, at the same time, be
28 the most notorious state from the standpoint of restrictive
29 policies on imports into the State? Gentlemen, I think this
30 decision is yours.

31 Let me give you Mr. Kilpatrick. Thank you.

1 MR. KILPATRICK: Gentlemen, I want to address myself
2 solely to the question of the interpretation of the contract
3 under which you operate. As I listened to counsel for this
4 little informal group of domestic steel producers and suppliers,
5 I had an impression that we were looking at two different
6 statutes. If you think there is any substantial merit to the
7 interpretation of the statute given by counsel for that group,
8 which is so divergent from the interpretation we have given
9 you, you should in the exercise of your duty call on the Attor-
10 ney General to give you briefs on this point and ask both sides
11 to give you briefs on the law.

12 I am confident -- and I am sure we would be happy to
13 show it -- we are confident the former Commission did not im-
14 pose upon its authority. The statute says the plan shall
15 specify all matters necessary and desirable for the oil and gas
16 operations and standards "as hereinafter provided" and goes on
17 to say that this shall be done by the City making up a plan and
18 submitting it to the Commission. This plan shall, among other
19 things, call for the maximum economic recovery from the tide-
20 lands. When that plan is submitted to the Commission, the Com-
21 mission has forty-five days in which to object to it; if it
22 doesn't object, it becomes law -- but if it does object, it has
23 the power, and I quote from the statute: "If the Commission be-
24 lieves that a modification of the plan is necessary, it shall
25 conduct a formal hearing. At such hearing the City may present
26 evidence in support of the plan. After the hearing, the Com-
27 mission may order modification of the plan in any respect,"
28 if it finds it necessary to promote the maximum recovery of
29 oil and gas.

30 Counsel suggested that you had no power to issue
31 orders. There is the power in the statute. Now, you cannot

1 abdicate this authority by saying this is an operational detail.
2 It seemed to me Mr. Van de Water reduced that to absurdity when
3 he said to you -- "You people shouldn't be bothered with these
4 details." This is the first time I heard anybody calling an
5 operational matter of \$6 million an operational detail. As an
6 analogy, suppose you were a general director and the manager of
7 a lifetime contract comes to you and says, "I want to buy pipe
8 but you shouldn't be bothered with a \$6 million operational
9 detail" and you shouldn't be bothered.

10 I say that no company would delegate authority of
11 that kind to someone who has no financial interest in the mat-
12 ter and the fact is, as we pointed out this morning and which
13 has not really been contradicted, THUMS has no financial inter-
14 est; the City has no financial interest, either. Each has a
15 percentage of the royalty, but that percentage is going to go
16 over the maximum they can receive under the law.

17 The upshot of it is that there is only one agency
18 that has the right to represent and the interest to represent
19 the people. You have the power to make orders in this case and
20 it is your duty to make orders.

21 One more thing - - not an argument from me, but an
22 introduction to our closing speaker, who will be Professor
23 Robert Rooney, Assistant Professor of Economics, University of
24 California of Los Angeles. He is a specialist in petroleum and
25 mining economics and economics of industrial regulation; has
26 been consultant to Continental Oil Company and Tidewater Oil
27 Company for the past three years. He and Professor William R.
28 Allen, who is presently Professor of Economics, U.C.L.A. School
29 of Economics, have prepared an argument for your analysis of
30 everything we have heard in the newspapers and the economic
31 points presented by the opposition; and I call on him to submit
his report to you in writing and summarize it for you as briefly
as possible this afternoon.

1 PROF. ROONEY: Here is the report prepared by Mr.
2 Allen and I. Let me say, Mr. Chairman, that the direct savings
3 to the State of California from requiring the THUMS group to
4 purchase its seamless requirements from the lowest bidder are
5 to amount to some \$7 million over the next five to ten years.
6 If THUMS is allowed to expand all field development costs, in-
7 cluding the cost of seamless tubing, the State would bear 100%
8 of the expense of domestic seamless tubing. Of course, THUMS
9 receives 3% profit, being the 3% allowance they have as their
10 cost-plus.

11 Now, in effect, the higher cost of domestic seamless
12 tubing would amount to the fact that the State Treasury subsi-
13 dizes the domestic producers and distributors of seamless cas-
14 ings to the amount of \$7 million; and if the domestic producers
15 and distributors are so deserving of the subsidy, it seems to
16 me and to Professor Allen that a more forthright way to subsi-
17 dize them would be to draw checks on the State Treasury and
18 allow open competitive bidding.

19 The distributors of domestic pipe argue if they receive
20 the seamless tubing business of THUMS income and taxes would
21 be higher in California than if the income goes to distributors
22 of imported pipe. Their argument is that distributors of
23 domestic pipe receive more commissions, and so forth, than im-
24 ported pipe distributors. Even if, contrary to actual fact, no
25 commissions were paid to distributors of domestic pipe, the
26 domestic pipe distributors' argument is faulty because it ig-
27 nores the income and employment effects of higher revenues re-
28 ceived from the THUMS project. The cost savings from the use
29 of foreign seamless tubing will amount to higher revenues being
30 received by the State. These higher revenues received by the
31 State may be used to increase the State's expenditures if that

1 is desired, or to cut taxes -- the direct benefits of such
2 higher expenditures on the part of the State or tax reductions
3 accrue to all citizens of the State, and not simply allowing
4 the domestic distributors to charge higher prices for steel.
5 They do not accrue primarily to the domestic distributors if
6 the State has a cost savings.

7 The higher revenues to the State from requiring THUMS
8 to purchase foreign or imported pipe far more than offset any
9 benefit to the economy of the State of California than the C2
10 commission received by the domestic producers.

11 To put the point in still another way, the East
12 Wilmington field should be developed for the benefit of all
13 citizens of the State of California and not the distributors
14 of domestic pipe. The State cannot withdraw from its responsi-
15 bility to all citizens and allow the THUMS group to accept the
16 lowest bid for domestic seamless tubing on the grounds that
17 THUMS, bearing none of the higher cost of domestic seamless tub-
18 ing, can hardly be expected to act in the most rational manner
19 from the State's standpoint.

20 The individual THUMS companies are large producers
21 of crude oil elsewhere in California and in the United States.
22 If the THUMS companies believe it is in their private interest
23 in terms of their over-all position in the crude oil industry
24 to subsidize the domestic distributors of seamless tubing at no
25 cost to THUMS themselves, THUMS will naturally support limiting
26 the bidding to domestic distributors. Thus, the State cannot
27 depend upon THUMS to buy from the lowest bidder.

28 Furthermore the City of Long Beach does not have a
29 strong incentive to oppose THUMS in their attempt to eliminate
30 price competition from imported pipe. For one thing, the City
31 shares half of the advance royalties from the THUMS group; hence

1 the City has no pressing need to get the THUMS operation in the
2 black. Furthermore, although the City will receive a percentage
3 of the THUMS project, only up to \$250 million will be paid to
4 the City. Now, total profits from this field are expected to
5 reach as high as \$1.8 billion, hence the City is certain of re-
6 ceiving its full \$250 million in profit share, even if THUMS'
7 costs are several million dollars higher than anticipated.

8 Clearly, the State cannot rely upon the City of Long
9 Beach to look after the State's best interests. Hence the State
10 must retain control over the purchasing policy or there is a
11 high probability that the citizens of the State and taxpayers
12 will have a loss.

13 I present this report by Professor Allen and myself
14 that examines every aspect of the service, releases by the
15 California Manufacturers Association, newspaper stories where
16 the domestic distributors and the domestic producers of steel
17 were interviewed. Let me state unequivocally that we were un-
18 able to find any basis to conclude that there are significant
19 non-price factors that could lead the State Lands Commission to
20 adopt domestic pipe at significantly higher prices than imported
21 pipe.

22 For example, the technical and service personnel of
23 the distributors of domestic steel are primarily salesmen, who
24 exist purely because the domestic industry has abandoned price
25 competition in favor of generally non-price competition; and,
26 gentlemen, this is a highly documented fact. I refer you to
27 our paper for the details.

28 Allow me to spend a minute summarizing.

29 MR. FLOURNOY: About what?

30 PROF. ROONEY: One, the State Lands Commission should
31 continue to require the THUMS group to call for open competitive

1 bidding.

2 Two, the State cannot expect either the City of Long
3 Beach or the THUMS group to purchase pipe so as to maximize the
4 State's revenue on the THUMS project. This conflict with the
5 State on one hand and the City and THUMS on the other results
6 from the way in which revenues are shared. The State's inter-
7 ests must be protected by the State itself.

8 Three, the alleged benefits to the State of the
9 technical and other services provided by the distributors of
10 domestic pipe are highly nebulous. These distributors gener-
11 ally duplicate the work of the THUMS engineering staff in the
12 nature of non-price factors.

13 Four, the distributors of imported pipe are fully
14 capable of providing whatever technical services are required
15 by THUMS, since the distributors of imported pipe use the same
16 independent service companies as are used by THUMS and the
17 domestic pipe distributors. They all refer to the same con-
18 sultants when real technical problems arise.

19 MR. FLOURNOY: Thank you very much.

20 We will, then, move on to the rebuttal on the other
21 side.

22 DR. VAN de WATER: Well, Mr. Chairman, I am most
23 amazed with the ten minutes taken by the other side for their
24 response. My understanding was that we were to come here to
25 respond to the statements made by the other side this morning.
26 I have, therefore, released Dr. Rostvold to go back to Los
27 Angeles to take care of his obligations there; and the material
28 that has been given here will require a written response.

29 MR. FLOURNOY: Would it be in order to release the
30 information provided by the last individual since it was on the
31 understanding that they would rebut on the information given

1 earlier today?

2 VOICE: Sir, we had no access to the material pre-
3 sented today. We asked for the paper presented by the other
4 side and were told it was not a public record.

5 DR. VAN de WATER: Mr. Chairman, we were simply told
6 it would be rebuttal to the statements made this morning. I
7 don't think this report was made between the time we heard their
8 testimony this morning and now.

9 MR. KILPATRICK: May I make one suggestion? My sugges-
10 tion is that this Commission should have everything before it
11 that could be of any help to it. A short answer to Mr.
12 Van de Water -- He should be allowed to report to you in re-
13 buttal on what we have presented, but there was no way we could
14 rebut anything we hadn't heard.

15 DR. VAN de WATER: Mr. Chairman, could I respond to
16 that? -- that the presentations were given this morning and Dr.
17 Rostvold would not have been released to Southern California if
18 we knew these arguments would be received this afternoon.

19 MR. FLOURNOY: I appreciate that problem and I am not
20 about to get in the middle of an argument on good faith, bad
21 faith, or surprise. I think, as a Lands Commission, we are con-
22 cerned about getting the facts in the matter on which to base a
23 decision, and if there is a problem that has arisen by this un-
24 anticipated development as far as your case before this Commis-
25 sion is concerned, I think you will have ample opportunity to
26 produce what you wish.

27 I think you appreciate the Commission has not been
28 able to read this report in full and we are not about to preju-
29 dice anybody, wittingly or unwittingly. I think what we should
30 do is that you be given a copy of the report and we have an
31 answer from you as to the material presented, so we can study

1 both reports. I think, in all likelihood, this may necessitate
2 that we continue this matter until we have that information and
3 any other information the members of the Commission may stipu-
4 late they wish to have before we make a decision on this matter.

5 Let me repeat -- there is no intent on the part of
6 any member of this Commission to get anything but the best
7 thinking and best analysis of the problem before us prior to
8 the time we come to a decision. So if you will continue in
9 that vein, we will make available to you a copy and we will
10 discuss afterwards when it is reasonable for us to continue
11 this matter.

12 DR. VAN de WATER: Let me respond, Mr. Chairman, on
13 the points that seem to me to be directly on the economy discus-
14 sion.

15 Mr. Chairman, we did consider the point which you
16 raised toward the end of the discussion this morning -- the
17 non-price factors that might favor the other group, and the
18 reason for making no mention of such a factor in our report is
19 that the effect is minimal. Let me explain this. The importer
20 representatives here involved are Union Pipe, to our knowledge
21 with 2½ California employees. That means the gentleman who
22 gave the presentation, a secretary, and a part-time secretary.
23 Pipe Sales, we understand, has three or four employees. There-
24 fore, it is our understanding that these importers, plus Apex
25 with no California employees, virtually the only relevant im-
26 porter suppliers, have a total of no more than 4½ California
27 employees. Now, if we are 100% off of what our understanding
28 is, it would still be only thirteen employees.

29 It is true Mr. Perrish stated this morning that he
30 has thirty-four employees, but Mr. Perrish does not sell pipe.

31 The average California employment of the eight

1 domestic suppliers is 116. The importer representatives pay no
2 known real estate taxes and also they pay no personal property
3 taxes because of original package shipping.

4 The importer representative spoke of harbor fees, but
5 these go to the Port of Long Beach and Long Beach is concerned
6 alone in the weight to be given such an income item.

7 As to the domestic suppliers -- railroad and truck
8 shipping within California produce income spent and repaid in
9 California for California employees.

10 Therefore, the economic report, as presented this
11 morning, still stands. Namely, after all, non-price competitive
12 factors are weighed against pure price differential; and when
13 the aggregate economic facts of the California economy are con-
14 sidered, it is not true that the lower foreign prices offer any
15 long range gain, either for the THMS operation or the Cali-
16 fornia economy.

17 Obviously, our need in California is not to take into
18 account the issue of a claim of a \$6 million item. Coming be-
19 fore you gentlemen for consideration is a difference of \$6 mil-
20 lion. This is not the situation, as we have determined it by
21 careful research. Our need in California, therefore, is to
22 apply sound and usual managerial principles, involving appro-
23 priate delegation of authority. This spirit is found in
24 Governor Reagan's report of March 15, 1967, in which he states:

25 "The role of the State is to define broad objec-
26 tives -- not to form blueprints which localities
27 must adopt in detail. The State should perform
28 those functions for which it is unquestionably
29 best suited as a governmental unit; but it should
not interfere with activities that can best be
done either by local government or by private
enterprise."

30 This is the statement of your Governor of California.

31 I would state that this is completely consistent with

1 the suggestion made this morning. When a plan is adopted,
2 when policies which are guides to thinking are established,
3 when appropriate procedures are considered, then senior manage-
4 ment leaves it to delegated authority in their proper realms;
5 and in this way we can assure greater efficiency and not the
6 enormous amount of cost of extra personnel having to be called
7 in to make investigations and study for the Commission itself
8 in place of the decisions made by delegated authority and
9 where prompt action can be taken.

10 MR. BERGEN: Gentlemen, the statement has been made
11 that neither the City nor THUMS has any financial interest in
12 this operation. The City of Long Beach owns in its own right
13 land that is in the uplands. They expect to have some \$10
14 million out of it. Although there are these fixed payments,
15 it is an oil field and their sum may not get to that. They
16 don't know this for sure. Anything can happen. This is in
17 the preliminary development stage and you know lots of things
18 can happen, even in a fine field like this. Moreover, as
19 their top limit is \$250 million, they have a very vital inter-
20 est in this field. They have a definite prospect of running a
21 good, sound operation. Moreover, they are your trustee. They
22 are obligated by law to behave as a trustee, and I might say
23 they have acted very, very well in your interests through the
24 years. The City of Long Beach has done a fine job for the
25 State. They deserve your trust and they do have your finan-
26 cial interest at heart.

27 On THUMS -- they just cast them aside, when they
28 have a 4 1/2% profit interest in the tidelands portion of this
29 tract and it is estimated that is \$100 million. They are not
30 about to throw that down the drain. You are tied in, fortu-
31 nately, with people who have the long range economic interest

1 of this field at heart.

2 It has been charged that the steel companies collude.
3 We have good anti-trust laws in this country and have vigorous
4 enforcement -- and I think the suggestion is highly improper.

5 They talk about maximum economic recovery -- and I
6 think Mr. Kilpatrick's expression was "from drilling." Actu-
7 ally, it is maximum economic recovery of oil and gas. It is a
8 waste concept. You are to get the most out of the ground and
9 not waste it. In fact, there was a ruling in perhaps '54 by
10 then Attorney General Brown that this language had reference
11 to conservation. It did not have reference to getting into the
12 cost of doing business. This language in the statute has
13 reference only to conservation matters, to preventing waste and
14 getting the most oil out of the ground.

15 They say it is part of a plan. In fact, this order
16 is an anomaly. It is not part of a plan. In the '67 plan, in
17 none of them, is this order in question included. It is a com-
18 plete anomaly, in which the State Lands Commission decided they
19 were not going to let the City and THUMS know how to operate an
20 oil field and they took it upon themselves. In my judgment it
21 is quite clear. I will submit briefs if desired, but I am per-
22 fectly willing to rely upon the opinions of your Attorney General.
23 There is no question about this. It is on the record; it is a
24 fact; the law is clear.

25 It has been asserted that these companies in their own
26 operations buy foreign pipe. Sure, they buy some pipe and
27 abroad they buy a great deal of it; but it is their policy in
28 domestic oil operations to buy domestic pipe. There are excep-
29 tions - - but it is their policy to do this. There are good
30 business reasons for doing this. They are not throwing their
31 money away. They can't survive without all the services and

1 products the steel industry gives them; and the State of Cali-
2 fornia shouldn't in an operation of this nature be an exception
3 to established business procedures. Already the foreign pur-
4 chasing policy is starting to have an effect on this operation.
5 You have \$675,000 worth of inventory. They say, "Oh, this is
6 unique. We can get that down," but the fact is you run an
7 operation like this dependent upon foreign supplies, you are
8 going to have inventory; you are going to have problems. If
9 you want to do it that way, face up to the fact you are going
10 to pay the price. Some day you may be shut down. You take
11 your choice.

12 I am authorized to say one producer figures his cost
13 of inventory at 15.8% more than the total price here. These
14 companies are getting big service essential to them also from
15 the steel companies. They should recognize it and they should
16 appreciate it.

17 Finally, I will say in summary that we feel very
18 strongly that the economics favor domestic industry. Considered
19 long range -- we have had it analyzed very thoroughly, very com-
20 petently -- we can very seriously say that economically this is
21 what the City and THUNS should do with your concurrence. Cer-
22 tainly, you shouldn't order them to do anything.

23 We aren't asking you to order domestic purchases.
24 You have got a good contractor; you have a good trustee; you
25 have a good unit operator -- and let them run this oil field
26 the way it should be run.

27 GOV. FINCH: I'd like to ask Mr. Bergen and Mr.
28 Kilpatrick if they feel within a period of two weeks they could
29 provide us with briefs. I, for one, without trying to restrict
30 the scope of the briefs, have about three areas of critical
31 concern and the issues seem to be joined in the real

1 performance level or interest level of the City of Long Beach
2 and THUMS. There seems to be a clear-cut conflict there. I
3 haven't seen evidence that satisfies me one way or the other.
4 I think there is a question as to whether THUMS has performed
5 satisfactorily.

6 I would like a new brief from the Attorney General,
7 updating the Brown opinion, and I would like the members of the
8 THUMS consortium to go as far as they choose to go, indicating
9 what their interests are in Japan particularly and other coun-
10 tries in the Pacific basin, going to the question of whether or
11 not they will necessarily -- though they are acting in their own
12 self interest, which presumably they are -- if they were given
13 the right, turn to domestic suppliers.

14 I don't want to hear, as far as I am concerned, any-
15 thing more about the Japanese business practices. I think
16 that is irrelevant.

17 I am satisfied about the dollar question, but these
18 are the areas I am concerned with. I am not trying to lay down
19 the scope of the brief; but I, for one, would like to see these
20 before the next meeting and I'd like to have enough time so we
21 can thoroughly satisfy ourselves in these matters.

22 Is two weeks or eighteen or twenty days a sufficient
23 time to meet these questions?

24 MR. KILPATRICK: If you will give us twenty days, we
25 would like it; but we will meet whatever time you suggest.

26 MR. SMITH: I have one question that may be resolved
27 before the next time we meet. If that resolution was passed
28 with the understanding that pipe and other products would be
29 purchased from Japan, because they had a lower price and it
30 resulted in a greater net profit on the part of THUMS and there-
31 fore resulted in a great return to the State -- if that

1 resolution were rescinded -- what other controls or yardsticks
2 in a broader sense could be exercised by the State Lands Divi-
3 sion, so that we would be able to determine in the Commission
4 whether or not the State is receiving maximum return on the
5 economic use and development of its products?

6 In other words, if this resolution dealt with a de-
7 tail of purchasing and had an impact on profit, it is obvious
8 that many other resolutions could be developed in many other
9 areas of supplies and equipment. It could even get into sala-
10 ries and even into an encroachment on THUMS as a free enterprise.

11 Since that does not seem desirable in a free enter-
12 prise system, what yard sticks can the State Lands Commission
13 and the State of California use to measure performance on the
14 part of THUMS, so that the State will receive maximum return?

15 MR. HORTIG: I believe, Mr. Chairman, if I may respond,
16 I think this should be a report on this subject to the Commis-
17 sion. Answering Mr. Smith's question should be the responsi-
18 bility of the State Lands Division and the Attorney General's
19 Office. So we would submit such a report for your review, con-
20 currently with the briefs that you are to receive.

21 MR. SMITH: The reason I asked that question is be-
22 cause we are confronted with making a decision either to con-
23 tinue the resolution or to rescind it or change it; and a great
24 deal of it revolves around one point, and that is the return
25 that the State of California is receiving on the economic devel-
26 opment of its property. Consequently, with these alternatives
27 in the decision that the Commission must make, if the resolu-
28 tion were rescinded and that resolution did have an impact on
29 that profit, what are our yardsticks of measurement? What is
30 our control; what can we do; what could replace it, or should
31 it be replaced at all?

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MR. FLOURNOY: I think that would be worth while.

On the question of timing, after making a check on the calendar, I wonder if we could have these reports in our hands by the 15th of May? That's Monday. It's close to twenty days, but it gives us ten days before the next meeting, scheduled on the 25th of May, to have it in our hands.

I'd like to go again into the third point that you want, so we clearly understand what information Mr. Bergen and Mr. Kilpatrick are going to address themselves to in this regard.

GOV. FINCH: I don't want to put it into an interrogatory.

MR. SMITH: There was one point that should be clarified for the next meeting, and that is -- it has been said that the TRUMS company made the decision to purchase this pipe domestically since it didn't have too much of a bearing insofar as their participation is concerned, and the City of Long Beach the same -- making it sound as though purchasing domestic pipe would not be a normal practice of a petroleum company. I think Mr. Bergen indicated that was not true and that purchasing domestic pipe is a normal practice. I wonder if there is any way we could get specific information on that.

MR. FLOURNOY: I think maybe our staff could produce that information without too much difficulty.

MR. SMITH: Yes -- regarding the normal practice of a petroleum company or companies.

MR. FLOURNOY: And your three points, basically, were which?

GOV. FINCH: I take it we will ask from the Attorney General the legal role of the Commission.

MR. ABBOTT: You will get it in twenty days.

1 GOV. FINCH: I am deeply troubled by the question of
2 incentive on the part of THUMS and the City of Long Beach with
3 regard to performance, which is a question between the two of
4 you. I am not satisfied either way on that issue. I think
5 there is some question about it. We have given a sort of
6 independent contractor's status to THUMS. Maybe we need some
7 information as to their performance to date.

8 MR. KILPATRICK: Mr. Finch, could I make one sugges-
9 tion at that point? The calendar indicates the Commission has
10 been using the services of DeGolyer & MacNaughton as consultants.
11 They could give you from the economic point of view, I think --
12 I am guessing -- but I think they could give you an excellent
13 answer as to the position of THUMS and the City as far as the
14 responsibility of costs are concerned; that is, whether increase
15 in costs affects them.

16 GOV. FINCH: Then, as I say, it seems to me I just
17 can't assume that it is going against the best interests, self
18 interests of all these companies and the consortium, if they
19 were not faced with the competitive bid situation, in view of
20 their interests abroad, to in many cases go abroad for this
21 pipe. Now, they all have a good many interests, particularly
22 in Japan -- at least several of them to my certain knowledge --
23 and I think I'd like to see some more evidence on that matter.

24 MR. FLOURNOY: From them?

25 GOV. FINCH: Yes. Those are three things -- and any-
26 thing else they want to bring up.

27 MR. FLOURNOY: Do you want to direct that to these
28 individuals or to the members of THUMS directly?

29 GOV. FINCH: No -- to these individuals. I think
30 that covers it.

31 MR. FLOURNOY: Is there anything else that we would

1 like to have as a part of our burgeoning record prior to the
2 next meeting?

3 MR. HORTIG: Mr. Chairman, there was the discussion of
4 making a copy of the report available that was presented in
5 rebuttal this afternoon.

6 MR. FLOURNOY: Yes. Well, we are going to make that
7 and I would hope you would comply, if possible, with the same
8 kind of deadline -- the 15th of May.

9 MR. HORTIG: Might there also be the counter part --
10 that a copy of Dr. Van de Water's report be made available?

11 MR. FLOURNOY: Sure.

12 GOV. FINCH: All of these are public records.

13 MR. FLOURNOY: Aren't they matters of public record?

14 MR. HORTIG: They are in various classifications.

15 GOV. FINCH: Can't we stipulate that everything that
16 has been introduced today is a matter of public record?

17 MR. HORTIG: We can.

18 DR. VAN de WATER: Mr. Chairman, I cannot speak for
19 Dr. Rostvold and Dr. Knapp in terms of the time, but I will
20 immediately contact them.

21 MR. FLOURNOY: If there is any problem, let us know.
22 What I said -- I thought it was all settled that they would get
23 a copy, and I want a copy, and vice versa.

24 Anything else?

25 GOV. FINCH: I think I should speak for the Commission
26 by saying that we came here today prepared to vote. I think
27 due to the solidity of the cases presented, at least my mind
28 has been resolved on one or two points, and unless there should
29 be anything extraordinary we want to get this matter disposed
30 of; and I suggest that it would be the first item on the next
31 meeting, Mr. Hortig, and let's get it out of the way then.

1 MR. FLOURNOY: I would further advise it would not
2 be our intention at the next meeting to hear witnesses. When
3 we get the material we have asked for, I think we will have an
4 opportunity to get together and in our own minds will have given
5 this thought before the Commission meeting. We may have a state-
6 ment to make individually or collectively, and will then proceed
7 to act in some way.

8 Let me further say, certainly speaking for myself
9 and I am sure for the other members of the Commission, we
10 appreciate the time and attention that has been given to this
11 problem by the various people who have come to testify before
12 us. I think it has been an enlightening session for me and I
13 wish to express my thanks to those who have come here to assist
14 the deliberations of the Commission in this matter.

15 I understand the only other matter on the agenda is
16 the next meeting, which we have set for the 25th of May, which
17 I assume will be someplace around here, and due notification
18 will be given.

19 With that, the meeting is adjourned.
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22 ADJOURNED 2:55 P.M.

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