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MEETING
STATE LANDS COMMISSION

STATE CAPITOL
Room 2170
Sacramento, California

ORIGINAL

THURSDAY, FEBRUARY 26, 1976
10:00 A.M.

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Items 48, 49: Ten-year Renewal and Amendment,
Phillips Petroleum

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Adjournment

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Reporter's Certificate

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MEMBERS PRESENT

- Hon. Kenneth Cory, State Controller, Chairman
- Hon. Mervyn M. Dymally, Lt. Governor, Commissioner
- Hon. Roy M. Bell, Director of Finance, Commissioner

MEMBERS ABSENT

NONE

STAFF PRESENT

- William F. Northrop, Executive Officer
- Robert C. Hight, Staff Counsel
- James F. Trout, Manager, Land Operations
- W. M. Thompson, Manager, Long Beach Operations
- Richard Golden, Assistant Executive Officer

ALSO PRESENT

- N. Gregory Taylor, Assistant Attorney General

P R O C E E D I N G S

--oOo--

CHAIRMAN CORY: The meeting will come to order.

I apologize for my tardiness; again you have had to wait for the Chairman.

Call the meeting to order; are there any corrections or additions to the minutes of the meeting of January 15th?

Hearing none, they will be approved as presented.

For the Executive Officer, Mr. Northrop?

EXECUTIVE OFFICER NORTHROP: Thank you, Mr. Chairman.

On February 10th, I attended the OCS Advisory Meeting in Orange, and expressed California's concern for the lack of regulations for deep water drilling. Also, our immediate need for information regarding border land interpretative data that could affect oil formations that cross into State property.

As a result of this, we are now engaging in negotiations with the Department of the Interior -- the Department of the Interior staff and our staff to develop this information.

The following week I attended an Advisory Committee meeting in Washington to discuss OCS leasing schedules and all of the members of that committee, which represented most of the border states, expressed a dissatisfaction with the

1 design and implementation of the baseline study and time
2 frame and questioning the value of the study at all, given
3 their close proximity to the leasing schedule.

4 California also raised the question regarding a
5 recent trade publication regarding the approval of the
6 Santa Ynez Unit Gas Reinjection into formations without
7 proper technical information or even consultation with the
8 affected border states. The Interior Department expressed
9 surprise at this. However, I pointed out the Oil and Gas
10 Journal article to them and they said they would respond to
11 the Commission and to the committee with their answers as to
12 why this happened.

13 Mr. Chairman, we have asked that Calendar Item No. 1
14 be pulled for technical reasons. On several other of the
15 calendar items, as they appear, if you would, I would
16 interrupt and give you what communications we have on that
17 at that time.

18 CHAIRMAN CORY: Okay.

19 EXECUTIVE OFFICER NORTHROP: This calendar today,
20 sir -- gentlemen, encompasses about 49 items or 50 items and
21 several lengthy presentations. It becomes obvious that the
22 length of the meetings and the things to be discussed are
23 going to continue to be this long. We have in the shop
24 somewhere in the area of 1500 items and we are bringing
25 items in at about a hundred items a month, of which probably

1 two-thirds of them require some Commission action. I would
2 make this suggestion respectfully that we consider several
3 alternatives for future meetings, either scheduling meetings
4 twice a month or delegating the Executive Officer authority
5 to handle routine approvals or perhaps institute a consent
6 calendar for items with no opposition. I certainly
7 recommend either one, or the former or the latter. I'm not
8 really anxious for the Executive Officer to get into that
9 position.

10 CHAIRMAN CORY: How much could be saved with some
11 sort of a consent calendar if we had it on for two meetings
12 and nobody appeared and objected; I guess it would take an
13 announcement to the public if they had any item on that
14 particular list and that would have to be passed out and --

15 EXECUTIVE OFFICER NORTHROP: I think if we
16 notified in advance, we may work out the mechanics. If we
17 notified in advance of a meeting, say, 14 days that the
18 following item would be on the consent, and if we received
19 no response, then it could go to the consent calendar. If
20 there was any response we would pull it off and put it on the
21 regular calendar for discussion.

22 CHAIRMAN CORY: How much time do you think that
23 would save?

24 EXECUTIVE OFFICER NORTHROP: It would probably
25 save about half of the meeting time; about an hour or so each

4
1 meeting and we could probably handle maybe 20 or 30 items per
2 meeting on a consent calendar basis.

3 COMMISSIONER DYMALLY: I have no problems with that.

4 EXECUTIVE OFFICER NORTHROP: The problem is this.
5 You know, everybody wants to come in on Wednesday and have
6 it on tomorrow's calendar and many of the items there is no
7 objection to. But, because of our seven-day notice and, you
8 know, the time is usually of the essence on these things --

9 COMMISSIONER DYMALLY: You are saying in between
10 that month there are several insignificant items that come up
11 that need to be disposed of?

12 EXECUTIVE OFFICER NORTHROP: That we would like to
13 dispose of quickly. And it's really that they are mostly
14 technical items, but they are all going to run very heavily
15 now.

16 CHAIRMAN CORY: Let's try the consent calendar. I
17 would like both our staff counsel and Greg to make sure that
18 we are giving adequate notice to the public and I would think
19 that there would have to be some mechanism where we pass out a
20 flyer -- everybody at the meeting as they come in -- so that
21 they understand what they are going to have to do to keep us
22 from running over the top of them, because one of the things
23 that rightfully irritates the people is when they walk into a
24 meeting and they have come for a purpose because it's on the
25 Agenda, and then they -- it's already done and gone.

1 EXECUTIVE OFFICER NORTHROP: Well, we certainly
2 could make a proviso if that happens. We could pull
3 immediately anything off which is on the consent calendar and
4 put it --

5 CHAIRMAN CORY: We could pull it off, but they need
6 to know that they won't have to sit there for the entire
7 meeting waiting for it to come up and it never gets discussed
8 and it's -- in the jargon of the trade, we have already dealt
9 with it and they didn't know it happened to them.

10 EXECUTIVE OFFICER NORTHROP: Thank you very kindly.

11 CHAIRMAN CORY: Then if not, I think we have to
12 look very seriously at twice-a-month meetings so we can get
13 through.

14 EXECUTIVE OFFICER NORTHROP: Okay, fine.

15 At last month's meeting, the Executive Officer
16 attempted to explain the position of FEA regarding crude oil
17 pricing and request of consideration by the FEA for a
18 reversal of their discriminatory price freeze on California
19 heavy crude, but not about much success.

20 Mr. William J. LaMont, of the law firm of Lobel,
21 Novins and LaMont, has been keeping a close eye on this
22 problem as it has been unfolded in Washington for the
23 Commission and now he will give us a report.

24 Mr. LaMont?

25 MR. LAMONT: The difficulty with the problem of oil

1 pricing at the moment, from the Commission's standpoint, is
2 that it's going to be many, many months before you know
3 precisely, exactly, what kind of price you are going to be
4 able to budget against.

5 The Act that was passed in December -- the Energy
6 Policy and Conservation Act -- did something more than just
7 continue price controls; it changed very fundamentally their
8 basis. Moreover, it's an unusual kind of statute in that
9 world of unusual legislation in that it sets up a lot of
10 specific trigger dates by which certain things must be done
11 specifying how and what is to be done. Accordingly, trying
12 to predict exactly what is going to happen is very difficult.

13 For example, the price -- initial price balance of
14 seven, sixty-six, between the old oil and the new oil had to
15 be achieved by February 1st. It was achieved by fiat; they
16 said, "This is what it is."

17 CHAIRMAN CORY: Let's back up now. What actually
18 happened to the price of oil, they just said that it was
19 that, even if it wasn't?

20 MR. LaMONT: Yes.

21 It's extraordinary, because the formula is
22 supposed to be balanced between the old oil price which I
23 would estimate at five, twenty-five, and the new oil price
24 which is somewhere between ten and \$11. It's supposed to
25 balance out exactly at seven, sixty-six.

1 The difficulty is that nobody knows exactly what
 2 the price of old oil is. Everybody is certain that it is not
 3 5.5 -- whatever it is -- it is either above that or below
 4 that and probably below that. They do not know how much of
 5 the oil is old oil and how much is new oil, and they do not
 6 know what the exact price of the new oil is. You have an
 7 equation then, in which there are four parts, none of which
 8 are known.

9 CHAIRMAN CORY: And only one equation. You need
 10 four equations, as I recall, to solve that problem.

11 MR. LaMONT: Well, the Act permitted they solve it
 12 by fiat on February the 1st. But six months from now, on
 13 August 1st --

14 COMMISSIONER DYMALLY: What did they do on the 1st?

15 MR. LaMONT: They simply said 5.5 and whatever the
 16 price of old oil was before -- I mean the new oil was before.
 17 In other words, left things exactly in the status quo.

18 By August the 1st --

19 CHAIRMAN CORY: Two plus two divided by three is
 20 42 by fiat, and that's it.

21 MR. LaMONT: By August, they are supposed to have
 22 completed the job of figuring out what the price actually is
 23 for both parts and making a new price balance.

24 Now, if on August the 1st, they discover that the
 25 price was too generous, they have got to offset that for the

1 next period until the total amount of the generosity has been
2 withdrawn and vice-versa. This has got to be done in six
3 months' intervals after that. Accordingly, until after
4 August, you will not know exactly what your initial price
5 has been.

6 CHAIRMAN CORY: What is the data base; are they
7 talking about each individual refinery or is it all -- I
8 mean, how are they planning at getting at these mysterious
9 numbers?

10 MR. LaMONT: Well, this was part of the hearing
11 that we got involved in, the rehearing on the differential
12 and one part of that was an attempt by FEA to get some
13 advice from the industry generally as to how they were going
14 to go about discovering this. Whether they were to ask the
15 purchasers, the sellers, or just the principal refiners;
16 where was the price to have to be -- at the beginning. I
17 talked with one of my friends within the last couple of days
18 who was in the data business in FEA; they have not made much
19 progress yet in defining what data it is they are going to
20 need in order to get this final determination. It's weird
21 and it's wonderful.

22 Our difficulty on gravity differential was that
23 the staff had largely agreed with the presentation that had
24 been made last August, that the gravity differential
25 adjustment was totally warranted. It was held up for a time

1 by the termination of the Emergency Petroleum Allocation Act
2 in September. Then, on the reinstatement of that Act, the
3 one group within the FEA objected and we believe in large
4 part on the grounds that, to have granted the gravity
5 differential relief that we asked -- granted the new rule --
6 would have been, in essence, to bolster the Antitrust
7 charges that have previously been made against the companies.

8 At any rate they, in November, terminated the
9 gravity differential proceedings with a statement that we
10 could go ahead with individual exemption applications. If
11 there were any who could show real hardship.

12 Then, in December, at the request of the entire
13 California delegation, Mr. Zarb agreed to set it up for a
14 totally new rehearing stating at that time that, in view of
15 the information that had been furnished him by the delegation,
16 that it was very clear that some relief was warranted.

17 I might add that, if any of you have a sense of
18 history, you might want to look at the delegation letter which
19 went to Mr. Zarb in which all members of the California
20 delegation subscribed to certain sentiments respecting crude
21 oil. I think that's the first time all of the California
22 delegation subscribed to anything.

23 COMMISSIONER DYMALLY: What has been the result of
24 that hearing; has it been held?

25 MR. LaMONT: The hearing was held; no relief was

1 given. They have continued the proceedings; it's a
2 continuation basis. However, they have indicated that, in
3 some way if we will come in and demonstrate hardship of a
4 peculiar kind of hardship, that they will probably give us
5 some relief, possibly.

6 The City of Long Beach has already filed a
7 Petition for Exception covering the Wilmington Field. We
8 are in the process of preparing a possible presentation with
9 respect to the Huntington Beach Field. Only God knoweth what
10 the outcome will be. I hesitate to make any prediction.

11 COMMISSIONER DYMALLY: When is a decision
12 anticipated on that latest -- the rehearing postponement,
13 think-about-it decision?

14 MR. LaMONT: Sir, I really don't know. The promise
15 was made to one of the Congressional delegation that the,
16 quote, "Action on the exception will be expedited within
17 30 days." Another part of the FEA staff said that, "Action
18 on the exception would be expedited within 60 days." Action
19 will be expedited; but, in the meantime, the same group that
20 are making this decision --

21 CHAIRMAN CORY: As opposed to action being taken,
22 action will be expedited.

23 MR. LaMONT: Yes.

24 CHAIRMAN CORY: Okay.

25 MR. LaMONT: It is very difficult to know, or even

1 to predict whether it will be six months or six weeks or one
2 month.

3 COMMISSIONER DYMALLY: Or whether that action will
4 be negative or positive.

5 COMMISSIONER BELL: Or something in between.

6 MR. LaMONT: The only thing that is certain is that
7 within 39 months -- or 38 months now with this control
8 system, will have been terminated.

9 But what may replace it may not be any better but
10 at least this one will be done.

11 COMMISSIONER DYMALLY: Can you guarantee then that
12 there could be some consideration for a change in price
13 structure --

14 MR. LaMONT: Theoretically, at that time the total
15 price control will have disappeared.

16 CHAIRMAN CORY: But they are not taking any steps
17 toward changing -- not the gravity differential, but the
18 old-new differential -- if there has been no progress they
19 just keep, by edict, saying that they are doing something
20 and, in fact, there may be no substantive change. We will
21 not have made any steps toward the transition to an open
22 market or a free market.

23 MR. LaMONT: That's right. But the purpose of the
24 Act, complex as it was, it did have one bit of logic in its
25 purpose; it was to bring the new oil price and the old oil

1 price to a common balance to which both would trend so that
2 ultimately you would have a single price somewhere probably
3 at or maybe a little below the current new oil price.

4 CHAIRMAN CORY: But that theory only works if
5 something happens, in fact, to start moving them together.

6 MR. LaMONT: Well, this --

7 CHAIRMAN CORY: And that has yet, as I understand
8 your statement, nothing, in fact, has yet taken place other
9 than --

10 MR. LaMONT: Well, they are starting on it.
11 Their schedules are laid out. Actually, it's being expedited

12 CHAIRMAN CORY: Thank you.

13 Are there any questions from Commissioners?

14 Mr. Northrop, does that conclude your report?

15 EXECUTIVE OFFICER NORTHROP: Now you understand why
16 I had the problem last month, Mr. Chairman.

17 CHAIRMAN CORY: They aren't doing anything; you
18 just told us that.

19 All right, the next item on the Agenda is
20 Mrs. Parry.

21 Is Mrs. Perry here?

22 Is Mrs. Perry in the room?

23 This is the item that has been before us on the
24 two or three previous meetings in which Mrs. Perry, as I
25 recall, was concerned about the requirement of the order of

1 magnitude of insurance that she had to have and we have been
2 telling her that we had to have that insurance and she wanted
3 to have her Senator or her Legislator with her for this
4 hearing.

5 COMMISSIONER DYMALLY: Let's proceed with the
6 action.

7 CHAIRMAN CORY: Governor Dymally moves that the
8 Amendment to the Commercial Lease be approved as presented
9 by the staff.

10 COMMISSIONER BELL: I would second the motion.

11 CHAIRMAN CORY: Mr. Bell seconds.

12 Without objection, such will be the order.

13 Item 3, Sacramento Regional County Sanitation
14 District; Permit.

15 Routine?

16 EXECUTIVE OFFICER NORTHROP: There were the
17 indications there would be someone perhaps over from the
18 County. However, I have not received an application for him
19 to speak.

20 CHAIRMAN CORY: Is there anyone here to address
21 the Commission on Item No. 3: Sacramento Regional County
22 Sanitation District, the outfall -- the outfall in Sacramento
23 down around Freeport.

24 Yes, sir.

25 MR. DOYLE: I'm Al Doyle, with Sacramento Area

1 Consultants, and we are prepared to answer any questions
2 regarding the application.

3 CHAIRMAN CORY: You are representing --

4 MR. DOYLE: The Sacramento Regional County
5 Sanitation District.

6 CHAIRMAN CORY: Is there any opposition from anyone
7 in the audience to this matter?

8 Hearing none, we will approve the item as presented.
9 Without objection, such will be the order.

10 We have Item No. 4: Rescission of Prior
11 Authorization for Running Fence Corporation, and to issue a
12 new, non-commercial lease, some changes.

13 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we have
14 had previous presentations on Running Fence; the location
15 has been changed. Mr. Trout would like to speak -- from our
16 staff, would like to speak to it and we have indicated there
17 are several in the audience who would like to register their
18 objection to the project.

19 MR. TROUT: You might recall that one of the first
20 items of real presentation to the Commission after you took
21 office, was the Running Fence Corporation. At that time,
22 they made a very excellent presentation of what the fence
23 was about and I think the artist, Mr. Christo, was present.
24 They had some difficulty with the Negative Declaration; they
25 have gone through and processed an Environmental Impact

1 Report. There have been some slight changes in the technique
2 involving the State land which is probably of primary
3 importance to the Commission.

4 You will recall that, earlier, the proposal was to
5 have some metal posts or stanchions with a plate on the
6 bottom which would rest on the tidelands and be tied together
7 at the top with a steel cable.

8 The presentation now, or the proposal now for the
9 State Lands is to simply have two buoys or a buoy anchored
10 with two anchors out in the sandy part of the tidelands and
11 a single cable out of the water from the buoy up to the shore
12 and from which the cable would -- the fence would hang with
13 weights on the bottom.

14 We have consulted with the Department of Fish and
15 Game, the Fish and Wildlife Service, and the consultant who
16 prepared the Environmental Impact Report and we were advised
17 by the Department of Fish and Game that they have looked at
18 the site of the proposed anchors and that they find that there
19 will be no detrimental -- significant detrimental damage to
20 the tidelands and the staff is prepared to go ahead and
21 recommend this for your approval.

22 This morning we received a telephone call from
23 representatives of the Committee to Stop Running Fence in
24 Sonoma and Marin County.

25 CHAIRMAN CORY: It sounds like an anti-Indian

1 movement.

2 [Laughter.]

3 CHAIRMAN CORY: Go ahead.

4 MR. TROUT: They are concerned about what this will
5 do to the environment through which the fence runs which has
6 been the consideration of the Environmental Impact Report in
7 hearings in Sonoma County and, to a limited extent, hearings
8 in Marin County. They are concerned about public safety
9 in terms of the public access, fire, police and so on,
10 traffic on the highways. The fence does cross private land
11 and, as I understand, they have a permission to cross private
12 land.

13 And so these are some of the concerns that have
14 been expressed. We understand that Dr. Hedgpeth also has some
15 objections and he is present as are the proponents of the
16 project.

17 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, for the
18 record, Mr. Charles Rhinehart of Santa Rosa called this
19 morning and registered a protest that Mr. Trout has just
20 mentioned, as well as Mary McChesney and Louis Raymond,
21 Co-Chairpersons of the Committee to Stop Running Fence.

22 CHAIRMAN CORY: Okay, do we have someone in the
23 audience who wishes to register their objection?

24 Somebody raised their hand. Why don't we hear from
25 the opposition because you have given us your report. You

1 might as well hear the other side of it.

2 MR. TROUT: I believe Dr. Hedgpeth would like to
3 make a statement.

4 CHAIRMAN CORY: Come forward, and identify yourself
5 for the record, please.

6 DR. HEDGPETH: Yes, well, my name is Joe W. Hedgpeth
7 and I'm an Adjunct Professor at the Pacific Marine Station
8 and was formerly the Director there some years ago. I'm
9 actually retired and am doing private consulting editorial
10 work.

11 I'm speaking primarily on behalf of the Pacific
12 Marine Station concerning the inter-tidal environment in this
13 area. We have made two trips out there. The last one was
14 two weeks ago, with a diver. And our feeling is that the
15 EIR has been too optimistic in toning down the quality of
16 this environment. It has been protected by being on private
17 land, locked gates that are almost two miles from shore. So,
18 people don't get out there very often; and, our concern is
19 that, with all this activity, it will set a pattern which
20 might not be desirable for the area.

21 We are concerned because we are applying for
22 support as a field station under a new program of the National
23 Science Foundation and one of the things we have to put up --
24 so to speak -- is an environment that's worth studying and it
25 so happens that this area between the two esteros is about the

1 best piece of California seashore left between, say, San
2 Francisco and the wilds of Humboldt County, because it has
3 been protected. It also happens to be one of the best local
4 abalone spots. I'm surprised that the Fish and Game people
5 aren't aware of this. There are just so many things which
6 the EIR said weren't there.

7 Now, the specific actual short length of the beach,
8 there might not be very much damage; however, the side effects
9 are what concern us. We doubt that this thing is going to
10 stay put or hang up the way they say it's going to -- and I'm
11 sorry we don't have a screen here; I have some slides showing
12 cracks and fissures in the slope all the way down there. Some
13 of that activity will start smaller earth movements, I suspect.
14 But, in general, we would like to be able to say that, as the
15 California Coastal Plan says, these areas should be reserved
16 for research as an area of specific scientific interests, I
17 believe is the exact category.

18 Now, I have two photographs; I don't care, I think
19 the best thing they could do with the fence is to stop it
20 there on top of the hill and build a big circle. I think
21 that would be much more interesting. My concern is I would
22 just like to see them stay off the beach.

23 Now, this photograph is looking down the slope --

24 CHAIRMAN CORY: Before you do that, Governor
25 Dymally has a question.

1 COMMISSIONER DYMALLY: I've got a couple of
2 questions here:

3 You talked about the fence setting a pattern; a
4 pattern of what?

5 DR. HEDGPETH: Well, this is going to attract all
6 sorts of visitors and --

7 COMMISSIONER DYMALLY: Is that --

8 DR. HEDGPETH: -- and they're going to find their
9 way in there --

10 COMMISSIONER DYMALLY: -- I was under the
11 impression that the Coastal Plan was being proposed to make
12 the Coast available to the people. That was what --

13 DR. HEDGPETH: However, it specifies certain areas
14 which should be limited to access to the hikers only by foot,
15 and this would, I think, in turn, because of the distances
16 involved --

17 COMMISSIONER DYMALLY: That's the problem I have
18 with the Coastal Plan, because when you start setting aside
19 exclusive areas to hikers who are basically middle-class, you
20 know, I don't want to debate the Coastal Plan here, but it's
21 obvious that this is a very significant plan. When you talk
22 about side-effects and patterns and side-effect research, you
23 are not talking about the poor; you are talking about a very
24 exclusive group of people who want to preserve the beach for
25 themselves.

1 DR. HEDGPETH: Now, we come to a difficult,
2 philosophical problem here --

3 COMMISSIONER DYMALLY: You sure do.

4 DR. HEDGPETH: -- and that is that in areas such as
5 this one is, that we would like to keep the people out as much
6 as possible for research purposes. They haven't anything
7 left of some things. For example, Dillon Beach; you no longer
8 have the sort of things represented in this picture, that is,
9 solid clusters of limpets and the like. People have removed
10 these things and so, while I realize that, I think that in
11 addition to making access to many parts available, we must
12 control access in some areas. I know this is a very sticky
13 problem.

14 For example, it may be -- To cite an extreme
15 possibility, but I don't think it's a probability -- such an
16 area as this so near San Francisco may provide us, in time,
17 a valuable clue as to what has been happening to the crabs,
18 why they are going away. In other words, we need areas
19 reasonably protected, and so what I am afraid of here is that
20 all the hullabaloo this fence is going to stir up, is apt to
21 sort of open the path for motorcyclists and the like. Once
22 you get a crowd of people who disregard private property
23 restrictions, that's what establishes a pattern. All kinds of
24 people, once they find such a nice area for marine life, they
25 will go in and cart it all off. We can't find any hermit crabs

1 at Dillon Beach any more; somebody is supplying their
 2 aquariums with them commercially, I think. I saw a man the
 3 other day go off with two bucketfuls of hermit crabs. If we
 4 could get everybody to leave things as they are, why that would
 5 be fine, I wish we could.

6 COMMISSIONER DYMALLY: I think therein lies the
 7 dilemma between your point of view and my point of view.
 8 First, this is a temporary project. I'm not given to the odds,
 9 but it just seems to me that you are making something
 10 available for the public at large. If we are going to
 11 preserve the Coast, I just want a little piece of the action.
 12 It seems to me that this is a little piece. It's a temporary
 13 project that would be removed and the landscape would be
 14 replaced. It would not interfere with side-effect research,
 15 it would not interfere with property rights, it would not
 16 interfere with public access. As a matter of fact, it would
 17 make it open to the public.

18 If we are going to preserve the Coast, you have got
 19 to give some guarantees that other people other than the
 20 scientists and the researchers are going to have some access,
 21 or else we are going to have another debate about this thing.
 22 But I don't want to get into the Coastal Plan now because I
 23 was given assurance by the Coastal Plan proponents that the
 24 major emphasis will be access and this is what it seems to
 25 mean, making the beach available for some people. Obviously

1 I'm not in that class, but I would like to be an advocate of
2 those people who would like to see it.

3 DR. HEDGPETH: Well, if it's a temporary aspect, I
4 have reservations about how they are going to get that stuff
5 out of there. It's seven-eighths cable which weighs over a
6 pound a foot and that's an awful lot of metal to move around.
7 It's pretty rough coast.

8 At any rate, I have these views of the area which,
9 if you would like I could leave with you. Here's just about
10 where the thing will go down [indicating], and at that place
11 the beach is very short. Here's a side view [indicating];
12 it's pretty rough out there.

13 My main purpose is to state the concern of Pacific
14 Marine Station about this. It may, of course, puncture the
15 statement for the record, but I think you should be aware of
16 our concern.

17 So I thank you.

18 CHAIRMAN CORY: Would you tell us, sir, Pacific
19 Marine Station -- Pardon my absolute ignorance -- but could
20 you tell us what Pacific Marine Station is?

21 DR. HEDGPETH: Pacific Marine Station is a branch
22 of the University of the Pacific. It's somewhat independent
23 of the Campus Department; it's been there at Dillon Beach
24 since 1947, '48. And it's primarily an educational institution
25 which does research and is oriented towards a Master's degree

1 for the students in biology. And we have had a pretty good
2 record through the years where the students have gone on and
3 some of them are now in the fashionable business of
4 environmental consulting and others are faculty members. And
5 we are at the south end of this area, and at the north end is
6 the Bodega Marine Laboratory of the University of California.
7 And they also feel that this is an extremely excellent area
8 for these types of observations and study which is no longer
9 available, even right under their noses there at Bodega Head.

10 CHAIRMAN CORY: Can you help me with the problem
11 that seems to me an inherent dichotomy in the argument that,
12 it's okay for you to put your place or the other doctor to
13 have his facility up there which attracts people and you foul
14 the environment by your existence if there are no longer
15 hermit crabs where you are, but you don't want anybody else
16 to be able to get the beach some place else so you can go over
17 there and look at it. That's a harsh way of putting it, but
18 that seems to be what I am getting from that.

19 And I'm afraid I'm missing the point.

20 DR. HEDGPETH: It's not quite that way. Actually,
21 Dillon Beach is a well-known resort area since the 1890's and
22 we are down on the property donated by the Lawson family.
23 Bodega is the University of California, of course. That is a
24 by-product almost, so to speak, of the Bodega Atomic Powerplant
25 site. I have no objection to people walking around if they

1 could control what they do. For example, suppose we wanted
2 to know why limpets are aggregating -- this is a scientific
3 question -- and we attach numbers on them. The next thing we
4 know somebody's come along and taken them all off because
5 they have numbers on them. So that's the problem of the
6 experiment. I realize it's a very sticky problem and suppose,
7 in the long term, it may be education, but we do that as much
8 as we can. In fact, we have worked with many high school
9 teachers; we had a program going for years to develop field
10 trips by the students. The business of the whole group of
11 students being taken out to the beach and ordered by the
12 instructor to bring back one of each of everything simply
13 is not the way to learn about the environment.

14 COMMISSIONER DYMALLY: Thank you, very much.

15 CHAIRMAN CORY: Thank you, sir.

16 Here are the pictures, Bob, we have looked at them.

17 Okay. Are there any others who wish to present any
18 testimony with respect to Item 4, Running Fence Corporation?

19 Would you identify yourself for the record.

20 MR. NEMEROWSKI: I'm Howard Nemerowski, and this is
21 Paul Kayfetz. We are the counsel for the Running Fence
22 Corporation.

23 CHAIRMAN CORY: Before you go ahead, is there anyone
24 else in the audience that wishes to address the Commission on
25 this item?

1 COMMISSIONER DYMALLY: Mr. Chariman, we have had
2 this measure before us. The staff has briefed -- at least
3 I hope you and Mr. Bell -- I'd like to move approval of the
4 item.

5 COMMISSIONER BELL: I second the motion.

6 CHAIRMAN CORY: Mr. Dymally moves; Mr. Bell seconds.
7 Do you need to make a speech?

8 MR. NEMEROWSKI: Nothing I could do would help, no,
9 sir.

10 CHAIRMAN CORY: All in favor signify by saying Aye.
11 [Thereupon the Commission voted unanimously
12 to approve Item No. 4.]

13 CHAIRMAN CORY: The item is approved; thank you,
14 very much.

15 MR. NEMEROWSKI: Thank you.

16 CHAIRMAN CORY: Item No. 5: Napa Sanitation
17 District.

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, there's
19 no opposition to this; it's a sewer outfall and all the
20 requirements have been met.

21 CHAIRMAN CORY: Without objection?

22 Is there anybody in the audience on Item No. 5;
23 Napa Sanitation District Application?

24 Hearing none, Item 5 may be approved as presented.

25 Item No. 6: Contra Costa County Flood Control and

1 Water Conservation District.

2 Is there anyone in the audience to address the
3 Commission on this item?

4 EXECUTIVE OFFICER NORTHROP: Just a technical
5 correction.

6 CHAIRMAN CORY: Without objection, Item 6 is
7 approved as presented.

8 Item 7?

9 EXECUTIVE OFFICER NORTHROP: Items 7, 8, and 9
10 cover the same area. They are use permits and perhaps we
11 could cover those.

12 CHAIRMAN CORY: Use permits for --

13 EXECUTIVE OFFICER NORTHROP: Two of them for Tahoe
14 and one for Piper Slough at Bethel Island.

15 CHAIRMAN CORY: Is there anyone here who wishes to
16 address themselves to Item 7, 8, or 9 on our Agenda?

17 Without objection, Items 7, 8, and 9 are approved
18 as presented.

19 Item 10?

20 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
21 a six-foot fish causeway; there has been no opposition on
22 this.

23 CHAIRMAN CORY: Is there anybody on Item 10 in the
24 audience?

25 Without objection, Item 10 will be approved as

1 presented.

2 Item 11.

3 EXECUTIVE OFFICER NORTHROP: This is a commercial
4 lease for a commercial boating for Kenneth E. and Ursula
5 Grimes. This is a new rent that will be established after
6 May 26th, 1976.

7 CHAIRMAN CORY: Are there any questions?

8 Is there anybody in the audience on Item 11?

9 Without objection, it will be approved as presented.

10 Item 12.

11 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Items
12 12 and 13 are Assignments of Leases. Item 13 has an amendment
13 in size only. There has been no opposition.

14 CHAIRMAN CORY: Is there anybody for Item 12 or 13?

15 Without objection, 12 and 13 will be approved as
16 presented.

17 Item 14 -- Item 15.

18 EXECUTIVE OFFICER NORTHROP: Right.

19 CHAIRMAN CORY: United States of America.

20 Are they here?

21 [Laughter.]

22 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, they are
23 renting this for 12 cents an acre and I'm -- the Attorney
24 General informed me that the Commission really can't say no
25 because it's there. So I don't really know what it's here for

1 except that it's here.

2 CHAIRMAN CORY: This is an existing lease that we
3 entered into at a ridiculously low price for further sub-
4 sidizing the Federal Government at the expense of the
5 taxpayers of California. The previous Commissions have done
6 it and we have no choice. Is that what you told us, Greg?

7 MR. TAYLOR: Almost.

8 [Laughter.]

9 CHAIRMAN CORY: Is there anybody in the audience?

10 MR. TAYLOR: If we ever get a spare attorney we
11 will try to challenge that.

12 COMMISSIONER BELL: Is this the last time or will
13 this keep going on forever?

14 MR. TAYLOR: No, there is a limit on the lease, but
15 I don't --

16 EXECUTIVE OFFICER NORTHROP: It was negotiated first
17 in 1950.

18 CHAIRMAN CORY: One day short of perpetuity.

19 MR. TROUT: These are the last renewals; after ten
20 years, it's over.

21 CHAIRMAN CORY: Okay, good.

22 All right, without objection, Items 14 and 15 will
23 be approved as presented.

24 Item 16.

25 EXECUTIVE OFFICER NORTHROP: Items 16 through 25

1 are --

2 COMMISSIONER DYMALLY: A question that I have on
3 these two items: Do they actually pay their bills?

4 [Laughter.]

5 COMMISSIONER BELL: On 14 and 15?

6 CHAIRMAN CORY: Or do they just declare that they
7 have paid them?

8 [Laughter.]

9 COMMISSIONER BELL: They just offset --

10 CHAIRMAN CORY: 14 and 15 have been approved.

11 Items 16 through 25 are --

12 EXECUTIVE OFFICER NORTHROP: P.G. & E. Various
13 power lines to be constructed.

14 Item 16 is a 12 kilovolt overhead line.

15 CHAIRMAN CORY: Is there anyone in the audience
16 who wishes to address themselves to any of P.G. & E.'s
17 applications before this Commission; is there a representative
18 of P.G. & E. in the audience?

19 MR. TROUT: Mr. Chairman, Mr. DeYoung of P.G. & E.
20 is in the audience and he can answer technical questions
21 regarding these leases.

22 CHAIRMAN CORY: The question I have is not the
23 technical questions, but it's a very policy question. And I
24 have some reservations about P.G. & E.'s inability to get along
25 with public power people in Northern California, and they

1 can't work out some sort of an arrangement to transmit power.
2 The question in my mind is: Why should we be leasing public
3 property to P.G. & E. for transmission lines when you can't
4 seem to get together with other public agencies to transmit
5 power to them?

6 MR. DeYOUNG: That's a good question. You hit me
7 cold with it and I don't -- I'm not aware of this problem
8 that --

9 CHAIRMAN CORY: You are not aware of the controversy
10 between the SMUD, Santa Clara, and all the other -- Redding,
11 there are some eleven Northern California cities who are
12 having some constant difficulties with your organization.
13 And the question in my mind is of public policy: Why should
14 we allow you to use public land to build more of these if you
15 are going to not share with other public agencies?

16 COMMISSIONER DYMALLY: I have an amendment to all
17 of these items. The staff requested to pursue that matter
18 with P.G. & E. and report back to the Commission at an
19 appropriate time.

20 CHAIRMAN CORY: You want to approve the leases?

21 COMMISSIONER DYMALLY: Yes.

22 CHAIRMAN CORY: We are hoping you take back a very
23 loud and clear message.

24 MR. DeYOUNG: I definitely will. As I say, I'm
25 not aware of it; I will by all means attend to it and find

1 out --

2 CHAIRMAN CORY: You may not get any additional
3 leases approved if you can't work out the problems.

4 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, for the
5 record, I contacted Mr. Clem Whitaker of the Legislative
6 Advocate for P.G. & E. last evening, and informed him of this
7 problem and he's working on it.

8 CHAIRMAN CORY: The staff will be reporting back
9 to us.

10 Okay, any further questions?

11 COMMISSIONER BELL: I think it's a good question;
12 I'd like to hear the answer.

13 CHAIRMAN CORY: Okay. We will go ahead and give
14 approval to those transmission lines.

15 COMMISSIONER DYMALLY: On the condition that we
16 have a report from P.G. & E. regarding the --

17 CHAIRMAN CORY: We'll make it clear as to what we
18 are doing here. You want to go ahead and approve these
19 conditionally or just approve them and have P.G. & E. --

20 COMMISSIONER DYMALLY: Approve them conditionally
21 until we receive a final report.

22 CHAIRMAN CORY: Okay.

23 COMMISSIONER DYMALLY: We don't want to be accused
24 of skyrocketing the cost of any project they would proceed
25 with.

1 CHAIRMAN CORY: They are going to have some
2 difficulty proceeding unless we give them a firm lease.

3 Okay, and are there any questions on the pipe
4 line?

5 16, 17, and 18 are the transmission lines which
6 will be approved and we expect the staff to present a report
7 to us on where that stands --

8 EXECUTIVE OFFICER NORTHROP: 16, 17, and 19.

9 CHAIRMAN CORY: 16, 17, and 19 have been approved,
10 and we will expect that report on the next Agenda, hopefully.
11 We have gas transmission line applications for --

12 EXECUTIVE OFFICER NORTHROP: The balance of those,
13 Mr. Chairman, Commissioners, are gas transmission lines and
14 we have in all of them the language that the State go to
15 a throughput; these lines would be considered in that
16 throughput. Whatever we take on that, and how long -- we
17 will probably talk to the Commission next month on that.

18 CHAIRMAN CORY: Without objection?

19 COMMISSIONER BELL: Without objection.

20 CHAIRMAN CORY: 18, 20, through 25 are approved
21 as presented.

22 Item 26.

23 EXECUTIVE OFFICER NORTHROP: This is a non-
24 commercial lease. There has been no -- it's five years of a
25 49 years' lease, Mr. Chairman.

1 CHAIRMAN CORY: Pardon me.

2 How can you have a non-commercial lease -- Stanley
3 and Lucille Peck dba Steamboat Landing? I mean, it seems to
4 me that Steamboat Landing and having a dba seems to imply a
5 commercial purpose. I mean, are they doing something there
6 that they need to file a fictitious name that they aren't
7 deriving any income from?

8 MR. TROUT: Mr. Chairman, if the Executive Officer
9 would permit, the rules and regulations of the Commission
10 define a commercial lease as being an area in which the
11 actual revenue is achieved from the use of the State lands.
12 Non-commercial leases are defined as areas in which the
13 general revenue for the business is achieved on the upland
14 and the lease of the State lands is a non-revenue producing
15 adjunct, usually an accommodation pier. It is definitely a
16 commercial operation inasmuch as Running Fence was basically
17 a commercial operation.

18 The revenue, however, that affects the operation
19 does not derive from the use of the State property directly,
20 but indirectly. It's charged basically the same rate,
21 generally, except --

22 CHAIRMAN CORY: What is it they are selling at that
23 landing?

24 COMMISSIONER DYMALLY: They could have, let's say,
25 a restaurant, a store, and you use the landing to go up to the

1 store; but the land is on the pier --

2 CHAIRMAN CORY: They don't charge for the use of the
3 pier.

4 MR. TROUT: In other words, if they charge for the
5 use of the pier, and the facility, then it would be a
6 commercial lease.

7 CHAIRMAN CORY: Is there anybody in the audience
8 on Item 26?

9 Without objection, it will be approved as presented.
10 Item 27?

11 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
12 a revised rental of a non-commercial lease.

13 CHAIRMAN CORY: Without objection?
14 It's approved as presented.
15 Item 28?

16 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
17 a revised rental for Southern California Edison Company and
18 we have in the audience Mr. Paul Fischer, who is the Senior
19 Property Appraiser and he has asked to be heard on Item 28.
20 While he's coming, Mr. Trout will give a presentation on the
21 rental setting procedure for this.

22 MR. TROUT: This is for P.G. & E.'s Ormond Beach
23 powerplant and basically what we are talking about is a
24 cooling-water intake and outflow. It's a 14-inch -- 14-foot
25 diameter concrete pipe with intake structure and a diffuser.

1 I think basically that the problem that we have with these
2 kinds of facilities is that, under the Commission's general
3 rules applicable to pipe lines, we charge a penny and a half
4 now a diameter inch. That would make the rental for these
5 pipe lines perhaps in the neighborhood of nine or \$10,000 a
6 year.

7 However, they just take the water in, run it
8 through condensers and take it back out again. In an effort
9 to arrive at a most reasonable agreement that we could, we
10 have actually appraised the tide and submerged lands and
11 applied the eight percent formula in lieu of the penny and a
12 half diameter inch. This is a revised rental setting and it's
13 a substantial increase -- perhaps in the neighborhood of
14 75 percent -- over the prior rental rate. A good half of the
15 increase results from the percentage rate changing from six
16 to eight percent. The balance is an increase in the
17 appraised value of the property.

18 My understanding of the typical dispute that we
19 have with people like Southern California Edison Company is
20 that they wish to depreciate the value of the tide and
21 submerged lands in the sense that we are --

22 CHAIRMAN CORY: Because they've got their pipe there
23 and nobody can use it.

24 MR. TROUT: Well, they take the position that you
25 can use the water over it and, therefore, the value of the

1 land is not diminished. But I think we have to take the
2 position that it really doesn't make any difference whether
3 there's air or water over the land; it's a facility that
4 is occupying tide and submerged land. There is little else
5 that the public could do with it. It could generate little
6 other revenue. And, therefore, we feel that they should pay
7 the eight percent of the total appraised market value.

8 And I'm sure the gentleman from Southern California
9 Edison Company has a different perspective, but that's the
10 base on which the rent was derived.

11 CHAIRMAN CORY: Mr. Fischer?

12 MR. FISCHER: Yes. That basically sums up what we
13 are discussing.

14 We have reviewed the figures submitted to us by
15 the State Appraiser. He is essentially talking 7500 an acre
16 and we have talked 7,000. We personally have no objection
17 to the 7500; we accept this as what market value for off-
18 shore, submerged lands probably is at this time.

19 Also, we further have no objection to the eight
20 percent. We feel this is a fair rate of return and, as the
21 gentleman just explained, really what we would like to present
22 to the Commission for consideration is the fact that the
23 State's valuation of \$2720 which is the proposed rental, is
24 based on the thought that Edison has 100 percent exclusive
25 use of the easement area. From an appraisal standpoint, we

1 look at it from the bundle-of-rights'-theory aspect which is
2 acceptable appraisal practice, which considers the different
3 rights from the property as being a grouping of steps. And
4 what we have looked at and attempted to value is what rights
5 has the State granted out to the Edison Company, and what
6 rights does the State itself retain? The State believes
7 that the rights we are acquiring are 100 percent use of the
8 area; we feel more properly -- or at least would like you to
9 consider -- 50 percent. And some of the reasons for our
10 position here are that: First of all, the circulating
11 conduits are buried. As they leave the plant, they are
12 below the sands, the beach sands, and we go out into the
13 ocean and, for the most part, they are below the surface of
14 the floor of the ocean with the exception of some manholes
15 that come up, as I understand, a couple of feet at two or
16 three locations.

17 From a personal, physical inspection of the
18 property myself, and discussion with our Plant Maintenance
19 people, the public is not restricted from any of the use of
20 the beach area which would be the sand area. They do use it
21 for bathing and they also use it for the dune buggy purpose
22 and whatever other use the public may want to put it to.
23 We do not have a fence or have it restricted in any manner.
24 The same holds true for the surface of the ocean; we do have
25 a buoy out there to designate where the infall area is;

1 however, discussion with our people once again has indicated
2 that it may have noticed no interference with small craft
3 which might come into this area. As a matter of fact, it
4 tends to be rather popular among the fishermen who like to
5 come in there and the fish are attracted apparently to this
6 warm-water area and it does accommodate fishing.

7 Also we would like to point out that, generally,
8 when we negotiate with, for example, the Los Angeles Flood
9 Control District with whom we have gone through substantial
10 discussions; we are presently paying them 50 percent of the
11 unencumbered fee value for sub-surface area channels. Also,
12 the gas companies -- Southern California Gas Company tends to
13 value many of their high pressure gas lines at 50 percent.
14 We feel this would perhaps be a more restrictive use for an
15 easement area.

16 Finally, we would like to bring to the Commission's
17 attention the fact that the wording of the lease itself, in
18 particular Item 15 on page 6 of the lease, provides that it's
19 -- it's entitled Reservation of Natural Resources, which
20 retains to the State all natural resources, timber, minerals,
21 geothermal resources, oil, gas, and hydrocarbons; and the
22 right to grant leases or rights-of-way over this easement
23 area for the purpose of extraction. And also Item 16 on the
24 same page, other reservations that the State expressly reserves
25 the right to grant easements or crossings in, on, or upon and

1 under the demised premises for other purposes that would not
2 be in conflict with the Edison Company's use.

3 And, for these reasons, we feel and would ask the
4 Commission to consider that Edison does not have exclusive
5 100 percent use of this easement area and therefore it would,
6 in our opinion, be an unequitable sharing of the -- on a
7 50-50 basis.

8 We have no objection to the unit value proposed by
9 the State nor the eight percent return, but we would ask
10 consideration for the division of the rights within the
11 easement area.

12 CHAIRMAN CORY: What's the term of the lease?

13 MR. TROUT: I think it's a 49-year lease.

14 CHAIRMAN CORY: We are in the middle of it or
15 somewhere --

16 MR. FISCHER: We've got five years; it's the first
17 renewal.

18 MR. TROUT: It's a 20-year lease from 1969.

19 CHAIRMAN CORY: We're talking about 50 percent --
20 you're saying you'd rather have thirteen, seventy-five or --

21 MR. FISCHER: It would be thirteen, sixty. I might
22 add that we are presently planning 1556, I believe. It's
23 fifteen, sixty-six now. We would have no objection to
24 continuing that rental rate.

25 CHAIRMAN CORY: How would you like to pay one and

1 a half cents per inch?

2 MR. FISCHER: Well, ah --

3 CHAIRMAN CORY: It seems to me the staff's giving
4 away the store by not charging one and a half cents per inch.

5 MR. FISCHER: I have not personally been involved
6 in discussions such as that; I guess it would amount to
7 substantially more. It's my understanding that the policy
8 of the State now is to base it on a market value evaluation.

9 CHAIRMAN CORY: Why did the staff want to roll over
10 and play dead for, you know, your electric bills are too
11 high for the staff in Southern California or what?

12 [Laughter.]

13 CHAIRMAN CORY: I mean, those of us who are now
14 living in Northern California --

15 MR. TROUT: Mr. Chairman, that's the criteria is
16 that, while this would be an exception within the Commission's
17 discretion as I understand it, and basically it would be an
18 alternate approach which we think is reasonable and which
19 would not place an unreasonable burden upon the utility
20 owners, which it's my understanding that the Commission has
21 expressed concern about several times in the past; so the
22 standard rental as applied to pipe lines would be in the
23 neighborhood of nine to \$10,000 a year. What we are trying
24 to do is come up with reasonable alternatives which do not
25 unduly burden the public. You know, the rate -- the utility

1 users.

2 CHAIRMAN CORY: The 1500 that's now being paid;
3 that's based upon what?

4 MR. TROUT: That was on the same rationale --

5 CHAIRMAN CORY: Full value?

6 MR. TROUT: Right --

7 CHAIRMAN CORY: It's not --

8 MR. TROUT: Six percent at the market value in
9 1969.

10 COMMISSIONER BELL: What we are doing is updating
11 the existing lease?

12 MR. TROUT: Yes.

13 COMMISSIONER BELL: Even though we are giving them
14 the store?

15 I'm willing at 2700 --

16 CHAIRMAN CORY: As the staff presented.

17 COMMISSIONER DYMALLY: Second.

18 CHAIRMAN CORY: Okay, we have a motion and a
19 second. It would be approved as presented at twenty-seven,
20 twenty.

21 Now, just to show you that I'm feeling like Santa
22 Claus today, I'll even vote for it.

23 Okay, without objection, 28 will be approved as
24 presented.

25 Item 29: Recreational Pier Permits. Turman,

1 Sestito , and Whitney.

2 Anybody in the audience? Anybody on those items?
3 Without objection, they will be approved as
4 presented.

5 Item 30?

6 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I have
7 a letter here from Burma Oil and Gas Company on one of those
8 items in No. 30, and I would like to read it, if I may,
9 please.

10 CHAIRMAN CORY: Mm-hmm.

11 EXECUTIVE OFFICER NORTHROP: "Please refer to
12 our letter of January 6th, 1976, which requested
13 approval of Well No. UJ 266," which is the third
14 well -- second well mentioned in the Agenda Item.

15 "We request you withdraw application to
16 drill Well No. UJ 266. The economics of drilling
17 this well have been seriously affected by recent
18 Federal oil administration, oil price regulations.

19 "UJ 266 does not meet Burma's criteria for
20 acceptable investment.

21 "UJ 265 and 268 are currently on the Agenda
22 for approval by the State Lands Commission during
23 the February, 1976, meeting. The economics of
24 these two wells have been recently reviewed and
25 meet Burma's minimum economic standards.

1 "We request UJ 265 and 268 be retained on the
2 February Agenda for approval by the Commission."

3 The staff tells me that the latter two wells
4 mentioned could borderline -- it would be very close on those
5 two wells. But definitely 266 is not economic, given today's
6 prices.

7 CHAIRMAN CORY: Okay, approve as --

8 COMMISSIONER DYMALLY: So move.

9 COMMISSIONER BELL: I have no problems.

10 CHAIRMAN CORY: Okay, 265 and 268 will be approved
11 as presented if there is no objection from someone in the
12 audience.

13 Hearing none, it is approved as presented.

14 Item 31 affects some people that I may have some
15 other business interest with, and I would like to do what's
16 right; one, by disclosure and, two, by abstaining.

17 MR. TAYLOR: Yes.

18 CHAIRMAN CORY: Do I need to leave the room?

19 MR. TAYLOR: No, we will just turn the chair --

20 COMMISSIONER DYMALLY: Item 31 --

21 MR. TAYLOR: The record should indicate that the
22 Chairman has withdrawn from any consideration of Item 31,
23 and disclosed that he may have some business relation with
24 them on some other matter unrelated to one pending before
25 the Commission at this time, and, therefore, he has

1 relinquished the Chair and turned it over to Lt. Governor
2 Dymally to proceed with the meeting and he is not taking part
3 in this item.

4 COMMISSIONER DYMALLY: Item 31; what is your
5 pleasure?

6 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 31
7 is the Assignment of a Lease to four members of the --

8 COMMISSIONER BELL: I have no problem.

9 COMMISSIONER DYMALLY: Mr. Bell moves.
10 All in favor, say Aye.

11 COMMISSIONER BELL: Aye.

12 COMMISSIONER DYMALLY: Opposed?
13 The Ayes have it.

14 Item 31 is approved. The two votes to be recorded
15 are Dymally and Bell.

16 CHAIRMAN CORY: Item 32?

17 EXECUTIVE OFFICER NORTHROP: Item 32 is a Quitclaim
18 of some 600 acres of submerged land.

19 CHAIRMAN CORY: Without objection, we will accept
20 the Quitclaim; is that what we are doing?

21 Without objection, such will be the order.

22 Item 33?

23 EXECUTIVE OFFICER NORTHROP: Item 33 --
24 Mr. Chairman, just a little background.

25 In October, I believe in 1974, the State Lands

1 Commission approved a bid of Dow Chemical Company of some
2 forty-odd percent to drill gas wells on Sherman Island.
3 They are now coming to the Commission, after being through
4 several other public bodies, for approval for drilling
5 platform and docking sites on the Lower Sherman Island in
6 Sacramento and Solano Counties. The counsel for the
7 Commission received a phone call this morning objecting to
8 it; I wonder if you would like to put that in the record now?

9 MR. HIGHT: I received a call from Mr. Willey Hyman,
10 who was with the Sierra Club, and his concern was that one of
11 the platforms would be located over what he alleged to be a
12 fault block. It's my understanding, from discussions with
13 the staff, that this matter was taken into consideration in
14 the EIR on the matter and was found it would not be significant.

15 EXECUTIVE OFFICER NORTHROP: I've got one more,
16 Mr. Chairman.

17 I had a message handed me at the start of the
18 meeting regarding a telephone conversation from William
19 Emington. He would like the following statement to be read
20 to the Commission meeting on Item 33. Quote.

21 "Urge disapproval of the State hydrocarbon
22 gas lease, PRC 49731 to Dow Chemical Company
23 on Lower Sherman Island for the following
24 reasons:

25 "1. Degradation of important water-oriented

1 recreational site as a result of construction
2 operations.

3 "2. Dredging will be destructive to marine
4 habitat.

5 "3. Drilling would be potentially hazardous
6 to the proximity of earthquake faults.

7 "At the very most, I recommend that approval
8 for drilling be limited to two sites only, with
9 limitation of one platform per site; and further
10 hearings be required for any operations on
11 additional sites."

12 Close quotes.

13 It might be well for the Commission to be reminded
14 that staff held public hearings and, at that time, Mr. Al
15 Willard held the hearing, and would you care to comment,
16 Mr. Willard, as to any comments at the time that you held the
17 hearing?

18 MR. WILLARD: There were no negative comments
19 brought up and the subject matter of quality in the area was
20 not discussed in any manner as to causing any problem. The
21 staff had recognized that faulting is common in Northern
22 California fields and so the matter was considered and
23 determined to be non-significant with respect to detrimental
24 damage.

25 CHAIRMAN CORY: What specifically are they

1 requesting; a single platform?

2 MR. WILLARD: The lease --

3 CHAIRMAN CORY: We are here not approving a lease.

4 As one of the letters seems to indicate, that lease has
5 already been approved. The only question before us is the
6 construction of a platform from which to drill; is it a
7 platform or a multiplicity of platforms?

8 MR. WILLARD: There are eight sites which were
9 designated at the time of issuance of the lease. The
10 condition of the lease is that no more than three platforms
11 could be located within -- on the lease premises at any one
12 time. The matter before you today is for the construction
13 of platforms, no more than three at any one time, on any one
14 of --

15 CHAIRMAN CORY: They can only build three at one
16 time or they can only have three at one time?

17 MR. WILLARD: They can only have three at one time
18 -- Excuse me -- and they can only be constructing a single
19 platform.

20 CHAIRMAN CORY: Would there be, if they wanted to
21 construct additional ones, would they come back for four or
22 would they go ahead and --

23 MR. WILLARD: They can move on to No. 2 and then
24 No. 3.

25 CHAIRMAN CORY: Okay. If they decided that they

1 wanted a fourth one, can they tear one of those down and build
2 a fourth one?

3 MR. WILLARD: They would have to come back, I
4 think, to the Commission at that time for that approval.

5 COMMISSIONER DYMALLY: Let's make that clear then.

6 MR. HIGHT: I think, Mr. Chairman, that's laid out
7 in the lease.

8 CHAIRMAN CORY: Okay, but when we let the lease we
9 specified that they have the right to drill on -- in three
10 of those areas of their choice; and, so what really we are
11 dealing with here is the ministerial function, unless we can
12 provide -- somebody has some new specific information that
13 was not considered previously; is that where we are in terms
14 of what our legal choices really are, that's your under-
15 standing, Mr. Taylor?

16 He was looking at the next item.

17 I mean, I'm trying to figure out what discretion
18 we really have, having the lease already been issued.

19 MR. TAYLOR: We don't have as much as obviously we
20 would have otherwise. We would have to cooperate to a
21 certain degree with our lessee to allow him to accomplish the
22 purposes of the lease. Taking into consideration the
23 environmental safeguards and all reasonable rules and
24 regulations which we can impose, I think we've gone through
25 that process. As far as that one is concerned, we have held

1 hearings and we have tried our best to specify the conditions
2 We put in a tremendous amount of time to insure the safety
3 and the preservation of the values in this area, and I think
4 every action has been taken by the staff that could possibly
5 be taken.

6 They are limited to these three; they will come
7 back for the others. But we are not sitting in the same
8 position as we would had the lease not been issued. The
9 determination to make the lease has been made; there are
10 certain consequences in that action.

11 CHAIRMAN CORY: Okay.

12 COMMISSIONER BELL: No problem.

13 CHAIRMAN CORY: Without objection, it will be
14 approved as presented. That was, objection by Commission
15 Members.

16 Item 34: Benicio Port Terminal Company.

17 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
18 a dredging permit and there seems to be no objection. This
19 is 15 cents per cubic yard.

20 CHAIRMAN CORY: Anybody in the audience on Item 34?
21 Without objection, Item 34 is approved as presented.
22 Item --

23 COMMISSIONER BELL: May I just ask; is the disposal
24 site, the DPA site only for dredging materials?

25 EXECUTIVE OFFICER NORTHROP: As I understand it,

1 Mr. Bell, it is; is that correct, Jim?

2 The disposal site for only --

3 MR. TROUT: Yes. I don't think you can dump garbage
4 or something there.

5 [Thereupon a brief discussion was held off
6 the record.]

7 CHAIRMAN CORY: Item 35?

8 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 35
9 is a proposed modification of the 1975-1976 Plan of
10 Development for the Long Beach Unit, Wilmington Oil Field
11 and Mr. Thompson, who is in charge of that program for State
12 Lands, will make a presentation at this time and he's going
13 to incorporate in that, or at least try to get a feeling from
14 the Commissioners, what the budget concept would be for next
15 year because we are right at that stage now where we have to
16 make some decisions.

17 Based on Mr. LaMont's hard testimony of what's going
18 to happen to crude oil prices, we really have some problems
19 as to where to put the money and what to do.

20 So, Mr. Thompson will address that problem right
21 now.

22 MR. THOMPSON: We are not really trying to get a
23 multiple choice test to the Commission here by dealing in
24 alternatives, but the staff is in a quandry.

25 CHAIRMAN CORY: Before you proceed, let me tell you

1 one thing about the Executive Officer.

2 At one time he was trained in sales and he learned
3 in that capacity that you always set a set of alternatives
4 that you can either have this or this and never that you can
5 buy or not buy. Keep that in mind as these alternatives are
6 being presented to you.

7 [Laughter.]

8 MR. THOMPSON: The business staff is in a quandry.
9 We are between the Commission and the Federal Government --
10 the FEA specifically -- I think Mr. LaMont has outlined the
11 nebulous position of the FEA.

12 We understand the Commission's attitude is not to
13 make expenditures to accelerate future ultimate oil
14 recovery .

15 You are in a net profit situation, so all you are
16 doing is spending money today that you can spend tomorrow
17 to gain that same oil and the question of the price of the
18 oil to be obtained from that. The intent of the FEA was that,
19 if you spent money and got so-called new oil, or you put in
20 a secondary recovery project or something like this, you
21 should get some reimbursement for that. Unfortunately, the
22 Long Beach Unit has come into a unique situation where we
23 are in a secondary recovery project from the initiation of
24 the field. Their base period initiative is set for 1972, so
25 they took a level of production for each month in this period.

1 If you exceeded that, then you got new oil at that time.

2 What this is is a series of curves showing the
3 result of drilling and re-drilling wells since 1971.

4 [Indicating.] This yellow portion is the result of drilling
5 new wells since the time of price freeze. We have spent
6 about \$15 million on new wells; about \$3 million re-drilling
7 in this portion of time.

8 This curve down here [indicating] shows what would
9 have happened if those wells had not been drilled. The upper
10 curve is actually the production rate in the Long Beach Unit.
11 If these wells had not been drilled, it would have followed
12 this trend [indicating].

13 The new regulations have now moved out. Say, if
14 they take to move the base period for determining lower tier
15 and upper tier oil which is substituted for the old oil and
16 new oil terminologies; we are now back into looking at this
17 [indicating].

18 But, again, you see that we have a continual
19 decline in the field; we have been able to change the decline
20 in the field but never been able to kick it up above these
21 predetermined levels. So we always maintain the old oil
22 concept of the lower tier.

23 Now, cost controls were to expire in August of '75
24 and, here and now, Mr. LaMont talks about hopefully in
25 August of this year. So time is continually getting away from

1 us; we made proposals to you last year as far as spending
2 money in the planned budget for the Long Beach Unit. It's
3 anticipating that in August of '75, something would happen.
4 Time's getting away from us. We anticipate something would
5 happen February 1st; it didn't. The next market point is
6 March 1st; Mr. LaMont is not too encouraged on that. The
7 next market point is May 1st; he is leap-frogging both of
8 those points, and we will have to pinpoint it on into August.
9 And I can understand his position because we are in the same
10 situation.

11 So what we need is clarification as to the
12 modification being asked for, which is really they are asking
13 for almost \$3 million of additional money to be spent in the
14 Long Beach Unit.

15 COMMISSIONER DYMALLY: I have a question to
16 Mr. LaMont.

17 In August, we are off control, right?

18 MR. LaMONT: No, sir.

19 MR. THOMPSON: In 1979, 40 months from February
20 1st.

21 COMMISSIONER DYMALLY: We are off control then.
22 We get off of control in '79.

23 MR. LaMONT: All that happens in August is that we
24 are told what the price should have been as of February.

25 COMMISSIONER DYMALLY: Right. That's separate and

1 apart from our decision to the California delegation. That
2 may or may not come --

3 MR. LaMONT: Right.

4 COMMISSIONER DYMALLY: So it's '79 we are off
5 control.

6 COMMISSIONER BELL: In other words, we have no
7 assurance that August is going to be any better than what we
8 have right now. Our only hope is to look forward to '79 and
9 in some nebulous way that we might have some relief coming --

10 MR. LaMONT: There will be a continuous escalation
11 what is now the lower tier or the old oil price between now
12 and the termination of the Act, 39 months.

13 CHAIRMAN CORY: Well, but, John, that is an
14 assumption based upon a hope that there is no historical
15 evidence to substantiate it. I mean it says it's going to
16 happen, but the first point in time they were supposed to make
17 the first adjustment, they didn't do a thing. Is that not
18 what you have told us this morning?

19 MR. LaMONT: Well, when the time came to make the
20 first adjustment, all that they could do is simply announce,
21 as a matter of fiat, that this was what it was.

22 CHAIRMAN CORY: But it is totally possible, taking
23 what historical precedence we have under this Act, that every
24 six months they are going to come to the same point and keep
25 doing that because they haven't been able to deal with the

1 data base.

2 MR. LaMONT: No, they will come up with data.
3 While the Act specifically says it is to be reliable and
4 accurate data, it is possible to define reliable and accurate
5 both, so that the data they get will be satisfactory.

6 CHAIRMAN CORY: To whom?

7 MR. LaMONT: They are under a considerable amount
8 of pressure, both internally and externally to arrive at a
9 common price. They are going to lower it or raise it to your
10 price.

11 CHAIRMAN CORY: You think it's going to happen.

12 MR. LaMONT: It's got to; it simply has to.

13 CHAIRMAN CORY: But at your advanced age, you still
14 have hope.

15 [Laughter.]

16 MR. THOMPSON: So our immediate problem is that
17 we are being requested to, in effect, augment our current
18 year budget by about \$3 million.

19 COMMISSIONER BELL: May I ask a question?

20 MR. THOMPSON: Yes.

21 COMMISSIONER BELL: Is the yellow proportion
22 priced at new oil price?

23 MR. THOMPSON: We have only received new oil price
24 for a very small increment of old oil in one month of last
25 year. The only reason we did that was because there was a

1 pipe line shut down back here in 19 --

2 We are always at about \$4.2).

3 COMMISSIONER BELL: We are really not in a very
4 profitable situation. We are putting a lot more money into
5 the field.

6 MR. THOMPSON: Well, this is where we need direction
7 again to see if we are interpreting the Commission's attitude
8 about making expenditures to accelerate future oil production.
9 It's the same situation which you could see at any point in
10 time back here [indicating], if you had not done this, you
11 could have come back in here and accelerated it.

12 COMMISSIONER BELL: Can we take the attitude of not
13 encouraging new production and still maintain the field and
14 not lose it?

15 MR. THOMPSON: I don't think it's a question of
16 encouraging new production as much as spending money to obtain,
17 accelerate, we're really not shutting in production; we are
18 trying to determine whether you want to spend money to
19 produce the oil earlier. That's exactly the --

20 CHAIRMAN CORY: My instincts are that this may
21 interrupt some immediate cash flow problems in terms of the
22 General Fund, Roy.

23 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I think
24 it will do the reverse of that because what we are really
25 doing now is putting, for a dollar that we put in now, we've

1 got to wait down the road to get a dollar back. So by not
2 putting a dollar in now, we will probably have, in a short
3 range, a higher cash flow.

4 CHAIRMAN CORY: You save some money now but then
5 you are going to have a lead time down the road.

6 MR. THOMPSON: I think to answer Mr. Bell's
7 question, this fiscal year and next fiscal year, that they
8 should just about wash. Any savings in expenditure will be
9 offset just about a wash so that we can stay within the
10 revenue estimates we have given you. Eventually there has
11 to be some change in lower tier oil prices. It has to be.

12 COMMISSIONER DYMALLY: If you proceed to drill now,
13 you get the new oil price?

14 MR. THOMPSON: No. Because, again, we are talking
15 about what the whole unit price is. We have already made that
16 investment. We are always talking about whether to spend
17 money to do something to accelerate future production.

18 CHAIRMAN CORY: I think you've got your -- where
19 the Commissioners are, we are not too inclined to make capital
20 improvements to accelerate production at this time. And we
21 are willing to review that decision at any point we have
22 some track record from FEA that they really want domestic
23 oils as opposed to --

24 MR. THOMPSON: Well, let me ask this. That you
25 carry this item over until March 1st, because March 1st is

1 supposed to be the next market time with the FEA; would you
2 like to carry this amendment over?

3 COMMISSIONER DYMALLY: So move.

4 CHAIRMAN CORY: That's fine. We will put it over,
5 but so that everybody clearly knows what we are doing; if
6 they don't come up with a better price, I think the
7 consensus of this Commission is that we don't want to spend
8 the money at this time.

9 MR. THOMPSON: All right. I'd like to elaborate
10 on that. We have been working very closely with the City of
11 Long Beach and the concept of the holding of the budget
12 expenditure is an expense for the next budget year at our
13 current level. Taking out such items as redrill and work
14 holes as simulation for oil wells, and making zero in that
15 which would leave us just about enough money if we stay at
16 this year's expenditure level to allow for inflation. And
17 we do have inflation with us now.

18 So we are proposing that, whereas there has been
19 a budget submitted to us -- and again, it's interesting to
20 see the extra amount of money spent. Since 1973, with
21 respect to this year, we spent 71 percent more than we did
22 then. The budget as it's been submitted to us now, if we
23 spend that heavily, it'll be \$77 million.

24 COMMISSIONER DYMALLY: So we are spending more
25 but our profit margin is not necessarily proportionate to the

1 amount of money we put in.

2 MR. THOMPSON: Right.

3 CHAIRMAN CORY: The only point that you need to
4 keep monitoring is, to the extent that you have -- that we
5 have to take steps to preclude losing --

6 MR. THOMPSON: We would definitely recommend that
7 any time the FEA increases lower tier oil price, that you
8 spend a proportionate amount of money. In other words, if
9 they came through with a one or two or three or four percent --

10 CHAIRMAN CORY: The staff understands where we are
11 at?

12 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, in view
13 of that, I would suggest this language for a resolution.

14 "In view of the present uncertainty as to the future
15 of crude oil pricing, the Commission will defer acting on the
16 5th modification until the March meeting. Funding the amount
17 of \$246,000 is needed in the budget, Item (b)1(c) for payment
18 of the Long Beach Oil Production Business License taxes which
19 are due and payable in March.

20 "In addition, 154,000 is needed to restore funds in
21 Budget Item (b)4(c), Environmental Control.

22 "The Executive Officer is directed to transfer
23 400,000 in funds to these two budget items from surplus funds
24 within the budget as he is authorized to do under Section
25 5(g) of Chapter 138," close quotes.

1 So what that really does is to allow us to move
2 within the fund --

3 COMMISSIONER BELL: I don't know why they didn't
4 already have in there, budget payment of taxes.

5 MR. THOMPSON: Because that's the very year that
6 production -- the tax was increased during the year from
7 five cents to seven and a half cents. We did not have
8 advance knowledge of that. This does not have an impact on
9 your revenue because --

10 COMMISSIONER BELL: Okay, I see. Okay. That
11 doesn't upset me.

12 CHAIRMAN CORY: What is the total cost of the taxes
13 on this unit per year?

14 MR. THOMPSON: The taxes per year?

15 CHAIRMAN CORY: Ten, 11 million?

16 MR. THOMPSON: About \$15 million.

17 COMMISSIONER BELL: Does this include the mining
18 rights?

19 MR. THOMPSON: Yes.

20 MR. TAYLOR: We'll have those figures for you in
21 Executive Session.

22 COMMISSIONER BELL: I'll move.

23 COMMISSIONER DYMALLY: I have no problems.

24 CHAIRMAN CORY: Mr. Bell moves and Mr. Dymally
25 seconds that we approve the resolution as read. Without

1 objection, such will be the order.

2 Item 36, huh? Is that our next item on the
3 Agenda?

4 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
5 a routine monitoring. There have been no changes to indicate
6 major --

7 CHAIRMAN CORY: Any changes on this?

8 MR. THOMPSON: It's strictly informational; no
9 action required.

10 COMMISSIONER BELL: Do we have any indication of
11 excessive pressurization the way the plant is going up too
12 much?

13 MR. THOMPSON: Well, there is a natural rebound
14 but this has no impact.

15 MR. TAYLOR: It's consistent with all reports.
16 There's been no change -- there's been no change in elevation
17 of the property in the Long Beach area.

18 MR. THOMPSON: The reason is there's a contingency
19 subsidence fund set up. That's to protect the State and the
20 City in the contract in the result there is any damage
21 resulting from subsidence which occurs as a result of
22 production from the unit.

23 CHAIRMAN CORY: Who has that contingency fund; who
24 has the custody of cash?

25 MR. THOMPSON: The City of Long Beach has invested

1 it primarily in the State of California bonds.

2 CHAIRMAN CORY: Is that pursuant to the contract?

3 MR. THOMPSON: Yes. We check on that and audit
4 that every year. The interest is whatever the current
5 interest is being --

6 CHAIRMAN CORY: Who gets it?

7 MR. THOMPSON: It's held in the account.

8 CHAIRMAN CORY: What happens?

9 MR. THOMPSON: Sometime in the future, the City
10 will be reimbursed for this portion of the subsidence cost
11 they have paid during a certain period of time.

12 CHAIRMAN CORY: Yes, but assuming that we are
13 monitoring the field correctly and we have stopped the
14 subsidence, and what happens if there's money left over?

15 MR. THOMPSON: It reverts to the State.

16 EXECUTIVE OFFICER NORTHROP: But there's a long-
17 time fuse on that.

18 MR. THOMPSON: There'll have to be a finding on that.

19 COMMISSIONER BELL: Life of the field?

20 MR. THOMPSON: Actually, the account goes up over
21 20 years, it builds up at the rate of \$2 million a year for
22 20 years; \$40 million plus interest will be -- at the end of
23 that time probably will be in the neighborhood of fifty-five,
24 \$60 million, but it's a very necessary fund --

25 [Thereupon a brief discussion was held off

1 the record.]

2 CHAIRMAN CORY: Okay. Item 37?

3 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we have
4 changed our standard lease and permit forms largely because
5 of the request made by the Commission and various people who
6 have appeared here about the forms being unintelligible to
7 the lay person.

8 We now have these forms on your desk and we think
9 the staff has accomplished that.

10 We ask for your adoption.

11 COMMISSIONER DYMALLY: So move.

12 COMMISSIONER BELL: No problem.

13 CHAIRMAN CORY: Without objection, approved as
14 presented.

15 Okay, where are we?

16 EXECUTIVE OFFICER NORTHROP: 38.

17 CHAIRMAN CORY: 38 is the Moss Landing Harbor
18 District Grant.

19 EXECUTIVE OFFICER NORTHROP: The Department of
20 Transportation is doing survey work to survey the grant and
21 mapping project.

22 CHAIRMAN CORY: Without objection, it will be
23 approved as presented, and Item 39?

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 39
25 goes back in history quite a ways. In 1898, Mrs. Connor paid

1 a hundred dollars for 80 acres of land in Tuolumne County.
2 We come to find out that in 1918 we didn't own the property.
3 So it's about time we gave the money back.

4 COMMISSIONER DYMALLY: With interest?

5 EXECUTIVE OFFICER NORTHROP: Oh, no.

6 [Laughter.]

7 CHAIRMAN CORY: The question went through my mind
8 and they told me we cannot give them the interest but the
9 Board of Control could.

10 COMMISSIONER DYMALLY: Okay.

11 CHAIRMAN CORY: That would raise it to what, 2600?

12 EXECUTIVE OFFICER NORTHROP: In the area of \$2500.

13 COMMISSIONER DYMALLY: I move the payment.

14 COMMISSIONER BELL: Second.

15 CHAIRMAN CORY: Without objection, a hundred-dollar
16 refund will be approved.

17 Without objection, such will be the order.

18 Item 40.

19 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 40
20 is the exercise of a public trust in the Morro Bay area.
21 Before Mr. Trout gives a report, I have a telegram from
22 Charles E. Ogle, of Ogle, Gallo, and Merzon, Attorneys in Morro
23 Bay.

24 "As counsel for and a general partner of Morro
25 Bay Land Company, owner of two tideland patents,

1 comprising the southerly waters of Morro Bay and
2 the subject of Calendar Item 40 before the State
3 Lands Commission on February 26, 1976, I respect-
4 fully request that the entire matter be continued
5 to the Commission's meeting of March of 1976, so
6 the owners may make a presentation to the Commission,
7 which will include argument that the resolution being
8 Exhibit (b) on Calendar Item 40, should not be
9 adopted."

10 It's signed by Mr. Ogle. I also have a letter --

11 CHAIRMAN CORY: When did Mr. Ogle or that partner-
12 ship get notice of that?

13 MR. TAYLOR: They had notice as soon as the item
14 was printed.

15 EXECUTIVE OFFICER NORTHROP: We have had hearings
16 in the area as well, is that true?

17 MR. TROUT: No, we have not had hearings. The
18 County of San Luis Obispo has developed an open space
19 recreation plan, an element to their general plan, to which
20 consultants and many individuals have contributed. South
21 Morro Bay is also an area of environmental and wildlife
22 concern. The area is in a report prepared by the Department
23 of Fish and Game. It is to protect these values that are
24 consistent with the trust that we propose that the Commission
25 exercise the trust, I think if you will, remember back to the

1 meeting in Hayward, it's the very same thing that was done
2 on the Laslie Salt parcels in Hayward. It's basically to
3 prove the -- or to preserve the status quo. We have aerial
4 photographs and slides of the area which we can show and are
5 willing or prepared to make a presentation at the time this
6 matter is -- you want to discuss it fully.

7 COMMISSIONER DYMALLY: I frankly have no objection
8 to putting it over since it's not an urgent matter.

9 MR. TAYLOR: There isn't anything urgent, but the
10 situation is this, Mr. Chairman. There was a condemnation
11 action in which the value of the public interest in some of
12 this property was involved. By stipulation it was agreed
13 -- our principles were agreed to in that action. I do not
14 have personal knowledge of any further actions; I have some
15 report there may be some further efforts in the area. But I
16 don't know where they would be. However, I don't know of any
17 pending action or contemplated action by General Services or
18 any other agency.

19 They have asked for a statement from the State
20 Lands Commission and our office as to the public interest in
21 that area. I think it might as well be clarified before
22 anything further happens in that area. And this is just to
23 clarify the record as to what we believe our interest is. It
24 could probably be expected that Mr. Ogle, who is an attorney,
25 and who was the attorney in the case for our interest were

1 agreed to for purposes of that case, will probably take us to
2 Court. But I think it's an appropriate time to find out the
3 extent of our easement in that area.

4 CHAIRMAN CORY: You are saying today is an
5 appropriate time --

6 MR. TAYLOR: I think it would only be fair to him
7 to give him a 30-day extension. I don't think it would be
8 fair to give him an extension beyond that period of time.

9 COMMISSIONER DYMALLY: So move.

10 CHAIRMAN CORY: Okay, put the item over.

11 COMMISSIONER BELL: One month.

12 CHAIRMAN CORY: Item 41?

13 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Agenda
14 Item 41, the staff presented to the Commission last month a
15 report on the SOHIO Project on Alaskan crude coming into
16 California. It's been noted that the City of Long Beach is
17 the lead agency on that project. However, staff feels that
18 the project has really statewide significance and we feel the
19 lead agency should be an agency with statewide interest.
20 It has been indicated that some suggest that --

21 CHAIRMAN CORY: Long Beach has always assured me
22 they had statewide interest.

23 EXECUTIVE OFFICER NORTHROP: There have been those
24 that have indicated perhaps Long Beach had a conflict of
25 interest in leading that EIR so we are taking the steps of

1 talking to the Office of Planning and Research and the
2 Governor's Office to express our concern just to see what
3 their feelings are. Before anything can be done on this, I
4 understand an agency must make this kind of request to OP and
5 R to make a study.

6 COMMISSIONER DYMALLY: Are you recommending --

7 EXECUTIVE OFFICER NORTHROP: I'm recommending that
8 we ask OPR to take a look at this statewide interest.

9 COMMISSIONER DYMALLY: But are you recommending
10 SLC as lead agency?

11 EXECUTIVE OFFICER NORTHROP: I'm recommending SLC
12 among several others; the Public Utilities Commission, the
13 Air Resources Board, we think some statewide organization
14 should have the lead.

15 COMMISSIONER DYMALLY: I'm not opposed to SLC
16 because I think we have an interest in this. I would not be
17 supportive of a blanket exploration in this area. If you want
18 to move that SLC be the lead agency, I'd be supportive of that.
19 Other than that, I have some reservations about the others.

20 CHAIRMAN CORY: Who designates?

21 EXECUTIVE OFFICER NORTHROP: OPR.

22 You see, when there's a conflict, you know, someone
23 else has got it then. It's OPR's job to act as jury-judge
24 on it, and say, "I think probably that X should be the lead
25 agency."

1 COMMISSIONER DYMALLY: I regret that I was not
2 adequately briefed on this. It was no fault of the staff.
3 It was my fault. Do we have to take action on this today?

4 EXECUTIVE OFFICER NORTHROP: I don't think we have
5 to take action; however, the time is running on this thing and
6 Long Beach is doing considerable work and have considerable
7 investment in it.

8 MR. TAYLOR: I think if the Commission is going to
9 be involved in the determination of who the lead agency is,
10 some authority of the Executive Officer is necessary at this
11 time. He should move rather fast in making that determination.

12 CHAIRMAN CORY: Would you identify yourself for
13 the record?

14 MR. SMITH: Thank you, Mr. Chairman, Lauren Smith
15 of Standard Oil of Ohio.

16 The position of the staff is acceptable to Standard
17 Oil of Ohio. They feel negotiations should be entered into
18 to determine who the lead agency should be, there probably are
19 statewide interests. They would be reluctant to have the
20 State Lands Commission insist that it be the lead agency in
21 the absence of this negotiation to determine who is the proper
22 one.

23 COMMISSIONER DYMALLY: Okay.

24 COMMISSIONER BELL: I think it would be appropriate
25 for the lead to identify with OPR without saying that we only

1 have that one.

2 CHAIRMAN CORY: Without objection, we are asking
3 the staff to raise the question with OPR and ask them to
4 judge who should be the lead agency in this matter.

5 Is there anybody else who wishes to address
6 themselves on this item?

7 FROM THE AUDIENCE: Now you know how we feel about
8 the FEA.

9 [Laughter.]

10 CHAIRMAN CORY: You made a funny, but it will cost
11 you some money.

12 [Laughter.]

13 CHAIRMAN CORY: You know, we don't get mad here,
14 Pete --

15 [Laughter.]

16 CHAIRMAN CORY: Okay, the staff is so directed.
17 Item 42: Beach Clearance Work; Solicitation of
18 Bids.

19 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
20 was money that was provided at both the Legislative Session
21 last year to clear underwater beach problems in the Santa
22 Barbara County.

23 CHAIRMAN CORY: Any question?

24 COMMISSIONER BELL: It's already approved --

25 CHAIRMAN CORY: Without objection, it's approved as

1 presented.

2 43?

3 EXECUTIVE OFFICER NORTHROP: Item 43, we have
4 several people who would like to speak from the audience and
5 I would like to have Mr. Trout review the San Elijo Lagoon
6 boundary study with the Commission and then --

7 MR. TROUT: Mr. Chairman, briefly the background
8 is that the comprehensive planning organization, San Diego
9 County, which is made up of the County and the Cities -- the
10 Coastal Cities of San Diego County and the State of Baja,
11 California, and the City of Tijuana, has been active in
12 a program to identify recreational lands suitable for
13 acquisition.

14 The seven or eight bay areas and estuaries and
15 lagoons in San Diego County have been evaluated and a priority
16 has been given to the acquisition of San Elijo. The
17 legislative delegation in California; the two Senators and
18 an Assemblyman from San Diego County, have requested that the
19 Commission give priority to the determination of its interest
20 in San Elijo Lagoon.

21 Pursuant to that, the staff has made a study and
22 you have before you an orange-covered report which is a
23 preliminary declaration of interest of the State in the area
24 of San Elijo Lagoon.

25 The Lagoon primarily consists of land acquired by

1 the State as swamp and overflowed lands, but it is clear that
2 within those areas patented in the State from the United
3 States and patented thereon to private ownership, are
4 substantial areas of tide and submerged lands.

5 It seems also clear to us that there was no
6 authority to transfer tide and submerged lands to private
7 parties within this area. And that, even if there was, the
8 tideland portion is subject to an easement for Commerce,
9 Navigation and Fisheries. Therefore, the report that we
10 have before you today, and ask you to adopt, is the basis
11 for public input for meetings to determine if this is an
12 adequate discussion of the facts.

13 Following this, and the meeting, the staff would
14 propose to draft a preliminary map showing the extent of the
15 tide and submerged lands within San Elijo Lagoon and present
16 that map back to the Commission for adoption.

17 So that's what this report intends to do; it is
18 declarative of the general interest of the State in the area
19 and would be the basis for additional meetings and discussions
20 with the private owners and with the County of San Diego.
21 The County has acquired the upper portion of San Elijo Lagoon
22 and has State money available to pursue the remaining portion
23 of the Lagoon. But they are quite anxious that they not
24 spend public funds to acquire interest in property already
25 owned by the public. That's the basis for the study; it's a

1 report of the investigation -- substantial investigation
2 which we think accurately reports the fact, but there may be
3 something that we have overlooked and we believe that public
4 input is now necessary.

5 CHAIRMAN CORY: Okay. Mr. Tennant wishes to make
6 some comments on this item.

7 Identify yourself for the record, please.

8 MR. TENNANT: Yes. Mr. Chairman and Members of
9 the Commission, my name is James O. Tennant, the last name
10 is spelled "T" as in Tom, -e-n-n-a-n-t. I'm a Park Development
11 Director of the County of San Diego. I'm here primarily to
12 lend our support to the comments that your staff has made
13 this morning and to the work which is represented by the
14 report that you have before you.

15 It is quite true that the County of San Diego has a
16 very real interest in this particular lagoon. It has and
17 does enjoy the highest priority on the County's purchasing
18 program for recreational areas. We have basically two
19 concerns; there are, perhaps, three. One is in relationship
20 to the lagoon as to cooperation with the State and other
21 public interests as well as private interests in acquiring a
22 regional park which performs a conservation preservation
23 function as well as providing some passive recreation
24 compatible with the very nature of the lagoon.

25 Regional Parks also has the characteristic of

1 doing some urban shaping or controlling and directing growth.
2 That's a tertiary concern as far as we are involved at this
3 point.

4 We would recommend to the Commission that you
5 follow the recommendation of your staff and I assure you that
6 our staff has worked very closely with the Commission staff
7 in the past and will continue to do so.

8 CHAIRMAN CORY: Any questions?

9 Thank you, very much.

10 Mr. Robert Krueger?

11 COMMISSIONER DYMALLY: I just wanted to bring to
12 the attention of the staff a typo in the Introduction page.
13 We have September 9, 1985, zero.

14 EXECUTIVE OFFICER NORTHROP: We'll take the
15 necessary steps to correct that.

16 MR. TROUT: Fortunately this is a preliminary
17 report.

18 [Laughter.]

19 MR. KRUEGER: My name is Robert Krueger; I'm a
20 Los Angeles practitioner with the law firm of Waxman, Waters,
21 Krueger and Larson.

22 I represent two landowners, that is one
23 inferentially, United California Bank through an option
24 naming Mr. Lewis Akerman and then Dome Limited which was the
25 prime landowner in the area and still owns certain interests.

1 And, while I'm at it, I would like to distribute
2 to the Commission, a copy of certain correspondence. I have
3 only got four copies.

4 Our position is that this is a very preliminary
5 study and it's one that we respectfully request you to defer
6 judgment on until some additional factors have been considered.
7 Some of these involve further research of a factual nature;
8 some of these involve a legal research and investigation.
9 The report sets forth a wide ranging series of claims by the
10 State on San Elijo Lagoon and, as noted in the staff's
11 report, these would -- as touched upon by the previous
12 witness -- these would have had a very serious or important
13 impact to negotiations between the private owners and the
14 County.

15 The claim is basically that these lands which were
16 segregated -- most of them -- by the State as swamp and over-
17 flowed and were patented by the Federal Government to the
18 State as swamp and overflowed and which were patented out by
19 the State of California in the private ownership as swamp and
20 overflowed and which were treated by the State of California
21 for 125 years as swamp and overflowed, are henceforth to be
22 considered tide and submerged lands owned and held by the
23 State. This is the legal posture of a report like this if
24 given wide distribution. It constitutes a --

25 CHAIRMAN CORY: Pardon me, sir, could the

1 distribution of the report change the position of the report
2 if given wide distribution?

3 MR. KRUEGER: If it's a report that's been approved
4 by your Commission, sir, it would have the imprimatur of the
5 Commission and the State on it and it would constitute an
6 adverse claim of title in, in --

7 CHAIRMAN CORY: But that would occur if we only
8 distributed one copy or if we distributed 10,000 copies,
9 wouldn't it?

10 MR. KRUEGER: That's true.

11 CHAIRMAN CORY: When you make reference to wide
12 distribution, it seems to be irrelevant.

13 MR. KRUEGER: It may be irrelevant, sir, but it's
14 in the staff's recommendation to you for adoption today and,
15 to that extent, it's relevant to me in commenting on that
16 recommendation.

17 CHAIRMAN CORY: Well, the thing I'm trying to focus
18 on is, is your concern on wide distribution or on the act?

19 MR. KRUEGER: My concern is the approval by the
20 Commission of this report at this time and, with due regard
21 to your comments, I'll withdraw --

22 CHAIRMAN CORY: I just wanted to make sure that
23 your --

24 MR. KRUEGER: That's what I am concerned with.

25 CHAIRMAN CORY: Okay, fine.

1 MR. KRUEGER: Now, if these claims that are set
 2 forth in the claim are valid and if the State is in a position
 3 to make them today, the value of the lands to which they
 4 apply, the record ownership of which is a private ownership,
 5 would be drastically affected.

6 The approval by the Commission would have then a
 7 very serious economic impact which would suggest that the
 8 subject be approached with some care. It would seem clearly
 9 appropriate that all interested parties owning private
 10 interests or public interests in the area be given an
 11 opportunity to review the report, which they have not, to
 12 comment on it and to supply relevant data.

13 As I say, this has not been done. Today is the
 14 first time that I, my clients, or their title insurer which
 15 insured the titles free and clear of the claims made today,
 16 have had an opportunity to see the report. The question
 17 would come up by the staff, I'm sure, as to what information
 18 we could provide that the staff could not.

19 The first time I became acquainted with this
 20 property was in 1963, when the owner then was negotiating with
 21 the State over the price to be paid for the freeway right-of-
 22 way that runs through the property. At that time it was in
 23 the best interest of the landowner to claim that the State
 24 had a title connection, an access to the Pacific Ocean, in its
 25 natural condition, so that there were tide and submerged lands

1 in the area. To wit, I was urging at that time the same
2 position taken by the staff.

3 To support my position, I contacted the U. S.
4 Geological Survey, U. S. Army Corps of Engineers, State Lands
5 Commission, State Lands Division, Title Insurance Trust
6 Company, and others. I obtained copies of all of the maps
7 that are in your report and others and, at that time, I made
8 the pitch to the State Lands Division staff and they said
9 that we have here a title situation. Tide and submerged
10 lands.

11 At that time, it was the position of the State
12 Lands Division that it did not claim any title in this area;
13 it was also the position of the County of San Diego, as you
14 will see in the documents which I gave you, I expressly
15 raised the issue. I was in the position of being an advocate
16 of the position here set forth and it was rejected. In that
17 posture, the titles were insured free and clear of such
18 claims and, instead of pursuing a Huntington Harbor or Upper
19 Newport Bay type of solution -- and bear in mind that at the
20 same time I was urging that these lands be considered tide
21 and submerged lands -- the State Lands Commission was
22 vigorously asserting title to them in other areas such as
23 Huntington Harbor and Upper Newport Bay. But at that point
24 I switched from that approach to an approach of acquiring
25 from Division of Highways, from Parks and Recreation, from

1 the Santa Fe Railroad and indeed from the State of California,
2 an express access to the Pacific Ocean.

3 In 1965, this Commission issued a lease for that
4 area covered in pink there for an entrance system, bypass
5 system, and you see the other areas identified in which I
6 obtained comparable pass-through rights and, in connection
7 with that, the files of the Commission are replete with
8 evidence of every economic legal factual issue, including
9 title reports for all intervening areas and things of this
10 kind.

11 So, what does all this mean? It simply means that
12 we have here a pattern of assertion by the State that it
13 doesn't own the type of claim that's set forth in this report.
14 So I respectfully suggest that the experts that I consulted
15 that talked me out of the very claims being made here be given
16 a chance to talk with the staff and see if, indeed, these
17 various pervasive claims should be made.

18 Now, the second point is largely a legal one and
19 ties in with the first. I respectfully request that, as part
20 of the proposed report, the Attorney General and the State
21 Lands Division analyze the situation to determine the ability
22 -- present ability of the State to make the claims proposed
23 and its duties to property owners in the area.

24 The State, by a consistent form of conduct for many
25 years and as recently as the 1960's -- and this was approved

1 in 1966 -- authorized and encouraged expenditures and
2 commitments in the area by private persons on the basis
3 that it made no title claims. In 19 -- I mentioned the
4 Morena project which was to be of the same magnitude of
5 Huntington Harbor. The whole theory of the project was that
6 the State claim no interest to the area. Millions of dollars
7 have been invested on this basis, some of which -- such as
8 the sewage outfall system that exists -- were actually
9 required by the State and local government as a condition of
10 this project. You cannot unring a bell, and the State for
11 125 years has been ringing a bell that says we do not claim
12 a fee title or tideland easement interest in this area.
13 If the State wishes to ring a different bell, it should do
14 so with a great deal of care and I do not see that care shown
15 in this report.

16 While preliminary and while very helpful in certain
17 respects, does on its face state that it is based only upon
18 the evidence which has been, quote, "Found and analyzed to
19 date," and it has a disclaimer as to its completeness.

20 To take -- to make a massive adverse title claim
21 of lands of this type, should there be done with only utmost
22 care, and I respectfully urge this Commission to defer any
23 approval of this document until the supplementary work
24 requested has been completed.

25 And, in this respect, I would say that certainly

1 our firm and all the private parties mentioned will
2 cooperate in every respect and will assist staff in any way
3 that we can.

4 CHAIRMAN CORY: If I can make sure I understand
5 what you are asking for; you are concerned that the release
6 of this, even though it does have those disclaimers in it,
7 might be in some way prejudicial to your client's position
8 with respect to titles to this property.

9 MR. KRUEGER: Not the release as such; the
10 approval by this Commission.

11 CHAIRMAN CORY: The approval by the Commission.

12 MR. KRUEGER: Correct. I would say that the
13 release of this document could serve a mischievous purpose
14 because, as I say, many of these maps are capable of
15 misconstruction and I would like for our engineers, I would
16 like for us to have the opportunity to go back where we were
17 in 1963 and say, "Why in 1963 do these maps say one thing
18 and why do they say another now?" These same maps do not
19 show --

20 CHAIRMAN CORY: Should that not be the fact that
21 this is a public agency; should not that dialogue take place
22 in public rather than, you seem to be suggesting private
23 meetings between the staff and your staff and it seems to me
24 that dumping this all out in public and letting it air there
25 is the appropriate place for it to air.

1 MR. KRUEGER: I concur with the Chairman. The
2 only thing is that, where have been the public meetings between
3 the staff and the County and so forth that have led to this?
4 Those have been in camera; we have not had an opportunity --

5 CHAIRMAN CORY: Mr. Taylor, I think, wants to
6 respond.

7 MR. TAYLOR: Mr. Chairman, the reason I understand
8 that this report is on the Calendar today is the request of
9 the County of San Diego. If there isn't an immediate need,
10 it could certainly be appropriate to put this over 30 days
11 to allow consultations and, perhaps, after consultations and
12 public hearings by the staff in the area.

13 With regard to the statements, Mr. Krueger is a
14 worthy adversary and has been with us on a number of
15 transactions which sometimes have resulted in the greater
16 public good and, while I enjoy having him back again for
17 another go-around on this, I think that the record should
18 indicate that his characterization of the State actions is
19 not necessarily borne out in our position by anything he has
20 submitted today. There has been no formal action by the
21 State Lands Commission with regard to any item; his conversa-
22 tion with a staff member who has never had supervisory
23 capacity, that he has already noted in the record that the
24 State Lands Commission at the time that matter was pending
25 was taking positions contrary to what he was asserting in

1 this area, namely, Huntington Harbor and other areas in the
2 State.

3 That the question of land title and the review of
4 land title matters is a question of legal interpretation and
5 had any statement been made by any public employee, that
6 statement would not be binding. Legal interpretation of
7 documents is a matter ultimately for a Court to be taken into
8 consideration and the judgment of the title company or a
9 private owner or the State of the effect of those documents
10 does not work an estoppel on anyone.

11 The actions of other State agencies or of local
12 agencies do not affect this Commission and that has been our
13 consistent advice. The law of this State and the law of the
14 United States consistently, from the time of the admission
15 of California to the Union, have provided that the State got
16 title to swamp, tide and submerged lands upon its admission
17 and swamp and overflowed lands 18 -- or my map is off --
18 September 9th, we got the sovereign lands. September 28th
19 we got the swamp and overflowed lands. And that a conveyance
20 by the Federal Government purporting to convey to us land
21 which included sovereign land was not effective since we
22 already owned it.

23 Now that's the issue; those cases go back in time
24 prior to California's statehood; a title company, a private
25 owner, and the State can all read those things and come to

1 their own conclusion.

2 Now, for purposes of clearing the record, that's
3 an enunciation of the State's position with regard to this
4 item. As far as consultation or discussions, if there is
5 no immediate problem as far as the County of San Diego is
6 concerned, I think it would be appropriate to authorize the
7 staff to consult with all affected parties as we do in any
8 matter and then, at the appropriate time that the staff feels
9 it is proper to have a public hearing, to take further
10 comments and bring it back to the Commission.

11 Or, we can bring it back to the Commission with a
12 report after consultation. But, if there is some desire of
13 the local area to have a public hearing, I think we ought to
14 have a public hearing on it.

15 MR. KRUEGER: I would like to state briefly what
16 I requested the Commission to do on this matter. Number one,
17 I ask that it not take action approving or disapproving or
18 anything else with this report at this time.

19 Secondly, I asked that it instruct the staff, the
20 State Lands Division, to meet with interested property owners
21 to review the plan with them, a study, to see whether they
22 have comments or input. And, thirdly, I ask that the
23 Commission instruct the -- or request the Attorney General
24 to prepare a statement of the ability of the State to make
25 the claims purported to be made herein at this time and its

1 duty to property owners. On that latter point, I know that
2 Mr. Taylor may have done the quickest research job in the
3 world just now, but I would think that his written statement
4 might perhaps contain a few conditions that his oral one did
5 not.

6 CHAIRMAN CORY: Mr. Krueger, my problem with this
7 is that it seems to me that the public's work should be done
8 in public, first of all.

9 MR. KRUEGER: Right.

10 CHAIRMAN CORY: And, secondly, you know, it's,
11 these are certainly historical documents that you have
12 presented to us, including a memo of the files which I guess
13 has some relevance, but it's not the greatest document in the
14 world.

15 MR. KRUEGER: I tried to talk to Pat Brown and
16 Alan Cranston but they were busy that day.

17 CHAIRMAN CORY: The point being, you know, had you
18 spoken for that matter with either of those gentlemen and they
19 had told you they were giving you the State property or that
20 they didn't have it, my understanding of the law would be that
21 they didn't have the right to give it to you so it didn't make
22 any difference anyway.

23 So, I'm not sure what relevance that has. It seems
24 to me that the issue should probably be enjoined as to who
25 owns what and letting the document be known so that not only

1 just you, but other people who have an interest as to what
2 the State's rightful claim is, we should go ahead and
3 distribute it somewhat widely so that people with all sorts
4 of information, not just your clients, could make their
5 input.

6 MR. KRUEGER: I agree.

7 CHAIRMAN CORY: It was my understanding that the
8 purpose of this report was to provide a bench mark for the
9 dialogue; at some point there would be a public hearing, I
10 believe, at the request of San Diego.

11 MR. KRUEGER: The only thing that -- the part that
12 concerned me was the Calendar Item that asked for your
13 approval of this document.

14 MR. TAYLOR: There are four items, Mr. Chairman.
15 Perhaps we could defer action on the first and authorize the
16 last three consistent with the Chairman's suggestion and the
17 third -- the first item could come back to the Commission at
18 a later time for action.

19 CHAIRMAN CORY: Okay.

20 MR. TAYLOR: In other words, to authorize the
21 Commission to distribute the report and to obtain comments on
22 it, then follow those comments to bring it back to the --

23 EXECUTIVE OFFICER NORTHROP: I think in Item 1 if
24 you change the word, "concur" to "receive."

25 CHAIRMAN CORY: It was my understanding that we

1 have to take some action to convert a staff analysis to a
2 public document.

3 MR. TROUT: That's a proposal.

4 CHAIRMAN CORY: So, if we did not -- would action,
5 too, suffice to do that or --

6 MR. TAYLOR: Mr. Northrop's suggestion would be
7 fine which is that you authorize it to be received and
8 authorize the staff to do the other material.

9 CHAIRMAN CORY: Is that your suggestion,
10 Mr. Krueger?

11 MR. KRUEGER: I pose a question to the Chairman
12 here. On page 1 it says, in the last paragraph, the
13 Introduction, "It is the State's position that it presently
14 owns all tide and submerged lands within the lagoon --
15 those being identified --"

16 CHAIRMAN CORY: I think it's the State's position
17 that we own all tide and submerged lands throughout the
18 State of California. I think that's a consistent position
19 in accordance with the law as we understand it to be.

20 MR. KRUEGER: I would accept the language offered
21 by the Executive Officer as long as there were an addendum
22 stated: But the same is not approved as of this time...or
23 something to keep these very positive statements from being
24 attributed to the Commission as official action.

25 MR. TROUT: Mr. Chairman, the only comment on the

1 staff on this, and we really, you know, we're not prepared
2 to enter into the preliminaries of a legal argument today,
3 is simply in the Preface the fact that this report is to
4 discuss private and public titles, and the ending in the
5 Preface is that simply serious questions exist concerning the
6 nature and extent of public and private title within the
7 San Elijo Lagoon and immediate adjacent area.

8 I doubt if even Mr. Krueger would argue with that
9 point and, therefore, we have to take the whole thing rather
10 than page 1, paragraph six, or page 7, something; we have to
11 take the document as a total entity and the document is only
12 what it purports to be, a study of the area and we don't
13 care whether you concur from the staff's standpoint or whether
14 you receive it or what. The staff is asking for authority to
15 make this document public and to seek public input with regard
16 to the character of the land to assist the Commission
17 ultimately in resolving the nature and extent of this dispute.

18 CHAIRMAN CORY: Okay.

19 If we take four actions at this point, four actions
20 that were recommended on Calendar Item which is 43, page one,
21 if we amend No. 1 to "receive" instead of "concur" --

22 MR. TAYLOR: Receive without approval, as Mr. LaMont
23 suggested, I think is a good suggestion.

24 MR. KRUEGER: Received without approval is what
25 I would certainly support.

1 MR. TAYLOR: Then strike the words "concur" and
2 put "receive without approval." Then authorize the staff to
3 go ahead and conduct the hearings and come back to the
4 Commission for formal adoption or not.

5 CHAIRMAN CORY: Is there a negative connotation
6 to the, "without approval"?

7 MR. TAYLOR: All right, "Received for consideration
8 --" "Received for consideration."

9 MR. KRUEGER: That's fine.

10 CHAIRMAN CORY: Okay, that would be the wording:
11 "Received -- consideration -- direct the staff to provide
12 copies --"

13 COMMISSIONER BELL: Add it back in then in addition
14 to that, that, once they've done this, they bring it back to
15 the Commission, or is that automatic?

16 MR. HIGHT: That's implicit.

17 MR. TAYLOR: Well, we can add it as an item that
18 the staff will report back to the Commission within --

19 CHAIRMAN CORY: We did the studies and we had
20 public hearings that they feel necessary.

21 MR. TROUT: That's the proposal, Mr. Chairman, to
22 have the public meeting and then come back to the Commission.

23 CHAIRMAN CORY: I implied that it would be added to
24 that: Bring it back to the Commission. We've got a motion --

25 MR. BELL: I second.

1 CHAIRMAN CORY: Are there any other comments to
2 come before the Commission at this time?

3 Hearing none, it will be approved as amended.

4 MR. KRUEGER: Thank you, sir, gentlemen.

5 CHAIRMAN CORY: Item 44, huh?

6 EXECUTIVE OFFICER NORTHROP: This is Termination
7 of Application to Purchase State Land, San Diego County, by
8 the Poway Unified School District. Nothing has happened
9 since the application was made and we --

10 CHAIRMAN CORY: Is there anybody in the audience on
11 Item 44?

12 Without objection, we will terminate as suggested
13 by the staff and such will be the order.

14 45 and 46 should be done in Executive Session?

15 EXECUTIVE OFFICER NORTHROP: 46 we can do out
16 front.

17 MR. TAYLOR: 45 we can do -- discuss --

18 CHAIRMAN CORY: I think we should do that --

19 MR. TAYLOR: I think we can take the action that is
20 requested here.

21 CHAIRMAN CORY: Okay, what is the action?

22 MR. TAYLOR: Mr. Chairman, Item 45 you have before
23 you is a brief which is being filed with the United States
24 Supreme Court today on behalf of the State Lands Commission
25 and the State of California and 21 other states.

1 When we were admitted to the Union, we obtained
2 title -- we believed that to be fee title -- to the tide
3 and submerged lands and the lands beneath the lakes and
4 rivers within our boundaries.

5 CHAIRMAN CORY: Rather than get into detail, in
6 the last, you know, like 36 hours, have you talked to the
7 Governor's Office?

8 MR. TAYLOR: They have just come in to see us and
9 we are going to see them after this.

10 CHAIRMAN CORY: Okay, I'm prepared to go ahead and
11 approve this.

12 MR. TAYLOR: This case has a potential effect of
13 140 --

14 CHAIRMAN CORY: Maybe we should go ahead and
15 approve the action -- take the action with the understanding
16 we may want to discuss it privately with you as to how we
17 can even take stronger action if that's at all possible.

18 Okay, so without objection, you have authorization
19 as requested that we do want to discuss some of the details
20 of how we might be able to assist you.

21 MR. TAYLOR: 47 is the settlement of a lawsuit --
22 46, excuse me, is the settlement of a lawsuit; it's the
23 settlement of a condemnation action. We're not happy with
24 the price but we're working on the best price we can get for
25 the time being. It's without prejudice to our ability to

1 assert it. I understand the staff is trying to work out a
2 switch. Now, the Federal Government uses all of our school
3 land as impact areas and military reservations which makes
4 them worthless for us later on and we'd like them to give
5 us some other land in exchange.

6 CHAIRMAN CORY: Okay, without objection, it will
7 be so authorized.

8 43; do you want to take any of those items?

9 MR. TAYLOR: Well, there's four we can take
10 quickly.

11 There's the Hitchings versus The Del Rio Woods
12 case, which we could probably carry out briefly on behalf
13 of the Commission with regards to the recreational use of
14 the Russian River. The case -- it came down in our favor
15 and it was held that, even though the river was only
16 navigable for nine months of the year, it was sufficient for
17 recreational purposes; and for the first time the case set
18 forth various types of navigability for land title, for
19 commerce purposes, and for recreational use. So it made some
20 distinctions as to all of them.

21 We filed a brief during the past month with the
22 Ninth Circuit Court of Appeals in Federal Court. In the
23 case of Oregon versus the Port of St. Helens, it's again
24 consistent with the action you have taken in connection with
25 the Oregon case involving the Corvallis Principle.

1 We will file on Monday a petition for hearing in
2 the case of the County of Orange versus the Chandler-Sherman
3 Corporation and we are hopeful of getting a hearing in that
4 case.

5 Our petition for rehearing was denied but the
6 opinion was modified to delete two matters.

7 We are going to meet tomorrow with California Land
8 Title Association to receive their input on the question of
9 high water -- low water which is a requirement prior to
10 issuing a formal opinion to you. And that's going to be in
11 Los Angeles. Your staff has been asked to attend.

12 Six, the Attorney General -- I'll go back one step.
13 You have requested the opinion that the Attorney General,
14 with regard to public rights for rafting on the South Fork
15 of the American River. The Board of Supervisors of El
16 Dorado County wrote the Attorney General and requested that
17 he not issue the opinion. I believe that the answer of the
18 Attorney General will be that, in order to solve all the
19 problems with regard to the American River, we are going to
20 have to know what the legal issues are and if they can't
21 act on the problem and no other public agency can act on the
22 problem without knowing that we agreed to talk to them about
23 it. But we did not agree to not process the opinion so we
24 are proceeding with the opinion request.

25 CHAIRMAN CORY: The problem there is very clearly

1 that there are conflicting attitudes as to what the literal
2 landowners can or can't do.

3 MR. TAYLOR: That's a dispute. The basic problem,
4 though, is that rafting on that stretch of the American River
5 is becoming so substantial that it is causing -- at least the
6 staff review that's been done by your Commission and by the
7 Land Agent for our office is that public use of the South Fork
8 of the American River is getting to be extremely substantial.
9 And that that is causing some problems which may require some
10 kind of regulation.

11 CHAIRMAN CORY: Stop lights on the American River
12 for rafts? Okay.

13 MR. TAYLOR: That concludes the litigation.

14 CHAIRMAN CORY: Okay, Item 48?

15 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 48
16 and Item 49 is the ten-year renewal and amendment on the
17 Court Order of the Divestiture of Phillips Petroleum's holding
18 on the West Coast.

19 Mr. Trout will bring you up-to-date on the attempts
20 or on what's being done to unravel that as far as leases that
21 we currently have with Phillips.

22 MR. TROUT: Mr. Chairman, as the Executive Officer
23 said, the Court has ordered Phillips to divest itself of its
24 retail enterprises and they are doing so to Tosco and Tosco's
25 subsidiary, Lyon Oil Company.

1 CHAIRMAN CORY: Just to clarify the record, that
2 really only applies to the acquisition of certain facilities
3 here on the West Coast, not throughout --

4 MR. TROUT: That's correct, right.

5 CHAIRMAN CORY: It's the old Tidewater Line (A)
6 properties that they acquired.

7 MR. TROUT: My understanding is that, in essence,
8 it is their retail facility in refining and --

9 CHAIRMAN CORY: The whole facility; it is not --

10 EXECUTIVE OFFICER NORTHROP: The whole Marianne.
11 Everything that's Phillips on the West Coast goes.

12 CHAIRMAN CORY: Everything that was sold in that
13 purchase has been rescinded, as I understand it, in that
14 case, which includes pipe line, refinery, and the original
15 sale did not include crude oil production. Just so we --
16 Go ahead.

17 MR. TROUT: At last month's meeting, the
18 Commission authorized the Executive Officer to approve the
19 assignment of a number of leases from Phillips to a yet-to-be
20 identified, and now known as, Lyon Oil Company.

21 Item 49 is one that was in the process at the time
22 and this would authorize that assignment.

23 Item 48 is for a bulk loading facility. This one
24 would involve the renewal of a lease to Phillips, amendment
25 of the lease to include a higher rental, the assignment of

1 the lease from Phillips to Lyon, approval of a sublease from
2 Lyon to GITCO -- a subsidiary of Gulf, and hypothecation or
3 sub, sublease back to Phillips for operation.

4 The reason for all this is to guarantee the
5 security of a five-to ten-million-dollar loan from the
6 First National Bank of Chicago and --

7 CHAIRMAN CORY: What kind of loan?

8 MR. TROUT: A five-to ten-million-dollar loan.
9 This is -- Phillips Oil, as I understand it, Phillips is
10 taking a considerable amount of paper in divestiture.

11 CHAIRMAN CORY: Is there anyone here from Lyon?

12 MR. TROUT: My understanding is that they were
13 unable to have anybody here. In fact, Phillips is having a
14 major staff meeting in Los Angeles and they have nobody here.
15 For the information of the Commission, the divestiture order
16 was to be concluded at midnight on February 29. That order
17 has now been amended to provide that it will be concluded at
18 midnight on March 31.

19 CHAIRMAN CORY: Is there any reason we cannot put
20 this over until the next meeting?

21 MR. TROUT: No, the only reason is that it just
22 compacts the amount of time necessary to process the
23 paperwork; it would give about four working days instead of
24 a month.

25 CHAIRMAN CORY: There are certain ramifications

1 that Lyon and Tosco Petro made to me as a member of another
2 Commission on Pollution Control bonds that we were issuing
3 for them and I am confused at all of this and I really would
4 prefer to have some explanation as to why it is that Gulf,
5 a competitor, gets involved in the act and why the First
6 National Bank of Chicago, which has an interlocking
7 directorate with Arco is involved in this transaction. I
8 just want to see where all the strings go before we finally
9 approve it because I presume it's okay if the Court's
10 approving it but there might be some things which they don't
11 know of and I just --

12 MR. TROUT: Mr. Chairman, attorneys for Phillips
13 have represented that a one-month delay, while it would make
14 things a little more frantic, would not hamper the
15 transaction.

16 CHAIRMAN CORY: I'm not sure Phillips has any more
17 options.

18 [Laughter.]

19 CHAIRMAN CORY: I'm not so worried about them as
20 I am Tosco Petro but, if the other Commissioners would, I
21 prefer to put it over.

22 COMMISSIONER BELL: Well, put over 48 and 49, or
23 just 48?

24 CHAIRMAN CORY: I've got no problem with 49.

25 COMMISSIONER BELL: I think that's an identification

1 of what we --

2 CHAIRMAN CORY: This is a straight deal without
3 the competitors getting involved, so we can approve 49
4 which would lessen their paperwork.

5 Without objection, Item 49 will be approved as
6 presented.

7 COMMISSIONER BELL: And 48 over?

8 CHAIRMAN CORY: 48 over.

9 Okay, are there any other items to come before
10 the Commission?

11 Is there anybody in the audience that has any
12 items to come before the Commission?

13 If not, we would like to clear the meeting room
14 so that we can have a brief Executive Session to discuss
15 some potential litigation problems.

16 [Thereupon the public portion of the
17 State Lands Commission Meeting was
18 adjourned at approximately 12:15 p.m.]

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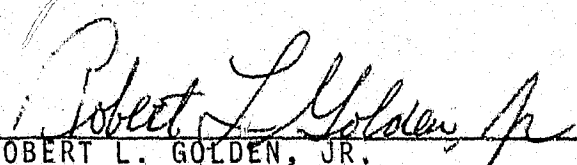
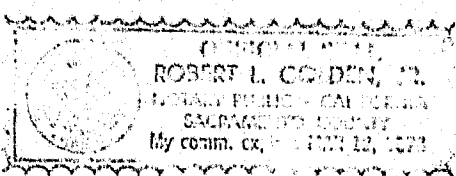
1 STATE OF CALIFORNIA }
2 COUNTY OF SACRAMENTO } ss.
3

4 I, ROBERT L. GOLDEN, JR., a Notary Public in and
5 for the County of Sacramento, State of California, duly
6 appointed and commissioned to administer oaths, do hereby
7 certify:

8 That I am a disinterested person herein; that the
9 foregoing State Lands Commission Meeting was reported in
10 shorthand by me, Robert L. Golden, Jr., a shorthand
11 reporter of the State of California, and thereafter
12 transcribed into typewriting.

13 I further certify that I am not of counsel or
14 attorney for any of the parties to said meeting, nor in
15 any way interested in the outcome of said meeting.

16 IN WITNESS WHEREOF, I have hereunto set my hand
17 and affixed my seal of office this 12th day of March, 1976.

18
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20 
21  ROBERT L. GOLDEN, JR.
22 Notary Public in and for the County
23 of Sacramento, State of California

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