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MEETING
STATE LANDS COMMISSION

STATE CAPITOL
Room 2170
SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 28, 1976
10:00 A.M.

ORIGINAL

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MEMBERS PRESENT

- Hon. Kenneth Cory, State Controller, Chairman
- Hon. Mervyn M. Dymally, Lt. Governor, Commissioner,
represented by Mr. Walter O. McGuire, Deputy
Executive Assistant
- Hon. Roy M. Bell, Director of Finance, Commissioner

MEMBERS ABSENT

NONE

STAFF PRESENT

- Mr. William F. Northrop, Executive Officer
- Mr. R. S. Golden, Assistant Executive Officer
- Mr. James F. Trout, Manager, Land Operations
- Mr. Robert C. Hight, Staff Counsel

ALSO PRESENT

- Mr. N. Gregory Taylor, Assistant Attorney General
- Mr. Dennis Eagan, Deputy Attorney General

P R O C E E D I N G S

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2
3 CHAIRMAN CORY: We will call the meeting to order
4 and acknowledge presence of all of the members. Roy Bell,
5 Director of Finance, representing himself. Wally McGuire
6 representing Governor Dymally.

7 Is there any item on the Consent Calendar any of
8 the Members of the Commission wish to have removed?

9 You want to do yours first?

10 EXECUTIVE OFFICER NORTHROP: Whatever.

11 CHAIRMAN CORY: I'm sorry. We have got
12 confirmation of the minutes of the meeting of March 25th.
13 Any objections or corrections?

14 Confirmed as presented.

15 Before we go to the report of the Executive
16 Officer -- I presume the people in the audience have a copy
17 of the calendar summary available to them, if they want it
18 during the time we are going through the Executive Officer's
19 report.

20 The first 11 items on the Consent Calendar, if
21 any member of the audience has any problems with those, they
22 should at least skim them and let us know; because they are
23 likely, without objection, to be approved en masse as a
24 Consent Calendar item.

25 Mr. Executive Officer, please report.

1 EXECUTIVE OFFICER NORTHROP: Thank you kindly,
2 Mr. Chairman.

3 In May 1972, the Commission received an inquiry
4 concerning placing a pipeline in the bed of Donner Lake.
5 In spite of staff efforts to have an application processed,
6 the pipeline was installed without permit during May 1973.

7 In July 1973, the State Lands Commission filed
8 suit for removal of the pipeline and for damages against the
9 installer of the pipeline, Dart Industries, and the potential
10 owner of the pipeline, Truckee-Donner Public Utility
11 District. After the suit was filed, the Public Utility
12 District applied for lease of the bed of Donner Lake and a
13 draft Environmental Impact Report was prepared and circulated
14 in August 1974.

15 Following a public hearing on the EIR, the
16 District requested and was granted two consecutive 180-day
17 extensions of time on the processing of the application,
18 in order to check into the possibility of using ground water
19 in lieu of Donner Lake. The second extension expired
20 April 21. The District has now requested a third deferral of
21 six months. It appears that progress is being made towards
22 development of an alternate water supply which would
23 eliminate the need for water coming from Donner Lake.

24 Staff met with the District at a special meeting
25 of the Directors on April 19. Staff believes that by the

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1 end of July sufficient information will be available to make
 2 a determination of the adequacy of an alternate water
 3 supply. Therefore, if the Commission concurs, I will grant
 4 an additional extension in the processing of the District's
 5 application until the end of July 1976. At that time, we
 6 will be prepared to make a firm recommendation to the
 7 Commission for either moving ahead with the application or
 8 removal of the pipeline.

9 CHAIRMAN CORY: I don't think I could quarrel with
 10 that, but I am really puzzled. These people put in a
 11 pipeline without getting proper authority, and now we keep
 12 extending the time for them to figure out an alternate source
 13 of water supply. I mean, I understand what's in it for
 14 them. I don't understand what is in it for us.

15 MR. TROUT: I think you are quite correct. There
 16 is very little in it for us. The Department of Fish and
 17 Game is not altogether certain they want the pipeline
 18 removed. They feel the one alternative that they would
 19 like to investigate, the possibility of simply plugging the
 20 pipeline.

21 The thing that's holding us up is that the Truckee-
 22 Donner Public Utility District also has an application in
 23 to the Water Rights people for allocation of 2,000-acre feet,
 24 and confirmation of another 2,000-acre feet from Donner Lake.
 25 So that, if the alternate ground water is not available and

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1 if the Water Rights Board grants the appropriation from
2 Donner Lake, then the pipeline would be an appropriate
3 installation on State lands and would be leased to the
4 District.

5 The problem is that the pipeline was put in by
6 Dart Resorts, and they have to complete an entire water
7 system for their subdivision. And then the pipeline would
8 be turned over to the District. Our problem is that the
9 District and Dart Resorts are somewhat fighting with each
10 other, and without the knowledge of whether or not there is
11 alternate ground water, it would appear perhaps slightly
12 premature to put a permanent plug in the pipeline.

13 CHAIRMAN CORY: What obligation do we have to
14 supply water to Dart Industries at all? I mean, if they
15 aren't willing to comply with the law and do it before they
16 start acting, why should we bend over backward to bail them
17 out of their problem?

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we have
19 here another instance where State Lands has been usurped,
20 and the holder in due course -- they are holders in due
21 course. It's true. That's the dilemma that we are in now.
22 They are holders in due course of property, who would
23 anticipate a water supply.

24 CHAIRMAN CORY: It seems to me, we have a better
25 chance of plugging the line now than being told they don't

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1 have an alternative source.

2 MR. TROUT: We have on file in Nevada County, a
3 lawsuit which would eject the pipeline, or in the alternative,
4 I guess, we could stipulate to plugging it permanently. And
5 that suit is presently dormant, pending the solution of the
6 ground water -- on the ground water problem. At the wish of
7 the Commission, we could move in a number of directions.
8 We could certainly move ahead with the lawsuit or we could
9 act on the application.

10 CHAIRMAN CORY: Greg, where are we in terms of our
11 legal rights? Does this in any way jeopardize our --

12 MR. TAYLOR: No, it doesn't.

13 EXECUTIVE OFFICER NORTHROP: It might be well to
14 set as a Commission item next time, to show cause why we
15 should not terminate the water supply.

16 CHAIRMAN CORY: Who is using the water now, some
17 development?

18 EXECUTIVE OFFICER NORTHROP: They have sold
19 property.

20 MR. HIGHT: No water is coming out of the lake at
21 this time.

22 MR. TAYLOR: The stand-by water system is not in
23 use. The stand-by is for emergency purposes.

24 MR. TROUT: There is no authority to use it. In
25 filing the lawsuit, there is a stipulation that pipeline will

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1 not and cannot be used.

2 COMMISSIONER BELL: I would suggest as an
3 alternative --

4 EXECUTIVE OFFICER NORTHROP: We could prepare a
5 calendar item and advise the people that the Commission is
6 considering the action of having the pipeline removed.

7 CHAIRMAN CORY: Okay.

8 EXECUTIVE OFFICER NORTHROP: At the last
9 Commission meeting, Mr. Darrell McConnell, representing the
10 Marina Owners Association, asked that the Commission suspend
11 all leasing activity because of large increases in recently
12 set rentals. This probably requires some explanation.

13 In 1966 --

14 CHAIRMAN CORY: Why?

15 EXECUTIVE OFFICER NGRTHROP: That's a good
16 question. Really, what we really want to do is to bring
17 to the Commission's attention, the fact that rents are going
18 up all over. Some of these rentals are 20-25 years old, and
19 they are bound to be increased. That's the way things are.

20 CHAIRMAN CORY: We'll take that as noted. I
21 can't see prolonging his agony.

22 EXECUTIVE OFFICER NORTHROP: By resolution adopted
23 at its October 29, 1975, meeting, the Commission authorized
24 the Division and/or the Office of the Attorney General to
25 take all necessary steps, including litigation, to have

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1 the State's title and the Commission's jurisdiction over the
2 bed of Independence Lake recognized.

3 On November 7, 1975, the Commission, by and through
4 the State Lands Division, made applications to the Boards of
5 Supervisors of Nevada and Sierra Counties, pursuant to
6 Revenue and Tax Code Section 5026, to have all assessments
7 for taxes levied on the bed of Independence Lake cancelled
8 and to request that the lake be listed in the County
9 Assessment records as owned by the State of California. No
10 action was taken by either County; consequently, the
11 Division renewed its applications by letters dated March 11,
12 1976. Since then, both Counties have expressly refused to
13 honor the Commission's applications without a Court
14 interpretation of the matter.

15 In order to have it finally resolved, petitions for
16 Writ of Mandate will be filed in both Counties to compel the
17 Boards of Supervisors to comply with the Code provisions.

18 So, this is a report as to what we are doing on
19 that.

20 CHAIRMAN CORY: That will be filed in each of the
21 County's Superior Court, in each County?

22 MR. TAYLOR: Sierra and Nevada County Superior
23 Court.

24 CHAIRMAN CORY: They have resident Judges that
25 sit there?

1 MR. TAYLOR: They do.

2 CHAIRMAN CORY: Plan on appealing?

3 (Laughter.)

4 MR. TAYLOR: Yes.

5 CHAIRMAN CORY: Okay.

6 EXECUTIVE OFFICER NORTHROP: A public hearing has
7 been scheduled on May 8 at 10:00 a.m., in the Santa Barbara
8 County Administration Building in Santa Barbara, concerning
9 resumption of drilling from four existing platforms in the
10 Santa Barbara Channel at Carpinteria and Summerland. I will
11 conduct that hearing. It's on a weekend.

12 CHAIRMAN CORY: Good luck to you on that chore,
13 too.

14 EXECUTIVE OFFICER NORTHROP: In the final --

15 CHAIRMAN CORY: That's a matter that various
16 people have been interested in, that general subject matter.
17 We have been continuously advised, and we are advised
18 on factual information.

19 EXECUTIVE OFFICER NORTHROP: We have notified
20 everyone who has expressed an interest, ARCO, EI, everyone
21 concerned. Legislators, Boards of Supervisors, public agency
22 organizations, and everyone in private --

23 CHAIRMAN CORY: So-called public interest groups?

24 EXECUTIVE OFFICER NORTHROP: All the public
25 interest groups will be there.

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1 And the final item is a meeting I had --
2 Mr. Thompson and I had with EI, and Mr. Joe Beeman had in
3 Washington. At the request of Mel Goldstein made to
4 Josiah Beeman, who is Mr. Bell's assistant, a conference was
5 scheduled --

6 CHAIRMAN CORY: Who is Mel Goldstein?

7 EXECUTIVE OFFICER NORTHROP: Mel Goldstein is from
8 FEA, in charge of the Exceptions Program, and he is the one
9 we have been lateral to every time it gets hot. When they
10 don't know what to do with it, they lateral it to Mel
11 Goldstein. This is one more lateral.

12 The meeting was allegedly to deal with the letter
13 that Governor Brown wrote to Mr. Zarb. It was not until we
14 arrived in Washington at the meeting and the ground rules
15 were stated by Mr. Goldstein, that we became aware this was,
16 in fact, not a conference to discuss gravity differential,
17 as was represented by Mr. Goldstein previously, but rather a
18 discussion of hardship in the exemption case submitted by the
19 City of Long Beach.

20 Translated, this means the FEA has no intention of
21 taking the necessary steps to turn around our plummeting
22 production decline. And Mr. Thompson will talk about it
23 later in the meeting.

24 But, rather to propose to offset this decline --
25 This decline is so severe that to offset it in the next 36

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1 months we are going to be further dependent on foreign oil
2 to the tune of, at the gas pump, will probably amount to
3 somewhere near \$60 million in the next 36 months.

4 Any attempt to convince Mr. Goldstein, Mr. Tom
5 Wicker, or Mr. Larry Terrel of the FEA of this problem was
6 rebuffed by "That's no my job." Our job is to help you
7 after the field becomes totally uneconomical.

8 So, it becomes very clear that the present
9 Administration is not concerned about operation independence,
10 but rather operation, perhaps, "pass the buck."

11 CHAIRMAN CORY: That's 22.--

12 EXECUTIVE OFFICER NORTHROP: This completes my
13 report.

14 CHAIRMAN CORY: Okay.

15 On the Consent Calendar, any members have any items
16 they wish to have removed from the Consent Calendar?

17 Anyone in the audience who wishes to address
18 themselves to any of the first 11 items on the Calendar?

19 Hearing no objections, the first 11 items will be
20 approved as presented.

21 We will now go to the regular calendar.

22 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
23 a project that the staff has been working on for over a year.
24 We are now ready to propose to the Commission the adoption
25 of some regulations on volumetric rental rates. You have

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1 in front of you, I believe, a report which was circulated
2 among all of you prior to this meeting.

3 I think, at this time, Mr. Taylor's office and
4 Mr. Trout's office have done a great deal of work on this.
5 I would like, at this time, to turn the area of the
6 presentation for the staff to Mr. Taylor, Mr. Trout, and
7 Mr. Hight.

8 Mr. Taylor, would you care to lead?

9 MR. TROUT: Maybe I will take the lead, then.

10 The Commission will probably recall that early in
11 your tenure here as Commissioners, last March, you proposed
12 volumetric rental rates and a general number of changes in
13 the regulations to bring rental rates currently to the
14 market place.

15 Following the Commission action in March, hearings
16 were held April 29 in Sacramento, and May 2nd in Long Beach,
17 on the new rental regulations. Those hearings produced
18 only comments concerning the volumetric rental rates, and
19 one gentleman appearing concerning salaries. All but the
20 volumetric rate schedule were adopted by the Commission in
21 May, 1975.

22 At that time, the Commission directed the staff
23 and the Office of the Attorney General to conduct additional
24 review and hold additional hearings and make additional
25 determinations as necessary. Meetings were held with the
public utilities as a group on July 22nd, 1975; with the

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1 common carriers on July 23rd, 1975; and with representatives
2 of the oil industry on July 31st, 1975.

3 In reviewing this, the Office of the Attorney
4 General retained an evaluation consultant familiar with
5 special use property appraisals. The Division staff and
6 the consultant continued to investigate leasing processes
7 of major California ports, examined numerous right-of-way
8 leases issued by public and private entities, and, in
9 general, conducted a search of data relating to the leasing
10 of similar lands.

11 The points brought out by those appearing at the
12 hearings were basically these: That the initially proposed
13 schedule would result in a rental being charged several
14 times for the same product. That there was a potential
15 pecuniary defect if the State adopted the rental based on
16 volumetric charge. That other landowners might well charge
17 on the same volumetric basis, with the result being a
18 prohibitively high transportation cost, even if there were
19 no precedence for the imposition of a volumetric charge.
20 And four, that the proposed fixed rental schedule would
21 result in an arbitrary, discriminatory, and unjustifiable
22 rental being imposed by the Commission.

23 On review, we find that these situations are not
24 a result of volumetric rental rate charges. We find that the
25 private landowners frequently charge for logging based on the

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1 amount of board feet transported over the road. Here the
2 responsibility for road construction and maintenance is
3 generally the responsibility of the timber harvester.

4 There is evidence of a first-time throughput charge
5 for rights-of-way used for hauling coal. The City of Seal
6 Beach, in return for a franchise to use city-owned streets,
7 charges Exxon two percent of the royalty paid the State on
8 offshore oil and gas. The private property leased by
9 the Hollister Estate Company, in return for the use of
10 pipe line rights-of-way, charges two percent of the royalty
11 paid to the State.

12 A portion of the wharfage charge imposed by ports
13 for the off-loading of cargo on port lands represents a
14 throughput charge for use of unimproved lands. Similarly,
15 it appears that a portion of throughput charge imposed by
16 pipe line operators for the use of their pipe lines
17 necessarily goes to recover and obtain the return of right-
18 of-way costs.

19 Percentage leases form a variable rental lease
20 also where the amount of rental is influenced by volume.
21 In this case, the volume was goods sold. It might be
22 bourbon highballs, or something, but the same kind of thing.

23 The revised proposal before you today is based on
24 the following staff determinations: That land rentals,
25 varying with the volume of commodities passing over

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1 unimproved lands, is being enjoyed by other landowners in
2 similar situations.

3 Two, that volumetric rental is otherwise reasonable
4 and under all circumstances may be employed as one of the
5 alternative rental basis used by the Commission. Instead of
6 adopting an inflexible schedule of volumetric rental rates,
7 uniformly applicable to widely varying factual situations;
8 it is preferable to refer to the volumetric rental concept
9 based on several alternatives and several options available
10 for use by the Commission, at the same time, providing it
11 with some criteria for establishing and applying its rental
12 concept.

13 Now, several additional proposals, or objections,
14 have been raised including the fact that the Code requires
15 appraisals, that an environmental impact report is required,
16 that the rental rate is, in fact, a charge and would be an
17 unreasonable burden on interstate commerce. We find that
18 none of these proposals have any merit. In the staff's
19 judgment, the proposed regulations as revised have a sound
20 basis in fact and in law. Your staff recommends that they
21 be adopted by the Commission.

22 Mr. Taylor, I am sure, would like to tell you the
23 aspects with regard to their investigation.

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, before
25 we go into that, I would like to give credit to Mr. Les

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1 Grimes on our staff who has done a great deal of work to put
2 this program together.

3 MR. TAYLOR: We concur on the recommendations.
4 With me today is Dennis Eagan, Deputy Attorney General, who
5 has worked on this matter extensively since Jay Shavelson's
6 death.

7 I don't think there is anything we can add to what
8 Mr. Trout has already said or what is in the report before
9 you. The Commissioners have been kept apprised throughout
10 the course of more than a year that the hearings have been
11 open. You do have the report. The transcripts have been
12 previously available.

13 I believe, that we are ready to act as far as the
14 recommendation. We concur in the judgment of your staff and
15 advise you there is no legal objection to proceeding.

16 CHAIRMAN CORY: Any questions?

17 MR. TAYLOR: Mr. Chairman, Mr. Eagan has asked that
18 it be noted that you have before you, which is available
19 for distribution, a report entitled Report of State Lands
20 Commission on Volumetric Rental Rates, presented at State
21 Lands Commission Meeting, April 28th, 1976; and this should
22 be considered as part of the record.

23 CHAIRMAN CORY: We have it here in our Agenda. I
24 believe it is incorporated as part of the calendar item.

25 EXECUTIVE OFFICER NORTHROP: It is part of the

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1 calendar.

2 CHAIRMAN CORY: If not, copies will be made
3 available to the general public.

4 EXECUTIVE OFFICER NORTHROP: Copies are available
5 at the back of the room at this time.

6 CHAIRMAN CORY: I understand we have some people
7 who would like to address the Commission on Item 12.
8 Mr. Greg McClintock --

9 Would you identify yourself.

10 MR. McCLINTOCK: Mr. Chairman, my name is Greg
11 McClintock. I am appearing as attorney for Western Oil and
12 Gas Association. I just have a few brief comments, because
13 we did make --

14 CHAIRMAN CORY: Would you clarify that. You are
15 an attorney employed by salary by Western Oil and Gas?

16 MR. McCLINTOCK: No, that is incorrect. I am
17 referred to in the trade as "outhouse counsel."

18 CHAIRMAN CORY: Yes.

19 MR. McCLINTOCK: I am with the firm of McCutchen,
20 Black, Verleger and Shea. I would just like to make a
21 few brief comments.

22 CHAIRMAN CORY: Pardon me. Does that firm
23 represent any other major oil companies?

24 MR. McCLINTOCK: Not in connection with this
25 matter.

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1 CHAIRMAN CORY: No, just general.

2 MR. McCLINTOCK: Well, really, I think,
3 Mr. Chairman, you are getting into an area of attorney-client
4 privilege.

5 CHAIRMAN CORY: I don't think that's privileged,
6 myself.

7 MR. McCLINTOCK: I would prefer not to answer that
8 question. I don't see how it's relevant to this proceeding.

9 CHAIRMAN CORY: It just helps us put in perspective
10 what your motivation is.

11 MR. McCLINTOCK: I am here representing the oil
12 industry. I don't purport to be representing anyone other
13 than the oil industry.

14 CHAIRMAN CORY: There are different segments of the
15 oil industry. I am just trying to ascertain --

16 MR. McCLINTOCK: To give a little clarification,
17 the Western Oil and Gas Association is a trade association
18 which has within its membership, companies which conduct
19 at least 90 percent of the production, refinery, transporta-
20 tion, and marketing of crude oil and petroleum products in
21 the State of California. It does represent a very broad
22 cross-section of the industry. If that's any help to you.

23 CHAIRMAN CORY: These are the kind of things that
24 are interesting, but -- 90 percent of the production. I
25 don't think you represent the State of California. If you

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1 don't represent the State of California, I don't think you
2 could represent 90 percent of the production.

3 MR. McCLINTOCK: I don't purport to represent the
4 State of California. I purport to represent the oil
5 industry, and I really don't understand your comment.

6 CHAIRMAN CORY: I am trying to ascertain what
7 segment of the oil industry you are representing. Go ahead.

8 MR. McCLINTOCK: I would just like to make a few
9 brief comments on the staff summary. I am sure that my words
10 are falling on deaf ears, but nonetheless, I would like to
11 be heard.

12 We don't feel that the staff summary which has been
13 presented to you, and which you may or may not have had an
14 opportunity to read, addresses many of the arguments which
15 are made by the Western Oil and Gas Association and others
16 who have spoken in opposition to the proposed changes in the
17 past. I might add, in this connection, at the hearing on
18 April 21, everyone who appeared, other than the staff, did
19 speak in opposition to these proposed changes. There was
20 no one who spoke in favor of them.

21 Just to give you a couple of examples of the type
22 of things I don't believe are addressed in the staff report.
23 I have to admit I just received this a few minutes ago when
24 I entered the room here this morning. I haven't had an
25 opportunity to really review it in depth. I am sure there

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1 are many others, but two that jumped out at me were the
2 following:

3 First of all, with respect to the arguments and
4 objections which we have raised in the past about lack of
5 an environmental impact statement, I think the staff really
6 misses our point. We have really raised two issues. First
7 of all, obviously if this regulation is adopted, the intent
8 must be to, in some manner, impose a throughput charge with the
9 idea of generating greater revenues for the State. In fact,
10 the regulations themselves quite clearly indicate this is to
11 be one of the considerations involved in what type of rental
12 schedule you come up with.

13 So obviously, the purpose here is to increase the
14 cost of transporting crude oil and refined products across
15 State lands.

16 We think that the adoption of such a regulation
17 sets a very dangerous precedent. There is no other state
18 in the United States which has done this to date. California
19 will be the first one, and this practice will undoubtedly
20 spread nationwide, if it is possible and found to be legal
21 here in the State of California.

22 Secondly, we know for a fact there are local
23 government agencies and other government agencies who are
24 waiting in the wings, who have heard about this proposal; and
25 if it is adopted by the State Lands Commission, we understand

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1 that it is their intention to exact similar charges from
2 utilities, the oil industry, and others who have to pass
3 commodities across their land.

4 I am certain the effect of this will not be lost
5 on private landowners, either, who will, contrary to past
6 practice where they normally requested some type of fee
7 based on appraised value of the land for passage of products
8 across their land, will now feel that they are also entitled
9 to some sort of throughput charge.

10 So, what we are really talking about on the one
11 hand is a ripple effect, or to be more exact, a tidal wave
12 effect, which we think can spread to anyone who is involved
13 in leasing and granting rights-of-way to pipe lines; and that
14 the cost of this could be astronomical to consumers. Because,
15 in the final result, I think it's quite obvious that the
16 consumer is the one that is going to pay this indirect tax.
17 That is one of the things we address.

18 Secondly, the fact that you are going to be
19 increasing the cost of transporting commodities across
20 State lands is going to cause people who are engaged in this
21 kind of traffic to consider alternatives. Some of these
22 alternatives are not very desirable from an environmental
23 point of view; but, economically feasible, such as tanker
24 transportation.

25 We think that for that reason the Environmental

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1 Quality Act is thoroughly applicable here, and we don't
2 really feel that the staff report addresses it to those
3 two specific arguments.

4 The position seems to be taken that since this is
5 only an alternative and we don't necessarily have to do this
6 -- although I am sure it is your intention to do it -- that
7 we can wait until the actual enactment or exaction of such a
8 charge before we consider those effects. We don't feel that
9 is the case. We want to make this clear.

10 The second item that the staff does not really
11 address in their report is the issue of whether the charges
12 can be legally imposed by the State. I want to clarify
13 there. The staff appears to argue by analogy and say because
14 other entities, ports and so on, impose such throughput
15 charges -- I think I would dispute that fact. I think they
16 are incorrectly analyzing that is really happening there.
17 But, they say because other people do it, surely the State
18 can do it. But, they ignore the basic, underlying legal
19 question which is; is a tax on something being passed across
20 State land something that can legally be imposed by the State?

21 I think the law is quite clear, since the incident
22 of the tax in that case falls on the products being
23 transported across the State property. It does not have
24 anything to do with the appraised value of the land and has
25 nothing whatsoever to do with the services that the State is

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1 rendering to the transportation company. The incident of the
2 tax falls on the wrong thing.

3 The Court decisions which I have seen, and there
4 are really none to the contrary, suggest that, in that
5 situation, you have got an improper tax on interstate
6 commerce to the extent that you have marine transport
7 involved which is coming in over the OCS, or something of
8 that nature. You have a tax on tonnage, both of which
9 violate the Constitution.

10 We don't feel the staff really addresses these
11 issues.

12 The other item which I did want to mention is that
13 we understand no transcript of the April 21 hearing has yet
14 been made available to yourselves. At least, we were told it
15 would not be ready for another week. In view of the fact
16 that the staff report, at least in our opinion, is not really
17 addressed to many of the arguments that we made; we feel it
18 is incumbent upon the Commission to obtain a copy of that
19 transcript and review our arguments before you make any
20 judgment on this.

21 The impact on consumers, I can't emphasize that
22 strongly enough, could be very, very substantial. It's --

23 CHAIRMAN CORY: I'm sorry. I can't let that one
24 pass.

25 MR. McCLINTOCK: I'd like to hear what you have to

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1 say in response to it. I would be very interested.

2 CHAIRMAN CORY: I find it absolutely humorous that
3 an industry which has been gouging the consumer for so long
4 suddenly comes to their defense for such a miniscule amount

5 The increase in the profits of the companies you
6 represent, at a time when prices are supposed to be
7 controlled and we are not supposed to have that happen, your
8 profits went up. I can see in every testimony I have had and
9 every conversation I have had with the major oil company
10 executives, they defend their action by saying, "Well, the
11 law allows us to charge it."

12 I say to them, "You don't have to charge the
13 maximum. You can charge less. Why don't you?" They say,
14 "That wouldn't be right for our stockholders."

15 MR. McCLINTOCK: I don't think the profitability
16 of the oil industry is really in issue here. The cost to
17 the consumer certainly is. I certainly differ with --

18 CHAIRMAN CORY: You don't think they are
19 interrelated?

20 MR. McCLINTOCK: Well, certainly they are
21 interrelated --

22 CHAIRMAN CORY: Thank you.

23 MR. McCLINTOCK: -- but, I didn't come here
24 prepared today to debate the profitability of the oil
25 industry. I think the statements you made are totally

1 inaccurate, and if you really studied the statistics on oil
2 industry profitability, they won't bear out the comments
3 which you made. But, I think it's an obvious fact of
4 economic --

5 CHAIRMAN CORY: I am glad you are a lawyer, not an
6 economist, sir.

7 MR. McCLINTOCK: I don't purport to be an
8 economist. Are you?

9 CHAIRMAN CORY: I think I know a little bit more
10 about the economy and the economy of the oil industry than
11 you indicate in your testimony.

12 MR. McCLINTOCK: I would be very surprised by that.

13 CHAIRMAN CORY: I am sure you would.

14 MR. McCLINTOCK: I would rather not get this on a
15 personal level, Mr. Cory. I am just saying that when costs
16 go up it's obvious that prices go up. I think that's a
17 fundamental economic law we all recognize.

18 CHAIRMAN CORY: Only if you have a controlled
19 economy. Price is regulated by supply and demand in the
20 free market place, and I am suggesting to you we don't have
21 a free market place.

22 MR. McCLINTOCK: I want to address myself to that.
23 I want to make an observation that in the final analysis the
24 consumer is the one that will end up paying for this. It is
25 an indirect tax on the consumer. I think that if the State

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1 of California is interested in raising taxes, it should do
2 it more directly and not in this manner. It is really very
3 obscure and indirect and people are not aware of it.

4 So again, I think to address yourselves to the
5 comments we have made, which we don't feel are covered in the
6 staff's analysis, you need to review the transcript of the
7 April 21 hearing. We understand that transcript is not
8 available.

9 So, we would request that certainly before you
10 take any action to adopt these regulations that you take the
11 time to get the transcript and review it and see if there is
12 a bearing on our arguments. That's all I have to say this
13 morning.

14 CHAIRMAN CORY: Have you gone over the various
15 points that were not covered in the staff report?

16 MR. McCLINTOCK: Like I said, when I arrived here
17 this morning, I tried to very briefly read through the
18 statement. There may be things I have not addressed myself
19 to.

20 I am going to submit to you, however, a copy of a
21 statement we prepared at the hearing on April 21, which does
22 state our position. I think it addresses itself to some of
23 the things that were talked about. So, I will hand that to
24 the appropriate person.

25 CHAIRMAN CORY: Do you have copies of that?

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1 MR. McCLINTOCK: I have a copy for myself. There's
2 about ten there.

3 CHAIRMAN CORY: You are satisfied with just
4 submitting this information to us?

5 MR. McCLINTOCK: We made a detailed presentation
6 on April 21, and that's why I am suggesting, Mr. Chairman,
7 that the Commission take the time to review that rather than
8 attempt to rehash it all today. Many of the people who spoke
9 on April 21 understood that that was to be the public hearing,
10 and they are not here today. So they obviously could not be
11 heard, even if I could.

12 CHAIRMAN CORY: I just want the record to be very
13 clear here that the witness -- We are accepting everything
14 you have got to offer. We are here in a public meeting to
15 dispose of a calendar item that has been duly noticed.

16 MR. McCLINTOCK: I am just suggesting that part
17 of what I have to offer is contained in the transcript of
18 the April 21 hearing, and I am suggesting you take the
19 opportunity to review that before you come to a decision.
20 That's all I'm suggesting, sir.

21 MR. EAGAN: Mr. Chairman, I was present at the
22 April 21st hearing, and in substance all of the oral
23 commentary merely tracked written statements which were
24 introduced at that time. Those written statements in large
25 part consisted of a recapitulation of arguments that had

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1 been made last year, both before formal hearings conducted
2 by the Commission and Mr. Northrop, and also informal
3 meetings with members of the various industries.

4 In any case, those written statements submitted on
5 April 21st were reviewed and incorporated in the staff's
6 summary of the input we received from those persons that
7 appeared, and that is contained in the report which you have
8 reviewed. Further, there was a tape recording made of the
9 presentation on April 21st. That also was reviewed by way of
10 incorporating any new points which may have been presented at
11 the April 21st hearing. As I said, however, it was basically
12 a recapitulation of points that have already been made.

13 I would also like to respond to Mr. McClintock's
14 assertion that the report prepared for the Commission to use
15 today contains certain omissions. Regarding the cumulative
16 and ripple effect, that is specifically covered in the
17 report. In fact, that argument was responded to by
18 incorporation of specific provisions in the proposed
19 regulations to cover that particular problem.

20 Secondly, this is not a tax. It's not a duty on
21 tonnage. The Commission is not being asked to operate in the
22 capacity of a sovereign imposing taxes for general revenue
23 purposes. The Commission is being asked to, and is acting
24 in the capacity of a landowner who may wish to charge a
25 rent for the use of lands based on this volumetric rental

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1 principle. That is why we gave added thought to the tax and
2 duty on footage. Those options have simply been mentioned
3 in the report you have reviewed prior to today's hearing.

4 MR. McCLINTOCK: As I have indicated, I disagree
5 with that. Obviously, the State has no control over what
6 others do. I think the Commission does have a duty to
7 consider the precedential value of what it is doing. I don't
8 think that has been addressed.

9 You have suggested that you may make some reduction
10 where the pipe line crosses a long stretch of land, only
11 part of which is owned by the State. However, you obviously
12 have no control over what the other landowners do along that
13 line. I am just asking that the precedential effects of
14 this be considered. In fact, it must be considered. And
15 that is why an environmental impact report is necessary.
16 That is the argument I was making. I don't think that is
17 addressed in the staff report.

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, may I
19 respond to the WOGA's representative's comments regarding
20 notice and people attending at this meeting. He raised a
21 similar question last time, the point that there had been
22 insufficient notice of the meeting to comply with the
23 State's regulation of seven days. At that time, the Chairman
24 of the meeting advised those who cared to make a presentation
25 directly to the Commission, that it would be available at

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1 this time, this morning, this room.

2 MR. McCLINTOCK: That was to the people who were
3 present. That notice was not communicated, I don't think, to
4 others. Was it? It was only to the people present at the
5 April 21st meeting, is that correct?

6 CHAIRMAN CORY: I think we could probably
7 stipulate --

8 EXECUTIVE OFFICER NORTHROP: The point raised by
9 the WOGA representative was those people there didn't know.
10 Now he agrees, he has conceded that point, we can go on to
11 another point.

12 MR. McCLINTOCK: Well, I think you misunderstood
13 me, but that is all I had to say, Mr. Cory.

14 Thank you.

15 CHAIRMAN CORY: Mr. Robert E. Shaw.

16 MR. SHAW: Mr. Chairman, my name is Robert E. Shaw.
17 I represent Mobil Oil Corporation. I might first state that
18 Mobil Oil is a member of the Western Oil and Gas Association.

19 We do adopt the arguments presented by Mr.
20 McClintock for the Association and urge the Committee to
21 consider the transcript of April 21st and the statements
22 handed to you this morning.

23 Mobil is particularly concerned about the
24 throughput rental for right-of-way and the precedential or
25 ripple effect. We are concerned particularly, assuming the

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1 arguendo that the regulation would be a valid and legal
2 regulation -- we are concerned with the inequities and
3 discriminatory effect which could arise from this type of a
4 charge. Let me first state that Mobil operates pipe lines
5 in many states throughout the United States. To my knowledge,
6 such a charge is unprecedented, but the inequities and
7 discriminatory effect could arise from the different types of
8 products passing through lines of equal size.

9 On the surface, it would seem reasonable -- again,
10 legal arguments aside -- to assess a rental based on
11 throughput. But, this overlooks the commodities and contents
12 of the lines passing over State lands and different pumping
13 rates. Take, for example, by way of a hypothetical, a piece
14 of State land which is traversed by five pipe lines, all of
15 equal size, all owned by different companies. Now, the
16 rental imposed on these lines is for the use of the space
17 occupied by that pipe line.

18 Take the case of two lines, say they are pumping
19 oil, one at 100 barrels per minute, and one at 200 barrels
20 per minute. The charges on a throughput basis would be
21 different for the same use of lines for two companies.

22 Then, assume further the other lines -- perhaps
23 one is carrying water, one is carrying gasoline, one is
24 carrying natural gas, and one is carrying oil. On a through-
25 put basis, how do you equate this? Do you do it on an energy

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1 basis, on a BTU equivalent basis, or on a price value basis?
2 Then this gets into -- What is the price of gas? What is
3 the price of water? What is the price of oil? What is the
4 price of gasoline? -- if you try to equate it on a volume
5 basis. How do you equate it on an energy basis, if you have
6 got water involved?

7 So, you can see out of these five companies,
8 transporting products over the same piece of land, operating
9 different pumping rates, all would be paying different rates
10 for the same use of State land.

11 To me, this is highly inequitable. I don't find
12 in a quick analysis of the staff's comment here this morning,
13 that they have given any attention to this matter, or any
14 equation by which you could equate this.

15 I think, again legal arguments aside, that it's
16 improper to adopt such a rate on a throughput basis, and I
17 urge you to reconsider, the staff reconsider this matter,
18 before it's adopted.

19 CHAIRMAN CORY: Does Mobil Oil Company rent
20 service stations?

21 MR. SHAW: Do we rent service stations?

22 CHAIRMAN CORY: To people pumping gasoline at the
23 corner.

24 MR. SHAW: I am sure we do, yes. I am not an
25 expert on marketing operations.

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1 CHAIRMAN CORY: Do you know what kind of
2 arrangements you have with the local, independent businessman
3 who is pumping Mobil gasoline? Do you know what kind of
4 rental charges you are likely to be charging an individual
5 for that piece of property?

6 MR. SHAW: I am sure we have all different types
7 of arrangements. I do understand, perhaps, there are some
8 on a volumetric basis, the rental is based in some way on
9 a volumetric basis. But, I am not --

10 CHAIRMAN CORY: Could you help me differentiate
11 Mobil's role as a landlord in charging volumetric rates and
12 the State's desire to do the same thing with its real
13 estate.

14 MR. SHAW: Well, that would probably take a little
15 thought and study before I really want to answer. I am
16 under the impression that the staff feels that the rate on
17 throughput basis is justified because some way it figures
18 into the tariff which is charged for the product going
19 through the line. I don't know that that is correct.
20 Right-of-way charges, to my understanding, are part of
21 construction costs and recovered as a total part of
22 construction costs as part of the rate of return when the
23 tariff is set.

24 CHAIRMAN CORY: Are your pipe lines handled by
25 tariff, filed with the PUC?

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1 MR. SHAW: No, I don't believe so. Again, I am
2 not certain about that, Mr. Cory.

3 CHAIRMAN CORY: I think you will find that most of
4 them owned by Mobil are not common carrier pipe lines.

5 MR. SHAW: I believe that's correct. In other
6 states, we probably are.

7 CHAIRMAN CORY: Your arguments might take on a
8 different meaning to me if they were, and those tariff
9 aspects were applicable. But, the oil industry in California
10 has not seen fit to dedicate those pipe lines to common
11 carrier status; and therefore, I am not sure there is any
12 relevance to what we are doing.

13 We are, in essence, committing publicly-owned
14 property to exclusive and private use. It just seems to me
15 an analogy, sir, -- and I am really puzzled that Mobil Oil
16 Corporation has not seen fit to address itself to the obvious
17 lack of consistency in its position that it goes to its
18 independent businessman to market its products and charges
19 them a volumetric rate.

20 MR. SHAW: If I might interrupt. I would think
21 that the rental is based on investment cost of a given
22 location and a lot of other factors here. If you are just
23 using the rental rate for the occupying of a space, crossing
24 a piece of State land, it's difficult for me to understand
25 how the State can justify charging different people different

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1 rates for the same, identical use, merely the occupying of a
2 space.

3 CHAIRMAN CORY: The man at the corner of Freeport
4 and Fruitridge pumps 20,000 gallons a month, and the man at
5 the corner of Fruitridge and 24th Street, here in Sacramento,
6 pumps twice as much gas. I think you will find that your
7 company is charging him twice as much rent.

8 MR. SHAW: Well, I don't know that.

9 CHAIRMAN CORY: And the physical size of the pieces
10 of real estate are the same. Same tin buildings, the same
11 emblem up there, and the same gasoline is going through them.
12 I have got real trouble how you can come in and tell me that
13 the State of California hasn't got the same right as Mobil
14 Oil Company has to charge the same kind of rent structure for
15 its use.

16 MR. SHAW: I don't know that your example is
17 virtually comparable. You would have to look at investment
18 costs, and it could well be the other way, too, sir.

19 All I am saying, I don't see your justification for
20 discriminating between companies for the same, identical use
21 of rental and occupancy of State lands for the same size
22 pipe line.

23 CHAIRMAN CORY: Anyway, you can see my point?

24 MR. SHAW: Yes.

25 CHAIRMAN CORY: Thank you.

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1 Mr. Hughey.

2 MR. HUGHEY: Mr. Chairman, members of the
3 Commission, my name is Paul Hughey. I am General Manager of
4 the Contra Costa County Economic Development Association,
5 which is the County's official economic development agency.
6 We are a private, non-profit association under contract to
7 the County Board of Supervisors. Our task is to attempt to
8 create jobs, tax based, within Contra Costa County.

9 CHAIRMAN CORY: Is it public funding or private
10 subscription?

11 MR. HUGHEY: We are both. We are funded by the
12 County, and, in addition, we have membership dues.

13 CHAIRMAN CORY: What ratio of income is public and
14 what ratio is private?

15 MR. HUGHEY: About 80 percent public and 20 percent
16 private. We use the private funds for things that we can't
17 spend tax money on, like booze.

18 (Laughter.)

19 CHAIRMAN CORY: Twenty percent.

20 MR. HUGHEY: We entertain a lot.

21 CHAIRMAN CORY: You are not a full-fledged member
22 of the oil industry.

23 MR. HUGHEY: I would just like to talk briefly
24 about the problems in trying to attract industries and
25 businesses to locate in California; of course, in our case,

1 particularly in Contra Costa County. I should be out
2 talking to industries and businesses and attempting to
3 persuade them that it is desirable to locate in our specific
4 county, of course, and counties are doing that.

5 But, in the last couple of years, I have been
6 spending most of my time appearing in hearings such as this
7 in attempting to persuade various Federal and State agencies
8 that what they propose to do is not going to assist us to
9 make some dent on the unemployment problem in California. I
10 think that the proposed new rate schedule falls in that
11 category.

12 I am sure you know, Mr. Cory, Mr. Bell, and Mr.
13 McGuire, that Contra Costa County is a heavy industrial
14 county; and a number of private terminals and private docks
15 with some 60 million tons of shipping that enter San
16 Francisco, 65 to 70 percent of which passes over the docks of
17 Contra Costa County. Yes, a good deal of it is petroleum
18 products and fuel oil for the power plants of Pacific Gas and
19 Electric at Antioch and Pittsburg, about a third of the power
20 generated by PG&E, and generated in our County. They are using
21 large amounts of fuel oil, which they are bringing in by ship,
22 barge, and pipe line. Of course, as you know, in future
23 years, they are going to be burning a lot of fuel.

24 But, also in our County, we have a lot of steel,
25 a lot of steel going over the docks. Sugar. The biggest sugar

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1 refinery in the world, a million tons of sugar. Chemicals,
2 paper, and agricultural products going out.

3 The point I am making is all of these things are
4 used by the consumer, by the public of the State of
5 California. Everyone is affected by their increased cost.

6 Now, your proposed charges, which you cannot
7 determine from the guidelines what they might be; but, whether
8 it's mills, cents, or dollars, there is going to be an
9 increase passed along to the consumer. As you know, as we
10 like to say, business and industries are not taxpayers, they
11 are tax collectors. Ultimately, the consumer pays for all
12 these kinds of things.

13 CHAIRMAN CORY: Just let me clarify. This is not
14 a tax, it's a rental charge.

15 MR. HUGHEY: It's a charge on doing business which
16 will be passed on to the consumer.

17 CHAIRMAN CORY: If you choose to do business and
18 utilize State-owned property to do your business.

19 MR. HUGHEY: I think it would be very difficult for
20 any business in marine transportation to do business in the
21 State of California without dealing with the State Lands
22 Commission, isn't that correct?

23 CHAIRMAN CORY: I don't know. From their attitude,
24 I haven't found that to be something they probably believe in
25 although it may be. Although, there are other grants to

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1 local agencies where we do not own the property, where the
2 grantee is the operating port.

3 MR. HUGHEY: Port agencies?

4 CHAIRMAN CORY: Yes. And they charge charges
5 similar to that. Go ahead.

6 It's a necessary distinction between tax and
7 rental fee that has some significance, the lawyers tell me.

8 MR. HUGHEY: Of course, I would argue that. Public
9 ports, for example, even a public port, or private terminal,
10 have, of course, large capital investment. They have to
11 cover that money. They have to improve the thing. They
12 have to change their mode of operation, transportation, just
13 like any other industry. It has to change to keep up with
14 the times.

15 The main thing I am concerned about, at this time,
16 is it is becoming increasingly difficult to persuade
17 industries that it is a good place to do business.

18 Mr. Bell's financial report, the Governor's report,
19 he has a section in there in which he discusses factors
20 relating to business climate. I don't think they are relating
21 to business climate. They are factors which every business
22 and industry takes into account when they determine whether
23 or not they are going to locate in a particular location.
24 They left out the most important factor. The attitude of
25 government toward business and industry. I would submit to

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1 you, it is not good in the State right now. I think there is
2 hostility towards business and industry.

3 This is a difficult problem. We are trying to
4 create jobs to have some impact on the unemployment rate, and
5 it is difficult to do.

6 We are not the only agency considering revising the
7 schedule. All of these agencies cumulatively. It adds quite
8 a burden. I would say the biggest burden falls on the small
9 or medium-sized businesses. Not the large ones. They can
10 afford it. They can spend a half a million dollars on an
11 environmental facet. They can wait, but not the small and
12 medium-sized businessman.

13 Let me give you an example. Gulf Oil Company
14 closed their refinery in Contra Costa County. Nine years old
15 Which you will agree doesn't make much sense, in view of the
16 lack of refining passing in the United States. They closed,
17 because they couldn't make any money. They were losing money
18 because of the importation of crude.

19 CHAIRMAN CORY: Sir, I have to stop you. Are you
20 aware of the design of that refinery?

21 MR. HUGHEY: Yes.

22 CHAIRMAN CORY: It was designed to handle a
23 particular kind of crude oil.

24 MR. HUGHEY: Bolivian crude, that's right.

25 CHAIRMAN CORY: And the Bolivian Government

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1 nationalized the industry and took away the crude supply.

2 MR. HUGHEY: That's right.

3 CHAIRMAN CORY: And that's the real reason why it
4 was closed.

5 MR. HUGHEY: No, that's not the reason. They
6 operated for some six years on other kinds of crude, but at
7 a good deal of additional expense.

8 CHAIRMAN CORY: Because they reduced their
9 throughput. They weren't operating on a full --

10 MR. HUGHEY: That's right. They could not.

11 CHAIRMAN CORY: I just want to clarify that there
12 are some very unique circumstances with respect to the
13 closing of the refinery.

14 MR. HUGHEY: There is no question about that.
15 That's correct.

16 CHAIRMAN CORY: And the governmental action taken
17 by the Bolivian Government had a great deal to do with the
18 uneconomic situation.

19 MR. HUGHEY: That's correct. In any event, they
20 had to close the refinery. Naturally, we were concerned
21 about getting the refinery back in operation with its 110
22 jobs and numerous other services that it supplied in the area

23 In due time now, a company has purchased the
24 refinery, Coastal State Gas Corporation. They are working
25 with their staff on a new lease. So, their welcome to

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1 California will be to have a new schedule, if you adopt this
2 schedule, will be a schedule enacted which they did not count
3 on. I am sure they are looking at the existing situation.

4 So, every time that an amendment is required to
5 change pipe line or the addition of pipe line to a dock or
6 there is some modification to a dock, that has to receive your
7 approval. So, at that time, all of these leases, as I
8 understand it -- Is this correct or is it not? -- then would
9 be subject to renegotiation. Is that correct?

10 CHAIRMAN CORY: What leases? I am not sure what
11 you mean.

12 MR. HUGHEY: For example, let's use U. S. Steel at
13 Pittsburg. They have a lease going until 1995. But, suppose
14 they want to make a few modifications to that dock. They want
15 to make some changes to that dock. They want to add some
16 pipe lines or conveyor belts or a gantry crane. They have
17 to receive, as I understand it -- they have to come up again
18 with an amendment to that lease, is that correct?

19 CHAIRMAN CORY: If that changes the terms and
20 conditions of the lease, they have to amend it.

21 MR. HUGHEY: Right. At that time, you could apply
22 the new schedule, the volumetric schedule.

23 CHAIRMAN CORY: That would depend on whether or not
24 they were up for, maybe, renewal.

25 MR. HUGHEY: The point I am making, there are a

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1 lot of companies sitting out there that think they are
2 perfectly safe for 25 or 30 years. They are going to find
3 out they are not.

4 CHAIRMAN CORY: Their contract provides for specific
5 amounts for a specific period of time. We are going to honor
6 that contract. We are not going --

7 MR. HUGHEY: Change the method?

8 CHAIRMAN CORY: -- use mickey mouse ways of doing
9 them in, if that is what you are suggesting. If, in fact,
10 there is a five-year fee, renegotiated fee on a five- or
11 seven-year basis, when they come up for that phase of the
12 renegotiation, yes, they are going to be subject to these
13 regulations. But, that is part of the written contract which
14 they are aware of or should have been aware of when they
15 acquired the new company, say acquiring Sequoia.

16 MR. HUGHEY: I would just like to conclude by
17 remarking on this matter. I hope you will take into
18 consideration the impact on trying to create jobs in
19 California, which the Governor says is the number one
20 priority at this point.

21 I am sorry Governor Dymally isn't here today. I
22 have heard him speak on numerous occasions, and I know, as
23 Chairman of the Economic Development Commission, he is very
24 concerned with this factor. I would ask that you please hold
25 this over till Governor Dymally can be present, so we can

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1 have the benefit of his insight and input on it. Because, I
2 think he can offer a good deal of pertinent comments.

3 MR. McGUIRE: Governor Dymally has been involved
4 in this program this past year, and we discussed this this
5 morning. He is very aware of what is happening.

6 MR. HUGHEY: I appreciate that fact, and I know he
7 is very much concerned with this. I hope you gentlemen will
8 give serious consideration. In other words, I am saying, I
9 cannot quarrel with your volumetric charge, because I don't
10 know what other states do or not. I would be concerned with
11 what they are doing, because we are in competition.

12 Is this the proper time? Is this a good time to be
13 doing this in view of the current rate of unemployment?

14 It's not just your little charge, I hope it's
15 little, that you are proposing to change here; but it's the
16 accumulation of a number of agencies. That is the basic
17 problem. The difficulty is in trying to assist businesses
18 and industries to locate in our State and in our County.

19 Thank you very much.

20 CHAIRMAN CORY: Thank you.

21 MR. TAYLOR: Mr. Chairman, with regard to revision
22 of leases with changes, I would think it would depend upon
23 the provisions of the particular lease. Whether the addition
24 of a pipe line to a pier or not would cause a re-evaluation
25 would depend upon the individual terms and conditions of the

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1 lease. In some instances, we would not be able to
2 renegotiate a price because of the terms. In other instances,
3 where it is a specific single pipe line and a specific use or
4 change of use, there might be a renegotiation because of
5 increased use or change of location or expansion of the lease
6 area.

7 In other words, there could be a change. There
8 might or might not be a change, depending on the terms of the
9 existing lease at the time that the situation arose.

10 I would just like to have the record clear, so
11 there isn't any misunderstanding.

12 MR. HUGHEY: I'm glad you brought that point up. I
13 think that's important.

14 CHAIRMAN CORY: Mr. Henry W. Simonson.

15 MR. SIMONSON: I might say that I just heard about
16 this meeting yesterday. I just returned from a trip to
17 Brazil. For your information, Brazil, with is nationalized
18 oil company, the price of gasoline was three times what it is
19 here. So, I think we are not all that bad here.

20 I am speaking for myself as a businessman. I have
21 been in business for some 27 years in Contra Costa and Solano
22 Counties. I have been in business and contracted with all
23 types of industry. I have had an intimate relationship with
24 managers of companies and so forth. I am concerned about the
25 climate of business in California. As I understand it, today,

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1 California is rated 47th as far as a good place to invest, as
2 far as business is concerned.

3 CHAIRMAN CORY: By whom?

4 MR. SIMONSON: This is by business. I don't know
5 exactly what organization put it together, but, I understand
6 as far as business is concerned, California is 47th.

7 I had a meeting one time a few years back with the
8 manager of a plant. He said, "Hank, you must remember that
9 when a plant or when a company invests in California, it is
10 done in a Board of Directors. They look at what other
11 investments they can make. Is the climate good? What are
12 the conditions and so forth?"

13 I think, putting additional costs on businesses
14 that have been in business in California for many, many years,
15 this venture is not going to encourage new investment in
16 California.

17 For your information, I have recently been elected
18 -- I have gone into retirement from business. I have sold
19 my business, but because of my experience, I was put up as
20 Director of the California Manufacturers Association to get
21 the small business input into that organization.

22 So, I have made quite a study of the economics, and
23 I'd like to say I am very concerned. California, as I
24 understand it, by data the CMA put together, is going to have
25 to have 1.3 million new jobs by 1985. That is new jobs that

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1 are not in existence today.

2 Now, how can California provide those jobs without
3 cooperation between the State, County, and business and labor.
4 We have got a job to do for our young people. I think that
5 the idea of taking sides one against the other is wrong.
6 I think we ought to sit down and work out our differences and
7 not "black hats" and "white hats." Let's sit down and have
8 the best thing for California. A tax such as this, in my
9 opinion, is certainly going to be detrimental to future
10 business coming into California. That is new business and
11 new investment as well as improvement on present facilities.

12 I know, for example, the oil depletion allowance was
13 taken away from the oil companies. There again, personally,
14 I think that was wrong. I think that was a way of
15 subsidizing gasoline for the poorer people. I know one
16 company said they lost \$225 million. All they did was
17 tighten up their belts. A business such as ours was hurt.

18 In the oil business in Contra Costa County, there
19 is very little work being done except what is damn well
20 necessary. They are not doing anything unless they have to.

21 These are things you people in Sacramento do not
22 realize unless you were out on the front line. This is jobs,
23 and it is income to the State. Like I say, we are 47th in
24 the nation, and I just got this figure the other day.
25 Mr. Hughey has mentioned there are oil companies and other

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1 companies that are leaving California. Phillips is leaving.
2 Now, I appreciate this is a national situation,
3 but --

4 CHAIRMAN CORY: Phillips was directed by a Court.

5 MR. SIMONSON: I know that. But, at the same time,
6 I know from Phillips' people, knowing what they know now,
7 they wouldn't have ever come to California. The same thing
8 with Exxon. Exxon's present operations in California -- I
9 have been told, and I'm pretty sure by good authority -- if
10 they had it to do over, they would never have come to
11 California, because the return on investment isn't there in
12 California.

13 I think, as far as the State is concerned, if you
14 are getting eight percent return on the value of the land,
15 that's a darn good return. If I want to invest money, I have
16 got to tie it up in a savings and loan for six years to get
17 eight percent. And you get it there with no expense to the
18 State, no liability. The person that leases the property,
19 he has all of the liability, all of the expense. And anything
20 that happens, he's got it to cover for.

21 So, at any rate, gentlemen, I think that the State
22 should assist, not deter business. I think we are getting
23 to the point that perhaps the straw might break the camel's
24 back. I think we are putting a nail in the coffin in the
25 State of California as far as future growth is concerned.

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1 I would appreciate it very much if you would give a
2 lot of consideration to matters of this sort and weigh it
3 properly, because it is important. I have a number of
4 grandchildren. I am personally very concerned about the
5 future of those children. I know in the area where I live
6 there isn't opportunity for young people today. And the kids
7 coming out of school, the college kids, there are not jobs
8 today. I think it's the position of the State to look into
9 this. This is the future of California. And the little,
10 puny amount that you get here, in the overall picture, could
11 cost the State a lot of money.

12 Thank you very much, gentlemen, for the opportunity.

13 CHAIRMAN CORY: Thank you, sir.

14 Is there anyone else who wishes to address
15 themselves to Item 12 on the calendar?

16 Are the Commissioners ready for an action?

17 We are talking about an amendment of regulations in
18 Title 2, Division 3 of the California Administrative Code.
19 Those proposed regulations, as amended by the staff, pursuant
20 to the hearings, are currently before us. We have a motion
21 for the adoption of those general regulations, providing for
22 each individual lease to be renegotiated and brought back
23 before the Commission as to whether or not these particular
24 regulations are used or some alternative method.

25 MR. McGUIRE: The rates themselves have not been set?

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1 MR. EAGAN: Mr. Chairman, again, one of the primary
2 distinctions between these proposed regulations and those
3 initially proposed last year is we do not have a fixed rate
4 schedule in the proposal. In fact, there is no rate schedule.
5 It is subject to individual negotiation and all the variables
6 in a given situation can be taken into consideration.

7 CHAIRMAN CORY: Some of the objections some of the
8 people have made here would be amendments have been made in
9 the regulations, and variables taken into account with regard
10 to various factors.

11 COMMISSIONER BELL: I think that's important,
12 because quite honestly, I am as concerned as Mr. Simonson is
13 with job climate in California. I disagree with the report;
14 as you probably know, if you have read the Governor's
15 Economic Report. As far as the statistical approaches used
16 in determining whether California was 47th or not in the
17 State, it could easily have been moved up the line by using
18 different statistical methods. Business climate is also
19 quite often just in the minds of the corporate directors.
20 I don't know how you counteract that sort of thing.

21 As I understand it, what we are acting on today are
22 regulations which by themselves are not going to be unduly
23 burdensome to the consumer or to business. It's the
24 individual applications of them, as we vote on the item, that
25 will determine this; and I, for one, certainly am going to

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1 take those into very serious consideration when we act on
2 future items.

3 CHAIRMAN CORY: The Chairman will entertain a
4 motion.

5 MR. McGUIRE: So moved.

6 COMMISSIONER BELL: I'll second it.

7 CHAIRMAN CORY: The proposed regulations will be
8 adopted as presented to us. All in favor signify by saying
9 aye.

10 (Ayes.)

11 CHAIRMAN CORY: Opposed, no.

12 (None opposed.)

13 CHAIRMAN CORY: The ayes have it.

14 Item 13.

15 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
16 a 15-year commercial lease for a pipe line by Shell Oil
17 Company. At the last meeting, we commented on the
18 cooperation that Shell had given us in putting the line
19 together. At this time, we now have that lease for
20 adoption.

21 The Commission approved the environmental documents
22 and made a requisite finding and deferred until this month
23 the consideration of the rental rate to be applied to the
24 pipe line where it crosses State tide and submerged lands.
25 Shell's application has been evaluated in light of regulations

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1 already considered today by the Commission and applying a
2 criteria which would become optional on the effective date
3 of the regulations.

4 The most equitable of the alternatives is, not the
5 throughput, but is the one-and-a-half cents per diameter per
6 lineal foot method. Therefore, this item is presented to you
7 with the same recommendations as last month. However, it
8 does provide, if within one year --

9 COMMISSIONER BELL: We have a copy of those. Same
10 detail.

11 CHAIRMAN CORY: Shell is happy with the lease?

12 EXECUTIVE OFFICER NORTHROP: There is a gentleman
13 here from Shell Oil Company, Mr. --

14 CHAIRMAN CORY: Mr. Holliman.

15 MR. HOLLIMAN: Mr. Chairman and Members of the
16 Commission, my name is William Holliman. I am an attorney
17 in Sacramento representing Shell Oil Company. In connection
18 with the application, at your previous meeting you approved
19 Recommendations 1 through 3, out of 4, on the calendar items.
20 You have now before you Recommendation 4. We have had an
21 opportunity to review the language and find no problem with
22 it. The staff recommendation is acceptable to us.

23 CHAIRMAN CORY: We also have a -- Mr. Simonson,
24 do you wish to address yourself separately to this item?

25 MR. SIMONSON: No, sir. I wasn't sure what the

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1 situation would be. I was supportive of it.

2 CHAIRMAN CORY: Is there anyone else who wishes
3 to address himself to Item 13?

4 COMMISSIONER BELL: I would like to comment if we
5 use the throughput charge, Shell would not have had to pay
6 nearly as much as under the lease.

7 CHAIRMAN CORY: Mr. Bell, we will keep that in
8 mind. Without objection, Item 13 will be approved as
9 presented.

10 Item 14.

11 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, last
12 month the Commission had before it an Agenda item which would
13 approve the concept, I believe, of a commercial vessel on
14 State lands, in Sacramento City and County. That lease is
15 up for adoption at this time.

16 I should, for the record, indicate we have received
17 communication from Mr. Herbert Rhodes, Director of the
18 Department of Parks and Recreation, asking that this plan be
19 denied and deferred. And the staff feels that we have
20 complied with --

21 CHAIRMAN CORY: Back up a minute. What did you
22 tell us?

23 EXECUTIVE OFFICER NORTHROP: I have a communication
24 dated April 7th. I will read it for the record. It's from
25 Mr. Rhodes, Director of Parks and Recreation. It's a permit

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1 for the MARK TWAIN.

2 "The Parks and Recreation Department has received
3 notice of a request to place a floating barge with a
4 restaurant within the Old Sacramento area. This request
5 raises a number of questions on the use of the waterfront.

6 "As you know, following discussions between our
7 agencies in the City of Sacramento, a study has been started
8 on this area. Hopefully, this effort will lead to a plan on
9 the use of the waterfront.

10 "I request that permits in this area be denied and
11 deferred until a plan has been completed, reviewed, and
12 adopted."

13 It is addressed to the Executive Officer.

14 CHAIRMAN CORY: Let me state for the record:
15 Mr. Walter M. Harvey, to my knowledge, I have never met; and
16 he is not related, to my knowledge, to the Walter Harvey with
17 a different middle initial who is on my staff. I want every-
18 one to know that, to my knowledge, I have not met Mr. Harvey.
19 If I have, I cannot recall the incident. Just so we have that
20 all out in front.

21 We have an objection from the Parks and Recreation
22 Department. We have somebody from the City of Sacramento who
23 wishes to speak.

24 Do you have anything else?

25 EXECUTIVE OFFICER NORTHROP: That's all I have.

1 CHAIRMAN CORY: Question from the staff. This
2 particular lease, has the lessee secured all the necessary
3 other governmental permits? He can go ahead and open
4 business, or are we approving something that somebody maybe,
5 another mechanism maybe --

6 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I would
7 like to have Lin Patton from Division staff, address this and
8 answer this question. He has worked very hard on this
9 program.

10 MR. PATTON: Mr. Chairman, Members: In response to
11 your question, to say that they have obtained all other
12 permits, I can't categorically say that. However, staff has
13 been in contact with City representatives, representatives
14 with the Redevelopment District, the Corps of Engineers, and
15 with Caltrans, and with Parks and Recreation. For about two
16 months, meetings were conducted with representatives from
17 these departments, and -- with the exception of Parks and
18 Recreation -- there was no objection from any of these
19 meetings or any of the representatives with which we held
20 those meetings.

21 In fact, it was represented to us that they not
22 only were not objecting, but they were interested in the
23 development, so it could be opened in time for, or in
24 concert with, the Bicentennial Celebration in July. So, we
25 were giving it higher than normal priority in an attempt to

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1 cooperate with these desires and requests.

2 It was approximately two weeks ago, at a meeting
3 with City representatives and with the Parks and Recreation
4 people in my office, was the first time that I had heard
5 there was any objection. This was also stated, as
6 Mr. Northrop mentioned, by Parks and Recreation or by
7 Redevelopment to defer this permit. The comment made by
8 Parks and Recreation at the meeting in my office, was that
9 they were not -- they had no quarrel with the location of the
10 proposed development or the location of the float, but they
11 objected to the architecture, the design. And the City, for
12 the first time, at that meeting or just prior to it in a
13 telephone conversation with Bill Gentry, had indicated they
14 did have some, now have some --

15 EXECUTIVE OFFICER NORTHROP: You may identify
16 Mr. Gentry.

17 MR. PATTON: Who is the City Traffic Engineer, I
18 believe. That is correct.

19 So, these were the first times that we had had any
20 indication of any reservations by anyone. We felt that it was
21 a little late, but that it should be presented to the
22 Commission for your decision.

23 We are working with the City so far as our input to
24 a master plan for the waterfront development, as it would
25 affect any development that would go in on State lands,

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1 sovereign lands, along the waterfront. And we are as
2 interes. as the City that this be in concert with and
3 compatible with whatever the development plan is and will be.
4 We do not see in our analysis or review of the comments, we
5 do not see that the proposed development would be objectionable
6 or in conflict with anything that is being discussed or
7 proposed.

8 CHAIRMAN CORY: The question I think the
9 Commissioners should be thinking about here is whether or not
10 they should be in a position of approving a lease for a
11 project to which there may be some other governmental
12 objections prior to those things being resolved. My
13 political instincts tell me that for us to go ahead and take
14 the heat for approving or disapproving this project, when
15 other governmental agencies have not yet made their determina-
16 tion, is not the ultimate in political wisdom. Because, if
17 the issue becomes moot by someone else denying some necessary
18 governmental permit, we have hung ourselves out to dry one
19 way or the other on an issue to which some local people may
20 wind up making the whole question moot for us.

21 I don't know what we should do at this point, but
22 that's the reason why I ask the question whether or not
23 everybody necessary has approved.

24 I am thinking we may be in a better position to
25 avoid approving things which other people may have some stop

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1 or veto power to. Why should we waste our time even
2 agonizing over the decision, if the local building inspector
3 isn't going to issue a building permit or whatever is
4 necessary. That's the question in my mind. I don't know
5 where we stand on it.

6 MR. MCGUIRE: When we discussed this earlier, it
7 seemed to me everybody was on board on this. Everybody was
8 allowing it to go ahead like crazy. They are proceeding with
9 their plans. Now, all of a sudden we are starting to untie
10 it. I would think it would be unfair. No one has objected
11 from the Lands Commission staff. There again, unless somebody
12 else is going to stop it --

13 CHAIRMAN CORY: What I am thinking is the general
14 policy is -- Whether or not this calendar item, that the
15 staff should maybe try to see whether or not all of those
16 other permits are there, before we try to go ahead.

17 MR. PATTON: Mr. Chairman, I believe we have
18 attempted to do this in virtually every case that I can think
19 of, and the only reason I felt it necessary to qualify my
20 response to your question was that there was no way for us
21 to see if they can get the building permit, for example,
22 until they have the lease and these permits, and have our
23 lease executed.

24 Now, we have talked with Caltrans. They indicate
25 there is no problem, no objection, as long as we incorporate

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1 into the lease that it will not interfere in the operation
2 and maintenance of the bridge and highway facility, which is
3 certainly acceptable.

4 Redevelopment had no objection. The City had
5 indicated that zoning is proper, presently, and that they
6 have stated previously that they felt that they had no
7 control and no basis on which to object, officially, to the
8 proposed development.

9 So, to the greatest extent I think possible, staff
10 has done that to this point in time.

11 Now, there are representatives, or were; in the
12 audience, from the City, and the developers are here to
13 comment.

14 CHAIRMAN CORY: Okay. We have a representative of
15 the City, Chris Delgado.

16 MR. DELGADO: I am Chris Delgado. I represent the
17 City of Sacramento as an architect with the staff there.

18 We have been discussing the riverfront, specifically
19 Old Sacramento, for quite some time. And not only with the
20 State department, but also with the various commissions within
21 the City.

22 If I might belabor the Commission just a little bit,
23 I would like to just go back in history just for a second,
24 which I think will address the Chairman's question as to
25 policy. We have been attempting since 1966, via the master

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1 plan developed by the Redevelopment Agency of the City of
2 Sacramento, to authenticize the way in which Sacramento was
3 created. The period was picked in that master plan, a 21-
4 year period specifically, for the building development. The
5 period of time was 1849 to 1870.

6 The master plan addressed very specifically block
7 areas within the old city itself. It was somewhat remiss
8 in being as specific with the waterfront development, the
9 rationale there in the plan was that this was not city
10 property, was not Redevelopment property; it was that of the
11 State Lands Commission.

12 So, not imposing over other properties, the
13 diagrammatic layout of shipping was addressed in the
14 schematics of the master plan. No commentary supporting it.
15 The type of ships or anything of that nature. The State
16 Rec. and Parks Department, however, did compile a list of
17 buildings that were on the property itself, the Old
18 Sacramento property, which is basically Front Street, Second
19 Street, Third Street, from I to L. And north, the land area
20 itself; it's from Tower Bridge to I Street Bridge, waterfront
21 to the freeway. They did also tabulate the types of ships
22 that were there. However, no commentary to follow on it by
23 which we could suggest development of it.

24 It's approximately a year ago, I guess, we embarked
25 upon a scheme by which we were working with the State

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1 departments, our own Commission, to develop a plan. We feel
2 that we are approximately six months away from this plan,
3 which would do several things. The plan would develop
4 criteria by which type of ships, locations, handling of
5 proposals that are submitted before this Commission or other
6 City and County Commissions for processing. It would also
7 establish procedures. We ask that all such proposals be
8 held in abeyance until this plan is developed. We expect
9 it to be in October of this year.

10 Addressing this specific proposal before you today,
11 we request a continuance on it based on this Clearing House
12 notice that was dated April 6. It's to the Sacramento
13 Regional Area Planning Commission. If I might read it to you,
14 it kind of gives the time table by which we were looking to
15 respond to this specific submittal.

16 "Sacramento Regional Area Planning Commission,
17 as the areawide clearing house for the 4-county Sacramento Region,
18 has received notification that an application is being
19 prepared for the project referenced above.

20 "Under the Commission's procedure for areawide
21 review, all jurisdiction and agencies affected by the
22 project were notified. The intent of this notification is
23 to allow effective jurisdictions and agencies to comment on
24 the application. In order to facilitate review and comment
25 of your agency the following information is enclosed."

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1 And it says the applicant's notice of intent to
2 apply, the forms providing summary of project location,
3 purpose and cost, the applicant's environmental impact document.
4 This provides the applicant with evaluation of the project's
5 environmental impact.

6 Thirdly, the Metropolitan Clearing House
7 correspondence card. "Please check the appropriate box and
8 return within ten days." Those items have been done.

9 "This matter will be reviewed the Technical
10 Coordinating Committee on May 6, and by the Commission on
11 May 20th, 1976. If you wish any further information, please
12 contact the applicant."

13 So, we are asking for the continuance based on
14 hearing back from the Sacramento Regional Area Planning
15 Commission.

16 I have a correspondence from the City Manager for
17 the Chairman at this time. Correspondence, at last minute,
18 which, in effect, depicts asking the State Lands Commission
19 to hold in abeyance all other submittals and proposals until
20 the master plan is developed.

21 CHAIRMAN CORY: "As discussed in our meeting of
22 April 1, the city is in the process of developing a specific
23 plan for the area west of Front Street to the center line of
24 the Sacramento River and from Capitol Mall Bridge to the I
25 Street Bridge."

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1 Somehow our discussion lacks in specificity in
2 terms of those dimensions, but, okay.

3 "The rivers ultimate development will be in
4 concert with the present Old Sacramento reconstruction. The
5 river boats and ships would continue to depict the Old
6 Sacramento and railroad story.

7 "We request your commission hold in abeyance all
8 proposals and applications until the development of the
9 'specific plan' as a safety precaution for the unforeseen.
10 We ask that the area of consideration be 500 feet south of
11 Capitol Mall to 500 feet north of the I Street Bridge.

12 "The 'specific plan' is one of our top priorities
13 and is proceeding as quickly as possible. Due to the many
14 agencies (federal, state, and local) involved, we anticipate
15 a completed plan in October 1976.

16 "We appreciate your efforts in assisting us by
17 providing an interim procedure of holding applications."

18 COMMISSIONER BELL: The City plan deals almost
19 specifically with the State plan.

20 MR. DELGADO: Well, the Bureau of Reclamation and
21 the Corps of Engineers.

22 COMMISSIONER BELL: One of the Corps' problems.

23 MR. DELGADO: Yes. There are many agencies
24 involved. Incidentally, the State Rec. and Parks has
25 a considerable amount of money in the railroad museum and

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1 passenger station presently being developed, and we would
2 like to be able to extend any development on the river to be
3 able to again echo that same type of thing.

4 COMMISSIONER BELL: Has the City Council either
5 indicated for or against this?

6 MR. DELGADO: As recently as last Tuesday, the
7 City Council has instructed its staff to get in high gear and
8 develop this plan, because of applications coming before them
9 and the various pressures on this.

10 COMMISSIONER BELL: Have they commented on the
11 proposal before the Commission today?

12 MR. DELGADO: No, because they are looking more
13 towards the master plan than the specific proposal. At the
14 present time, they have, as you people probably have, no way
15 of really handling a submission for development.

16 COMMISSIONER BELL: Basically, other than the
17 building permit, the City has no control over its property;
18 and therefore, would only have, you might say, an interest
19 rather than a control.

20 MR. DELGADO: I believe it's more than that in that
21 the property, while it's on river and State lands' territory,
22 also requires accessibility across redevelopment city
23 property. The City owns all of the land to the Capitol Mall
24 Bridge. There is an easement to Caltrans, which is some
25 100 feet from the center line north.

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1 CHAIRMAN CORY: Now, we are getting down to the, I
2 think, gut issue here. I think the bottom line of the
3 thing that I am concerned about, in terms of our operation,
4 generally speaking -- We are into this one. It's on the
5 calendar. I think we are going to have to decide what we
6 want to do with this generally.

7 I think we are better off not having these things
8 put on the calendar until somebody has something in writing
9 to this Commission from the various agencies that they either
10 do or do not have access, or if they have an alternate plan
11 of access -- bringing people in by boat from the Yolo side.
12 At least some letter that they have got some evidence of how
13 they are going to use this property, rather than us discussing
14 a lease because the architect is suggesting they may refuse
15 access.

16 Now, I don't know. Greg --

17 MR. TAYLOR: I think, in fairness to the staff on
18 this item, we can assume, until receipt of the letter from the
19 Department of Parks and Recreation, which has now been
20 echoed by the City, that we were acting at the behest and
21 request of the Redevelopment Agency and City.

22 CHAIRMAN CORY: I will get to that point.

23 MR. TAYLOR: I think that the staff has fully
24 covered its bases as far as trying to assure you that we
25 had a project before you that was ready to go.

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1 CHAIRMAN CORY: In general, we don't have any legal
2 problems by making this a general requirement before we
3 clutter our calendar with it, Is there?

4 MR. TAYLOR: There is always the difficulty of
5 knowing just who chops off first on the project. I think it
6 would be better to remain flexible with respect to suggesting
7 that. Because, we have had a couple of situations where
8 everyone involved in the project refused to act, because they
9 weren't going to do it unless somebody else did. It sometimes
10 gets down to that; someone, sometime has to take the first
11 step. I guess it's a question of whether you are reasonably
12 assured that everyone is going to go ahead. I think that
13 99 percent of what you have on your calendar has gone
14 through okay.

15 EXECUTIVE OFFICER NORTHKOP: The staff has been
16 advised by Mr. Harvey that he has access. And the City plan,
17 be that as it may -- He has access to the MARK TWAIN. I have
18 some other comments I would like to read into the record.
19 He has access to the area. I have just been informed by staff
20 that the City of Sacramento plan --

21 CHAIRMAN CORY: That's what I want to get on the
22 record. Is there somebody here that can explain what that
23 access is, because it is somewhat relevant to what we do here?
24 I am hesitant to go ahead and approve this.

25 MR. HARVEY: My name is Walter Harvey. I'm the

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1 developer of the proposed project.

2 I feel that we have, in every way, attempted to
3 cooperate with the City in going to them first for direction
4 as to how we should proceed. It's out of that direction that
5 we are here today, really.

6 And the direction is documented by a series of
7 letters coming from the Redevelopment Agency.

8 CHAIRMAN CORY: Mr. Harvey, rather than getting into
9 that end of it, we may want to --

10 MR. HARVEY: Well, I think that point that you are
11 raising --

12 CHAIRMAN CORY: I want to ask you one specific
13 point.

14 MR. HARVEY: All right.

15 CHAIRMAN CORY: If we granted this lease today,
16 could you go ahead and operate that restaurant? How do you
17 get the people there, if the State says we don't want you
18 there? That is the bottom line.

19 MR. HARVEY: The answer to that is yes. We do have
20 access.

21 CHAIRMAN CORY: Please explain that. If you have
22 got that, we will deal with the terms of who misled whom and
23 why and go ahead and deal with it. If they have got you
24 stopped, I don't see wasting the Commission's time.

25 MR. HARVEY: They do not. We have a 99-year lease

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1 agreement with Caltrans for that portion of the entire ease-
2 ment which is 180 feet through there. We can come directly
3 off the bridge easement there, and that easement that we do
4 have is under an agreement which we can document. We have --
5 the City has approved through the Council, not only
6 recommendations, but motions approving that easement, and
7 rezoning that entire easement to C3 to accommodate the
8 commercial development within this easement.

9 We have that easement granted to us, and I think
10 under another State Lands' agreement with Caltrans, you can
11 document that you have access to that agreement as well.

12 CHAIRMAN CORY: Mr. Delgado, is that your
13 understanding that the access, in fact, is there?

14 MR. DELGADO: There is the access of the City
15 property which is the easement given for Caltrans' use.
16 It's the 180 feet as stated, which means 40 feet out from the
17 bridge itself. However, in the zoning of C3, you still need
18 access whether it be across the Caltrans portion or not.

19 It provides the City with a considerable amount of
20 problems in that pedestrians will be coming across Caltrans
21 property. There is nothing immediately foreseen to be
22 developed in Old Sacramento itself, which would either require
23 pedestrians to go across the access road which is proposed for
24 Old Sacramento or going across Capitol Mall from the south.

25 The second item that --

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1 CHAIRMAN CORY: I am not sure what you just said.

2 MR. DELGADO: I am saying that the accessibility,
3 40 feet, is within the easement that is being described here.
4 That is true. However, you must generate people from some
5 point. That point that you are generating them from would be
6 in two places: One, from the south across Capitol Mall and
7 down that easement or from Old Sacramento itself.

8 CHAIRMAN CORY: That's a planning problem that the
9 City has to cope with, but I am not so sure --

10 MR. DELGADO: You are asking me the question, if
11 I can understand it correctly, Mr. Chairman; What problems
12 of accessibility are there?

13 CHAIRMAN CORY: I am trying to find out whether or
14 not if we grant this lease you can stop Mr. Harvey from
15 proceeding. Because, if you can, I don't want to debate this
16 any further. If you have a mechanism by which you have an
17 ultimate veto power over Mr. Harvey and his development or
18 not.

19 MR. GENTRY: Bill Gentry, City Engineering Office.
20 I'm the Senior Civil Engineer, City of Sacramento.

21 The problem and the conflict that comes up is that
22 the Division of Highways has a 50-foot, from the center line
23 north, right-of-way along Capitol Mall. The overall street is
24 100 feet. The State Lands has granted to Caltrans an easement,
25 in 180-foot width, going across their property across the

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1 Sacramento River. Where these two meet, there is a 40-foot
2 discrepancy on the north side. That 40-foot takes in the
3 area right there where Walt has proposed his access.

4 We are saying that we are the upland, the agency is
5 the upland owner in that area.

6 Now, Walt could come up with a plan, which
7 possibly he could work, where he could get far enough south
8 where he is out of your property. Then he would have legal
9 access. But, we do control a portion of the upland area
10 planned in that proposal.

11 MR. HARVEY: That has not answered your question.

12 CHAIRMAN CORY: No, it hasn't. Top of the issue.
13 The bottom line I want answered before we approve this
14 thing; if we approve it, can you go ahead and operate if the
15 City tells you to stick it in your ear?

16 MR. HARVEY: May I read a letter here that comes
17 from the Housing and Redevelopment Agency? It's a very brief
18 letter. There seems to be an implication here that we have
19 not approached the City on these things. We have not only
20 approached the City, we have tried to gain their cooperation
21 in every way. We thought we had it up until two weeks ago.

22 This letter is dated February 25th. It's addressed
23 to myself.

24 "This is to advise you that at a meeting of the
25 Sacramento Housing and Redevelopment Commission, held on

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1 February 23rd, --" That's the time at which we proposed
2 this thing before the Commission.

3 "-- 1976, the members of the Commission adopted
4 a motion recommending that you deal directly with the State
5 Lands Commission regarding title of this
6 property."

7 "And further, to investigate and commence --" or the
8 staff be directed to further investigate and commence
9 planning of the total waterfront. But since 1966, they have
10 been planning that waterfront. And it goes on and on and on.
11 Only when a project comes up, do they instigate planning.
12 Then they shelve it as soon as the projects are postponed
13 or put off. It goes on and on and on.

14 We have been asked by the City to come here and
15 request this permit. I just don't know which other way to
16 turn. We have been directed not to go before the Planning
17 Commission, not to go before the City Council. We have no
18 avenue to even go before the City.

19 I have numerous petitions here of private persons
20 within the community. What Board do we go before?

21 Now, I realize that you have a very busy schedule,
22 and you don't want to get into the conflicts that seem to be
23 indicated on this project. However, we have been told to come
24 here and resolve it.

25 CHAIRMAN CORY: Mr. Gentry --

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1 MR. GENTRY: I would like to respond to parts of
2 what Bill just stated. He came to the City and he came to the
3 agency and stated: Hey, I have got a proposal I want to put
4 together. It's totally on State lands. I really don't need
5 your support, but I would like to get you involved. His
6 first indication was that it was totally within State property,
7 Caltrans or State lands.

8 CHAIRMAN CORY: He has indicated to us that it is.

9 MR. HARVEY: Did you concur with that, Bill?

10 MR. GENTRY: At that time, I didn't have any way of
11 disagreeing with it.

12 CHAIRMAN CORY: But, today?

13 MR. GENTRY: Yes, I disagree with it. Based on
14 plans I have available to me right now, he would have to
15 utilize a portion of the agency property for access, at which
16 point, would require approval by the City.

17 CHAIRMAN CORY: Can we resolve that factual issue
18 as to whether or not he can or cannot proceed? Because, it
19 seems to me somewhat critical.

20 MR. GENTRY: I have yet to see an official map
21 which shows that whole area. I have tried to put together
22 maps from Caltrans. I have had a map supplied by your
23 department, State Lands, indicating the right-of-way. But,
24 the actual boundary point between those maps is indeterminate,
25 as we discussed at the earlier meeting. trying to reach some

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1 kind of a mutual line through that area.

2 Depending on how Walt puts together his plans, he
3 could possibly tie south to State property. But, I can't
4 verify that. So, if he has to cross City property, the City's
5 reaction at this time is to deny.

6 CHAIRMAN CORY: You are saying he may be able to
7 develop it so he doesn't have to go across City property?

8 MR. GENTRY: I think it's possible. I don't know
9 for sure. He has got a lot of other problems, handicap
10 requirements. I can't deny he can't do it. I don't know.
11 He has never prepared a map that shows it.

12 CHAIRMAN CORY: Mr. Bell, would you Chair the meeting
13 for a few minutes.

14 Go ahead and make your comments.

15 COMMISSIONER BELL: I will try to make a comment
16 just to take over the meeting.

17 When you sit here at the State level and try to
18 deal with a private citizen and also local government -- and
19 we do have a responsibility to recognize local autonomy --
20 you are in a real awkward position. But I feel that the
21 particular developer did everything he could to try to get
22 his project clear, and now, all of a sudden at the last
23 minute, the local people are raising a lot of problems to him.

24 Yet, on the other hand, I am caught right in the
25 middle of saying, since this is still sort of nebulous, we

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1 haven't really resolved what we are dealing with here and
2 it's suddenly thrown at us.

3 My inclination, in this type of activity, is to put
4 the item over until our next meeting and serve notice to the
5 City that we intend to act on this item at the next Board
6 meeting, Commission meeting. And if they have got anything
7 more to add, they had better get in and make their case, both
8 to the applicant and us as well.

9 I realize, this penalizes the developer and I don't
10 like that; but, I also have to recognize the fact that I look
11 to the City Council at least to have some reasonable input.
12 I also recognize the fact that the application which you were
13 speaking of that wouldn't be acted on until May -- I think
14 May 20th, which is pretty late. We do have a responsibility
15 through the Clearing House of getting all comments on
16 projects. That sort of bothers me a little bit.

17 But, without the Chairman being here, I feel that
18 my reaction at the moment, and in a very fuzzy way, is that
19 I am not clear enough to act on it for a month, primarily
20 because of an apparent change in the heart of the City.
21 Maybe we ought to just say: All right, for a month we will
22 give you a chance to state your case. If you don't, we will
23 act on it at the next meeting.

24 MR. GENTRY: Commissioner Bell, pardon me. Does
25 the State Lands Commission normally require a legal

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1 description for a project area?

2 MR. TROUT: Yes, we do. We have a legal description
3 of the State-owned land that is involved.

4 MR. GENTRY: Do you?

5 MR. TROUT: Yes.

6 MR. GENTRY: We, today, have never received anything
7 that specifically indicates the exact boundaries and
8 relationship of adjacent properties for this project. If it
9 is available, we would appreciate it. If not, I would go out
10 and hire an engineering firm to do that work.

11 COMMISSIONER BELL: I don't know whether my other
12 two Commissioners will agree with my position, and I realize
13 this louses up your time schedule.

14 EXECUTIVE OFFICER NORTHROP: Have you made a
15 request earlier for that description?

16 MR. GENTRY: I have asked Walt for a description.

17 MR. HARVEY: Bill, I gave you the only description
18 that I had. I have tried to cooperate with you meeting after
19 meeting arter meeting, and you indicated your full
20 cooperation.

21 MR. GENTRY: No.

22 MR. HARVEY: Yes, you have.

23 MR. GENTRY: Walt, you are misconstruing things.

24 CHAIRMAN CORY: Okay. We are returning the gavel.
25 I was hoping you would resolve the problem.

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1 (Laughter.)

2 MR. DELGADO: If I might, just one more comment.
3 We have come here for one purpose only. Two
4 purposes.

5 Let me say, first of all, for a continuance based
6 on allowing the Regional Clearing House to respond --

7 COMMISSIONER BELL: If that could be done by the
8 next meeting.

9 MR. DELGADO: Yes, because they will be asking on
10 May 20th. I believe, your meeting is scheduled for the 28th,
11 or 27th. That will have been done. The City will also give
12 you additional information that will make it a little clearer.

13 Secondly, we would like for you to entertain some
14 interim method of holding further applicants until October
15 of '76, on which we will have all of those policies developed.
16 The master plan developed.

17 CHAIRMAN CORY: First, let me discuss -- I had a
18 meeting with my office at which, I believe at the request of
19 a local Legislator, as I recall, some people from the City
20 came over to discuss -- I don't know whether -- since we are
21 here we might as well do it publicly.

22 I am a little disturbed as to whether or not we
23 have communicated fully to both sides what we have in mind.
24 I have indicated my views as an individual Commissioner, and
25 not as the Commission or the Division, to the people in that

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1 meeting.

2 Those views are -- and I have no idea whether the
3 other Commissioners share in them or not. They were talking
4 about how could we cooperate in this development. I said
5 that first of all I felt that the upland owners, and it was
6 represented to me that the City had all of the upland
7 ownership, at some point, whether it was from the front side
8 or the back side of the wall. If the City was the entire
9 upland owner, that any development would require the approval
10 of the upland owner, and, therefore, the City should, in
11 essence, be the lead in doing that.

12 In fact, if the City preceded by any reasonable
13 development program, I would be inclined to go along.
14 Provided, however, that the selection process had to be truly
15 open and competitive. That if there were any local
16 shenanigans, in terms of the selection of developers, that
17 I as a Lands Commissioner was not going to get trapped into
18 any of that local politics. If I thought they were playing
19 favorites or games one way or another, I wasn't going to be
20 a part of that. That my vote would be separated from that.

21 Now, from that, someone might be able to go
22 further than the literal statement that I made; and I do not
23 want anybody to be laboring under a misapprehension that I, as
24 a Lands Commissioner, am going to vote for whatever the City
25 puts before this body.

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1 I want that to be made crystal clear as to what I,
2 in essence, put forth as an individual. And the other
3 Commissioners, I don't know if you met with them or if you
4 didn't. I want you to know where I am and why.

5 I am a little apprehensive, as I hear the track
6 record from our staff, that you have given somebody a cheap
7 shot in this particular development. Now, that may or may
8 not be the case, and I don't want to get into the act of
9 judging that. But, there are strong indications that somehow
10 the local house was not in order on this particular
11 application.

12 I am willing to let this thing go over. But, I am
13 telling you if the City thinks it can pull inconsistencies
14 like this on every plan that comes through, or that I, as a
15 State Commissioner, should sit back and allow the local
16 politics of Sacramento to totally dictate my actions, it's
17 not going to happen. I don't like being in a position of,
18 a month ago somebody coming in and saying you have got to
19 approve this as an act of cooperation for local government.
20 And that's, as I recall, how the original thing a month ago
21 was placed before us.

22 Everybody needed us to say: Yeah, you have got this
23 land so local government can proceed with development. No-
24 body countered that. It was all on open, public agenda, and
25 was all discussed in open, public meetings.

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1 Now, everybody is coming back and saying something
2 else. So, I am a little tender, friends, about whether or
3 not we are communicating clearly and efficiently with
4 everybody. I have some qualms.

5 I have no idea about Mr. Harvey's individual
6 project. I had some hesitancy about meeting with him
7 privately, which I did not prior to this meeting, for this
8 very reason. I am not sure the City comes to us with clean
9 hands. I will tell you, if they get much dirtier, you don't
10 have much to deal.

11 MR. DELGADO: If I might respond to that.

12 CHAIRMAN CORY: I don't think that you need to as
13 long as you understand the English language. I think I have
14 talked fairly plainly, as far as I am concerned. But, I
15 don't think it's anything we can resolve in this meeting.
16 I just want to put it right out in front, so everybody knows
17 where he is. No deals.

18 I do not want to get caught in a project development
19 to which the specifications are tailored to any individual
20 developer. I don't want to be on either side of that. I want
21 to remain neutral. I would think the other Commissioners
22 feel the same way.

23 We wish to cooperate with the City, but we don't
24 want to play games. We are in an awkward position now.
25 Mr. Bell has a suggestion of putting this over. I don't know

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1 what Mr. McGuire believes. I am not adverse to that. I am
2 not sure how adversely that affects Mr. Harvey. That's the
3 question now, the ball is in your court. I don't know what
4 the answer would be if you opt otherwise.

5 MR. HARVEY: I would request that it not be put
6 over. I have, in my dealings with the City, much of what I
7 presented to them was predicated on having this development
8 there and functioning for the Bicentennial Celebration.
9 They thought that was a good idea. The Redevelopment Agency
10 and other members of the Planning staff and so forth.
11 I feel that we do have the legal position of going ahead with
12 the proposed development, regardless of what the City's
13 position might be.

14 I feel that given the proper course of going
15 through the City, as I was requested not to do, I could
16 resolve this at the City level, too. But, then, we are going
17 to be into next -- you are suggesting that your plan isn't
18 going to be even approved until next October. I think we are
19 putting the project over a year. On the basis of the
20 commitments that we thought that we had, we understood we had.
21 We have gone out and committed to the purchase of a boat.

22 CHAIRMAN CORY: I don't believe that Mr. Bell has
23 suggested that we put it over for a year. We will put it over
24 until the next meeting, next month. I don't know what that
25 does to you.

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1 COMMISSIONER BELL: I suggested, if the others
2 agree, that we take this item on the calendar next month,
3 which is the 27th of May. And it will be settled at that
4 time, as far as I'm concerned. I guess, what my part of the
5 question would be, what does one month's delay cause you in
6 terms of whatever --

7 (Thereupon the proceedings were momentarily
8 delayed to allow the reporter to change
9 paper.)

10 CHAIRMAN CORY: We are, I guess, back on the record,
11 Mr. Harvey.

12 MR. HARVEY: The item, I believe, that is before
13 you is approval of the EIR, if I am not mistaken. There is
14 certain legal responsibilities within the preparation time --

15 CHAIRMAN CORY: The EIR is here. We are on final
16 approval of the lease.

17 MR. HARVEY: That was one of the items, yes.

18 CHAIRMAN CORY: The EIR has been filed and
19 accepted previously, is that correct?

20 MR. TROUT: It has been filed. You have certified
21 that there was no environmental significant effects through
22 a negative declaration.

23 CHAIRMAN CORY: That would be done automatically
24 with the adoption of Item 14.

25 EXECUTIVE OFFICER NORTHROP: One of the three

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1 recommendations.

2 COMMISSIONER BELL: Item 1.

3 MR. TROUT: And on the negative declaration, with
4 the exception of the letters speaking of comprehensive
5 planning from Director Rhodes, we have received no adverse
6 comment. In fact, no comment at all.

7 CHAIRMAN CORY: I am somewhat --

8 MR. HARVEY: If you wish to hold it over, I would
9 wish you to certainly instruct all parties to act within an
10 air of cooperation. I feel that, you know, we can come back
11 here with an approved plan that just totally plans the project
12 right out of existence in 30 days. And I feel that if you are
13 going to request that we agree to have it held over -- maybe
14 you are not requesting that; I don't know. But, if you are
15 requesting that, I would certainly be skeptical about how
16 we would cooperate with the City now and what avenues of
17 lobbying the City might have to change the nature of this
18 project within the next 30 days.

19 CHAIRMAN CORY: I am going to comment on where the
20 votes may or may not be. I have not discussed that with any-
21 body prior to this meeting. I am not sure, from what the
22 Commissioners have said thus far.

23 The question in my mind is that in 30 days you might
24 also be able to better determine where you are or are not via
25 the easement. Whether or not you are really in a position to

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1 proceed if we approve this, or you are not.

2 MR. HARVEY: I believe that has been determined by
3 your staff.

4 CHAIRMAN CORY: If you are proceeding based upon
5 that as your sole source of that information, I would strongly
6 advise you not to. That to my knowledge, the staff may be
7 competent to do that, but they are not paid to have done
8 that. I would hope they have not spent their time to
9 ascertain your easement rights. So, that is the "tough gut"
10 question, if you are going to get into a feud with the City.

11 MR. HARVEY: I don't want to get into a feud with
12 the City.

13 CHAIRMAN CORY: You ought to just really know where
14 you are, and that you can, in fact, win that one. As to
15 where you are going to negotiate from, I don't want to advise
16 you whether you do have it or don't have it.

17 MR. HARVEY: Our legal counsel advises me that we
18 do.

19 MR. STAUFFER: May I address the council? I mean,
20 the Commission?

21 CHAIRMAN CORY: You are, sir?

22 MR. STAUFFER: Brett Stauffer. I am the co-developer.

23 Partly what you no doubt sense, is our reaction.
24 It's pretty obvious that it stems from the fact that we do
25 feel a certain degree of betrayal, and we are even further

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1 perplexed by the request for a delay simply because of the
2 reason we are here today. From November of last year to date,
3 we have received continuous and enthusiastic support of the
4 architectural concept and the location. We integrated input
5 from people who even said they had no jurisdiction.

6 We go all the way to this point, and now we have
7 everybody saying: I am not sure I am prepared to respond to
8 that. My contention is that there is nothing that has been
9 said by those that want to see it delayed pending compre-
10 hensive analysis of what happens down there. There is
11 nothing that has been demonstrated that suggests that we
12 contradict or are in conflict with what they ultimately
13 conceive of something of Old Sacramento.

14 Quite to the contrary, we might enhance what's been
15 a ten-year boondoggle on development of the water, because
16 we demonstrated it economically viable. We established some
17 of the guidelines and some of the steps by which somebody else
18 can get down there. Somebody that's probably going to be
19 three or four or five times as big as our boat.

20 Our boat is only 70 feet long, gentlemen. It doesn't
21 dwarf the impact, or dwarf the rest of the development that
22 is going to go on down there. Quite to the contrary, we are
23 laying ourselves on the line. We are going to be the first,
24 but there are others that are going to be far larger. We have
25 indicated an air of cooperation.

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1 CHAIRMAN CORY: Would you be interested in a
2 slightly larger boat?

3 (Laughter.)

4 MR. HARVEY: Build a larger boat and have it stay
5 within the easement.

6 MR. STAUFFER: Melvin has indicated his willingness
7 to sell. He thought we were successful.

8 CHAIRMAN CORY: If you can handle the negative
9 cash flow of this particular boat, we might be willing to
10 override the City's concerns. Solve that problem.

11 MR. STAUFFER: But, to conclude my windy
12 dissertation, I might ask you a rhetorical question. How
13 does the State hurt its position if it does approve our lease,
14 since obviously, and especially if the State has the ability
15 or authority to direct the City to respond within, say, 20 or
16 30 days to our request as to determination of whether or not
17 it complies architecturally.

18 We are really submitting ourselves to esthetic
19 vagaries.

20 CHAIRMAN CORY: I think the problem is I am unaware
21 of any power we have over the City to require them to do
22 anything. I want to make that, to the best of my knowledge,
23 very clear to everybody, so we don't get in the position of
24 having approved a lease to which you then want to come back and
25 include us in a party to the suit when you sue the City in some

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1 fashion.

2 MR. STAUFFER: Mr. Chairman, we understood that.
3 We understood that win the lease and we would then have, in
4 essence, the ownership evidence that would allow us to
5 legi' tately request the approvals which are only given in
6 concept prior to us being able to say -- we can't very well
7 go in and ask for connection of sewer and drainage and
8 everything else, unless we suggest that we have possession
9 of it. So, in terms of the order of things happening, the
10 lease is the first step.

11 Also, I really am confused as to the City's
12 response, because I have heard nothing in their comments that
13 suggest that they are really challenging the architectural
14 viability of the project.

15 CHAIRMAN CORY: Mr. Stauffer, I don't really know,
16 but from my side of the table and somewhat disinterested
17 emotionally in the issues -- maybe I shouldn't be, I mean, but
18 I realize you have money and ego involved. We sit here. It
19 comes in. I heard the people from the City. I am not sure
20 that you might not be in some sort of horse race with some
21 other developer. The City hasn't decided which one it wants
22 yet.

23 I don't know, but I'll tell you, that is what I
24 sense may be happening. I don't want to get in the middle of
25 that. All I want is for the horse race to be clean and honest

1 That's the message I was trying to deliver to the
2 City people. We are not going to shore up any shenanigans.
3 I am not suggesting that, but if anybody is listening to a
4 listening box or anything, I want them to understand that.
5 I am not suggesting that. But, I want to make it very clear
6 that, since this is the first one, the Commission is not
7 going to rubber-stamp whatever the City wants because they
8 want it. If it's a good project, we will probably go along.

9 I am inclined to try to cooperate with the City,
10 because in the long run, we are better off, the State and the
11 City, if we have a cooperative arrangement.

12 This one seems to have gotten off the track. I
13 don't know if you are responsible or whether the City is
14 responsible. I don't want to adjudicate that. I've got my
15 own problems.

16 MR. STAUFFER: That's an understandable position.
17 I would like to also emphasize that we have a considerable
18 investment and a commitment, even more importantly, for a
19 larger investment that was made because certain commitments
20 require greater lead times. We find ourselves having made some
21 of those commitments when we presumed that they were valid.

22 CHAIRMAN CORY: Now, we are getting down to some
23 kind of "cutting," I think they call it.

24 MR. STAUFFER: Yes.

25 CHAIRMAN CORY: Mr. Bell is wanting to know from

1 you, can you sustain a 30-day delay or can you not? If you
2 cannot, then you are probably better off reading and weeping
3 today. I don't know if you have got the votes or don't have
4 the votes. Mr. Bell has requested -- and it's a relatively
5 small Commission. There are three members. That should tell
6 you one thing, you have got one member who is not -- so, it's
7 your move, friends.

8 I hate to put you under the gun, but it's your
9 money.

10 COMMISSIONER BELL: We are not asking that you
11 acquiesce to it. We are asking merely, can you stand the
12 30-day delay?

13 CHAIRMAN CORY: You are down the chute anyway.
14 We might as well vote it yea or nay. I don't know where the
15 votes are, and I am not sure anyone is willing to tell you.

16 MR. STAUFFER: Would it be fair to characterize
17 the Commission's position at present that assuming that the
18 differences -- there could be a clarification between the
19 City and our position -- that we do have a lease that's in a
20 position to be approved by the State? And your reticence to
21 react today stems from the fact you suspect maybe the City
22 ultimately may not approve of or believe -- I characterized
23 it -- that it will be consistent with their ultimate plan.
24 And then, is a 30-day delay really what we are talking about?

25 CHAIRMAN CORY: We don't know what the City's

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1 position is. They seem to be disturbed.

2 COMMISSIONER BELL: We don't really have a very
3 clear picture of their position.

4 CHAIRMAN CORY: If in fact, the easement access
5 which you think you have, you don't have; I am a little
6 reluctant to tell the City to "go fly a kite" when they are
7 going to nail you anyway.

8 MR. STAUFFER: That was not our position anyway.
9 I don't think it would be fair to suggest that. I am not
10 saying that you are accusing us of that, but that hasn't been
11 our position from the beginning. Even when we were told by
12 many of these people they had no jurisdiction, we still went
13 to them and said: Assuming that you did, what would you
14 expect, require, et c. tera.

15 CHAIRMAN CORY: Can you respond to Mr. Bell's
16 question? Do you want a vote now or later?

17 MR. HARVEY: We will respond by saying that we will
18 accept a 30-day delay, until your May meeting, in the hopes
19 that we can work out an agreement with the City which will be
20 suitable to you at that time.

21 CHAIRMAN CORY: We will put this item over to the
22 May meeting for the two sides which appear to be existing.
23 The Commission, as I read their will, is to resolve this
24 issue at the May meeting and not to wait until October.

25 COMMISSIONER BELL: May we instruct the staff to

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1 notify the City Council of this problem we have, and of the
2 fact that we wish to resolve the issue at our next meeting.

3 CHAIRMAN CORY: At the request of our staff to you.

4 MR. DELGADO: One other item, on the letter from
5 the City Manager on other proposals. Would there be anything,
6 with the City being the upland owner, which we can develop
7 as an interim policy until the master plan is developed?

8 COMMISSIONER BELL: We should separate that.

9 CHAIRMAN CORY: This would probably be a separate
10 item on the calendar.

11 EXECUTIVE OFFICER NORTHROP: Do I detect there is
12 another proposal for a vote pending?

13 MR. DELGADO: Well, yes. I believe there is.
14 Bill?

15 MR. GENTRY: There is one upstream.

16 MR. DELGADO: Not in the same location. We do not
17 have a horse race going, if you will. But there are many
18 proposals that come into the Old Sacramento area. Pony
19 Express.

20 CHAIRMAN CORY: Do you realize that you could not
21 have either of those? You could have one boat that could go
22 between each of those two locations.

23 Item 15.

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
25 an authorization of the County of Los Angeles to lease a

1 groin area in Las Tunas Beach.

2 CHAIRMAN CORY: Anybody in the audience who wishes
3 to address themselves to Item 15?

4 No objection. Be approved.

5 Item 16, Southern Pacific Transportation Company,
6 right-of-way, ten-year lease near Herlong in Lassen County.
7 Is there anybody in the audience who wishes to address
8 themselves to SP's request? Any objections? Any questions
9 from the Commission?

10 Without objection, be approved as presented.

11 Item 17. Exxon Corporation, U. S. A., Texaco,
12 Incorporated. Resumption of drilling operations, Belmont
13 Offshore Field, Orange County.

14 As I understand, reading the Agenda item, that is
15 resumption of drilling pursuant from existing locations,
16 pursuant to existing contracts that have been let; and the
17 resumption relates to a moratorium that was imposed for
18 additional environmental hearings regulations. Those have
19 been met, and it is now time for the State to face up to its
20 contractual obligations.

21 Is there anyone in the audience who wishes to address
22 themselves to Item 17?

23 Without objection, Item 17 will be approved as
24 presented.

25 Item 18. Atlantic Oil Company, oil and gas lease,

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1 Freeport area. Is this Atlantic Oil Company?

2 EXECUTIVE OFFICER NORTHROP: Atlantic Oil Company.

3 CHAIRMAN CORY: This is a gas lease on the old
4 Highway Patrol -- I want the Commissioners to be aware that
5 I own some property similarly located to this; and I, as an
6 individual landowner of property, decline to enter into such
7 a lease for my own reasons as an owner. As a result, I plan
8 to vote no. But it's no big deal one way or another.

9 It's just that if that was my land or I had land
10 similarly located and chose not to lease it under those
11 conditions, I think it would be highly inconsistent of me to
12 vote to lease the people's land under those conditions that I
13 had personally judged on those facts.

14 COMMISSIONER BELL: That sure leaves me in a
15 position, whether you feel this is economically --

16 CHAIRMAN CORY: Mr. Bell, you have to clearly
17 understand that there are other considerations other than
18 money in my life.

19 (Laughter.)

20 COMMISSIONER BELL: Oh.

21 CHAIRMAN CORY: Now, how's that?

22 COMMISSIONER BELL: That's very good. Why don't you
23 just abstain?

24 EXECUTIVE OFFICER NORTHROP: Mr. Everitts of our
25 Mineral Extraction Division has prepared this.

1 CHAIRMAN CORY: That may not be a bad decision.
2 You guys dispose of it. I'll step aside. You decide what
3 you want to do.

4 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
5 Mr. Everitts from our Mineral Division who made the lease.

6 MR. EVERITTS: I would like to point out there is
7 at least one consideration. This was a negotiated lease for
8 the reason that there were no available drill sites on State
9 land. This is property owned by the Highway Patrol Military
10 Department, but they would not make drill sites available.

11 The lease is for below 500 feet and, therefore,
12 since we do not have the drill sites to give to the company,
13 we were leasing simply the right to drill for oil and gas.
14 Five dollars per acre, which would be nominal, very nominal,
15 if we had the surface rights.

16 The royalty rate is one-sixth flat for liquid gas.
17 It's a sliding scale for oil, and the oil possibilities are
18 very minimal. There was some compensation. Fifty percent of
19 the royalty rate is considerably higher -- or could be that
20 high -- considerably higher than the normal private lease.

21 COMMISSIONER BELL: Do you wish to address the
22 Commission?

23 MR. BOONE: Yes, I do.

24 COMMISSIONER BELL: Your name for the record.

25 MR. BOONE: Terry Boone, representing Atlantic Oil

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1 Company.

2 I would just like to point out to the Commission
3 that this is not for an oil and gas lease. This is an
4 extension of an oil and gas lease which has already been
5 executed.

6 The reason for the request of the extension is that
7 an environmental report has been required by the City of
8 Sacramento. It has been submitted, and we have no response
9 to it as of yet. But, the time table on it looks like about
10 another six to eight months. That is the reason for the
11 request of the extension of time.

12 MR. EVERITTS: I should add one other thing for the
13 record. The extension of the lease is at the Commission's
14 discretion. They had a three-year primary grant during which
15 time if they did not drill the well, the lease expired. It is
16 my personal recommendation and the staff recommendation that
17 the extension be granted, but you do have that option.

18 COMMISSIONER BELL: Without objection, then, Item
19 18 on the Atlantic Oil Company will be approved.

20 I will return the gavel to the Chairman on Item 19.

21 CHAIRMAN CORY: Item 19. Union Oil Company, Magma
22 Power, Thermal Power, approval of proposed drilling of
23 geothermal wells at the Geysers, Sonoma County.

24 Is there anyone in the audience who wishes to
25 address themselves to Item 19?

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1 Item 19 is approved as presented.

2 Item 20. 4M Company: A prospecting permit for
3 minerals other than oil and gas and geothermal resources,
4 two-year lease on 19,996 acres -- should have given them
5 another four -- submerged lands, San Diego County.

6 That is for an exploration permit only. Is that
7 correct? It is not for any commercial operation? They want
8 to go out there, and we will get full inventory information
9 of what they find?

10 EXECUTIVE OFFICER NORTHROP: Right.

11 MR. TAYLOR: They do have a preferential right for
12 a lease.

13 CHAIRMAN CORY: If we decide to lease -- Do we have
14 the right not to lease? They may find gold, and we may
15 decide that we don't want the gold removed.

16 MR. TAYLOR: We certainly have that option. If a
17 lease is to be let, they would have a preferential right.

18 CHAIRMAN CORY: Is that in perpetuity?

19 MR. TAYLOR: No, it's within the lease.

20 CHAIRMAN CORY: Is it a given period of time?

21 EXECUTIVE OFFICER NORTHROP: The lease period is
22 for two years.

23 CHAIRMAN CORY: But, the referential --

24 MR. GORDON: Excuse me. May I address the
25 Commission?

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1 CHAIRMAN CORY: Yes.

2 MR. GORDON: My name is Stan Gordon of Tuohey,
3 Barton and McDermott. I represent 4th Company.

4 It is our understanding, at this time, that if
5 substantial economic minerals are determined to exist out
6 there, we do have the right to convert over to a lease.
7 There is a negotiated royalty rate which is a part of the
8 calendar item at this point.

9 CHAIRMAN CORY: If that is your view, then I'm not
10 so sure we should proceed with this item unless that's
11 clarified. This was presented to me as an exploration, and
12 I'm not so sure I am willing to present myself to your right
13 to take that out of the County.

14 I think we ought to put this up front. It seems to
15 me that would require rather significant environmental impact.

16 MR. GORDON: We do have to go through that. That
17 is a condition of our lease.

18 CHAIRMAN CORY: To let me know more of where I am
19 coming from. So, you make your decision.

20 I do not want to get this Commission, while I am a
21 member of it, in the position we are with other mineral
22 leases where we don't have any control over them. In terms
23 of Santa Barbara and elsewhere. I want things delineated
24 beforehand. I do not want to have any contractual problems
25 tying the hands of this Commission, of pursuing that which is

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1 in the best public interest. Which may or may not be in
2 the best interest of 4M's economic interest.

3 MR. HIGHT: Mr. Chairman, Mr. Brady of our staff.

4 MR. BRADY: The permit which is going to be
5 executed today is an exploration permit only and allows two
6 years' exploration. At the end of that time, if they have
7 not found commercial minerals, it will be terminated. If
8 they have found them, they are entitled to a preferential
9 lease.

10 They have to, however, go through the Environmental
11 Quality Act, submit to an EIR. If there is found to be no
12 significant environmental impact, they are entitled to lease
13 under the royalty commission here. The lease terms will be
14 negotiated at that time, however.

15 MR. MCGUIRE: Is that required by the law, that
16 they get the lease?

17 MR. GORDON: They have a right to preferential
18 lease.

19 MR. BRADY: They have a right to flip this
20 exploration permit up?

21 MR. TAYLOR: You would find you have all those
22 controls at that time.

23 CHAIRMAN CORY: I am not prepared, from the
24 information I have and the time this Commission has, to deal
25 with the question whether or not there should be heavy mining

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1 off San Diego. That's a big number. If you want to get my
2 vote for that, you are going to have to really present an
3 awful lot more information than I am prepared to listen to
4 today.

5 COMMISSIONER BELL: Mr. Chairman, can I ask a
6 question?

7 May we refuse a lease at that time?

8 MR. TAYLOR: Your discretion is limited, but you do
9 have discretion to refuse it. But, only for reasons stated
10 in the permit. One of those is satisfaction of environmental
11 requirements. If satisfaction of environmental requirements
12 is not being met, sustained by the record, we can refuse to
13 allow --

14 COMMISSIONER BELL: Refusal is not a true option,
15 only a limited option. Not a full option.

16 MR. TAYLOR: You do not have the choice; lease, not
17 lease. If they satisfy all of the requirements that are set
18 forth in the permit, they have a right to flip it.

19 CHAIRMAN BELL: I am not prepared to vote for it
20 at this point.

21 MR. BRADY: All the rights they have at this time,
22 is the right to explore. They do not have beyond that.

23 MR. TAYLOR: It is a preferential assignment. In
24 other words, they did not give a competitive bid on this. If
25 they find minerals --

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1 MR. McGUIRE: Is there some way to grant a
2 prospecting permit?

3 EXECUTIVE OFFICER NORTHROP: Staff counsel inform
4 me it is unflippable. We are up against the statute. We are
5 hamstrung on this with a leasing statute.

6 MR. HIGHT: That's correct.

7 MR. GORDON: Sir, if I may, a comment.

8 We have appeared before the Coastal Commission. We
9 have agreed to come back before them, if they are in
10 existence at that time, and meet all applicable requirements.
11 We are going to have to reapply with the Army Corps of
12 Engineers. It's not like we are just -- the issue is clear.
13 We are merely asking for the right to do some initial
14 prospecting. It may turn out to be nothing at all. No
15 reason at all to proceed.

16 CHAIRMAN CORY: If it turns out there is something
17 you really want to do --

18 MR. GORDON: We have to reappear before the
19 Commission anyway.

20 CHAIRMAN CORY: I do not want to give up any options
21 I have as Commissioner, because the depth at which I look at
22 it is very shallow. If you want to go out there and scratch
23 around on the ground and find out what's there, and after
24 you find out what's there, come in and decide what we want
25 to do with it. That's one set of circumstances.

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1 But, if you leave and the lawyers tell us that you
2 have the right to automatically go up to a development lease,
3 with preferential treatment, I am not prepared to give you
4 that right. I don't know what the other Commissioners want
5 to do. I am not willing to hand that one out, because it
6 seems to me, at that point, you have got detrimental
7 reliance of having spent some money to explore. You could
8 come in and sue us saying: No, your environmental reasons,
9 or whatever your reasons are, are not strong enough. And I
10 am not prepared to do that. I don't know what the other
11 Commissioners are prepared to do.

12 MR. MCGUIRE: We, some months ago, okayed a
13 prospective permit in the Bakersfield area for some mineral
14 thing.

15 CHAIRMAN CORY: Trona?

16 MR. MCGUIRE: I think it was the Bakersfield area.

17 MR. EVERITTS: It is clear in the statute that an
18 upland leases they have preferential right to only 160 acres,
19 and the rest of it is up for bid. It's also very clear in our
20 lease forms that they have to satisfy the California
21 Environmental Quality Act or any other specific rules that
22 may exist at that time.

23 It is not clear as to whether -- This is an
24 engineer practicing law. It is not clear as to whether you
25 have any given number of preferential acres on an offshore

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1 lease.

2 MR. TAYLOR: There is a preferential right that you
3 are required by the statute to set forth the royalty rate
4 which would be applicable. In this case, we don't know the
5 mineral that is coming in. There is a sliding scale anywhere
6 from one to ten to 20 percent.

7 In other words, all of the mechanics are there for
8 the lease. I think that's really the concern. If the staff
9 and the Attorney General's Office haven't fully -- maybe this
10 is because of the transition. We have these that infrequently
11 come up. If you haven't understood that, I think we could
12 give you a memo between the two meetings.

13 You still have many options and many ways to turn
14 the project down on valid and good grounds. But, you have
15 given up one, and that is if all of the grounds are
16 satisfied, this person does have an in.

17 They are going out into an area, an unknown
18 geologic area, to determine whether minerals can be
19 commercially harvested. The reason we give them preference
20 is to get them to explore our property and come back. That
21 is the carrot that is dangled. This is the first time we have
22 had one to run around with a little hose on the ocean, or a
23 little scoop on the ocean, to try to take little chunks and
24 see if we can actually start recovering minerals out of a
25 chunk of sand or a chunk of water.

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1 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I think
2 it should be noted that the staff has recognized this
3 problem in the upland area, and is attempting to -- has
4 legislation in this year which would make a change on that.
5 It would give us a bidding procedure to go back with, to go
6 back with a bidding procedure.

7 MR. EVERITTS: Specifically, what we are trying to
8 do is cut out the requirement that would set a royalty rate
9 today for a lease, some lease in the future.

10 EXECUTIVE OFFICER NORTHROP: So we could have some
11 kind of economic factor on it.

12 CHAIRMAN CORY: I think we ought to put the thing
13 over and have the staff apprise the Commissioners of where
14 we really are and what options they do have.

15 MR. TAYLOR: I think we have indicated we could do
16 it more definitely.

17 COMMISSIONER BELL: I think we ought to check 4M
18 Company to see if it's in their economic interest to go for
19 a mining permit without a preferential interest.

20 MR. GORDON: That is something I would have to
21 discuss with my client. It has to be understood, at this
22 point, we couldn't even ask for a lease, because there is no
23 minerals known to exist out there.

24 COMMISSIONER BELL: You are in a very awkward
25 position.

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1 MR. GORDON: Our client is willing to expend the
2 effort. All we are really asking for, and the point we are
3 talking about now, is if we satisfied all our concerns, if
4 we determine it's economically safe, and we have already
5 negotiated royalty rates, at least we go under the lease.
6 We are not handing away everything. The term of the lease
7 isn't even set.

8 CHAIRMAN CORY: Sir, my vote as a Commissioner, I
9 want to make it based upon an understanding of what it is we
10 are selling at what price, and whether or not we should or
11 shouldn't be selling it. You may find something of economic
12 value there that, in my judgment, the State of California is
13 better off not selling to anyone, for I don't know what
14 reasons. It may not even be environmental.

15 If I approve this, we are already started down the
16 road where we don't have that approval. It may be something
17 not relating necessarily to the environment, that could be
18 sustained in Court.

19 I just don't like to sell pigs in pokes. I like to
20 take the poke off and take a poke at the pig to see what it
21 really looks like.

22 Without objection, the item will go over one month.

23 Item 21.

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 21
25 is the plan of development and operations of the Long Beach

1 Unit, Wilmington Field. We have made some changes. I have
2 an agreement from Long Beach. Mr. Thompson will outline this
3 program for you.

4 MR. THOMPSON: In the interest of time, I would
5 like to make this as brief as possible. Pending hearings
6 of the FEA on future requesting policies, at that time, the
7 City of Long Beach was requested to make a budget that --
8 more or less a hold-the-line budget. A \$62 million budget
9 has been submitted by the City of Long Beach. Since then,
10 the FEA has had a first publication of their future pricing
11 and policies for crude oil prices. That is included in your
12 book there, and I have a blowup of that.

13 What we are doing here, is approving a philosophy
14 of getting some short-term crude oil price increases. What
15 we are taking here, is applying the legislation passed by
16 the Congress, which the Congress said there would be a
17 composite price established for the month of February, 1976,
18 for all domestic crude oil, \$7.66 a barrel. They then allowed
19 the criteria that this price would increase in the future by
20 a three percent incentive and inflation not to exceed ten
21 percent per year.

22 The further criteria is that the three percent would
23 only extend for a year. At some time in the future, they
24 would have to decide about Alaskan oil.

25 The FEA then has to regulate this. They took the

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1 month of February, and they decided on an upper tier-lower
2 tier split. The lower tier price then compiled, and the
3 upper tier price created then is the price effective, which
4 is known as a rollback. We have now gone back to --

5 CHAIRMAN CORY: Where did all those free
6 enterprisers go that were here earlier? Now is when we need
7 them.

8 MR. THOMPSON: To summarize this up, basically,
9 on a short term, lower tier oil is going to get a three-cents
10 a barrel per month increase. Upper tier will get seven.

11 A further criteria will be upper tier oil will be
12 maintained in constant dollars.

13 The first part of the increase allowable will go
14 to offset inflation. Lower tier prices will never be
15 decreased, but may never be increased. That is shown
16 graphically here that; in the short term, we are going to get
17 three cents a barrel per month increase, but for some period
18 of time we are going to get zero.

19 All we are asking here is a policy that you adopt
20 the planned budget as presented, and that we, through the
21 City of Long Beach and the Commission, agree to pile back an
22 appropriate portion of that additional revenue through crude
23 oil price increases, by adding it to the budget. So, we are
24 just really asking that you approve the budget submitted,
25 which is a hold-the-line budget; and then agree to a

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1 modification to the budget sometime in July and a policy
2 that you will pile back some portion of this additional
3 crude oil price increase.

4 We really don't know what the crude oil price
5 increase will be till, say, May. We are going to come out
6 with another appendage at that time. Because these increases
7 are not planned for the future, as we really don't know what
8 they will be.

9 CHAIRMAN CORY: You have got the other problem that
10 it's about time they change the name of the agency. So they
11 get in a new group of people, so they don't have to do anything
12 they promised anybody they were going to do anyway. They
13 will probably eliminate FEA in the next month anyway.

14 MR. THOMPSON: Looking ahead to the future, you can
15 see a problem. At the end of this 40-month period, you are
16 going to have a discrepancy in upper tier crude oil in
17 Wilmington of between \$5.12 maximum and \$12. At that time,
18 you are going to have an over seven dollar discrepancy on
19 that day, and that would be just chaos. We really don't know
20 what is going to happen.

21 CHAIRMAN CORY: I guess it is not relevant to our
22 problem of the budget, but how in God's name -- I thought the
23 concept was to bring those together, bring the prices over
24 the long period of time together. How can you allow the
25 upper tier increase to be greater than the lower tier and

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1 ever expect anything to happen except the gap to widen?

2 MR. THOMPSON: All Congress did was say that we
3 will start and we will set what the composite price will be
4 for February, 1976, and allow the increase in the composite
5 price and leave that regulation and distribution of the
6 composite price between oil up to FEA. They decided on upper
7 tier-lower tier classifications, and it is built into our
8 system here right now where it will be impossible to
9 obstruct it.

10 EXECUTIVE OFFICER NORTHROP: By the time the end
11 of the period comes, we are going to see a glut, and that
12 glut of crude oil in California is going to be something
13 unreal in the whole world.

14 MR. THOMPSON: They have now price controls on both
15 upper and lower tier oil, all oil. There is now a four-cent
16 differential in upper tier oil; and, in fact, a six-cent
17 differential in lower tier oil.

18 CHAIRMAN CORY: The beautiful world of government,
19 Without objection, we will increase the "hold-the-
20 line" budget, with the understanding that there will be
21 additional allocations based on presentations to the
22 Commission of future developers.

23 MR. TAYLOR: Mr. Chairman, may I ask the item be
24 put off for just a minute. In the past, we have done
25 environmental impact reports on different preferential

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1 assignments. That impact report has included a look at the
2 potential effect if mining operations commenced. Do you
3 remember the one?

4 CHAIRMAN CORY: Yes.

5 MR. TAYLOR: There were some indications -- I think,
6 what may be bothering the Commission at this point, they may
7 not have understood that it was of a preferential nature.
8 In addition, we don't have an environmental impact report at
9 this stage. That is to be required later, which is different
10 than we would have in most of these situations.

11 The reason we don't have an environmental impact
12 report is that no one has ever done this before. We don't
13 know what they are going to turn up. We don't know how to
14 proceed. There is that problem.

15 I just leave you with the dilemma that we as a
16 staff are in. We have a staff problem over royalty rate and
17 environmental impact report.

18 CHAIRMAN CORY: If that were granted and if some-
19 body discovered a submerged relic of a Spanish galleon
20 containing gold bullion, would they have rights to that or
21 not?

22 MR. TAYLOR: That's under treasure trove.

23 CHAIRMAN CORY: When does treasure trove become
24 natural mineral?

25 MR. TAYLOR: It isn't natural mineral.

1 CHAIRMAN CORY: Because it's in bullion form or
2 nugget form?

3 MR. TAYLOR: In the refined form.

4 CHAIRMAN CORY: The source of it?

5 MR. TAYLOR: It's still in refined form.

6 CHAIRMAN CORY: If it's still in ore form or raw
7 mineral?

8 MR. TAYLOR: I think then it's treasure trove.

9 CHAIRMAN CORY: But, if the hulk were no longer
10 there. Pardon me for worrying about these things.

11 EXECUTIVE OFFICER NORTHROP: Not unlike the problem
12 we got into with the Glomar Challenger.

13 CHAIRMAN CORY: Item 22.

14 EXECUTIVE OFFICER NORTHROP: Approval of a contract
15 between Pacific Towboat and Coastal Waters for an oil cleanup
16 boat, which operates in cleaning mainly in the harbor areas.
17 In high seas, it has not been tested. But, we have an
18 obligation to Wilmington Oil Field to provide --

19 CHAIRMAN CORY: We are paying our prorated share
20 of cost of this?

21 EXECUTIVE OFFICER NORTHROP: Somewhere in the area
22 of 32 percent.

23 CHAIRMAN CORY: Thirty-two percent of --

24 EXECUTIVE OFFICER NORTHROP: Of the total program.
25 Because it's operating in --

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1 CHAIRMAN CORY: Thirty-two percent of the cost
2 of making that boat --

3 MR. THOMPSON: I think it's a little lower than
4 that. Basically, the City of Long Beach is an operative of
5 the City of Long Beach. In this particular area, we have to
6 pay our proportionate share.

7 MR. TAYLOR: No objection.

8 CHAIRMAN CORY: Without objection, Item 22 approved
9 as presented.

10 Item 23. Termination of Royalty Oil Sales Contract
11 with U. S. Oil and Refining Company. They want out. They
12 say they can't get the oil, having their credit tied up.

13 Is there anybody in the audience who wishes to
14 present any information on Item 23?

15 Hearing none, Item 23 will be approved as presented.
16 Without objection, such will be the order.

17 Item 24. Project Review on Subsidence, City of
18 Long Beach.

19 MR. THOMPSON: Requesting prior approval of
20 subsidence cost and replacing the drain system. Under
21 Chapter 138, subsidence cost must have prior approval.

22 CHAIRMAN CORY: Without objection, prior approval
23 will be granted.

24 Item 25.

25 EXECUTIVE OFFICER NORTHROP: That has to do with

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1 a bill created last year in which we were asked to provide
2 ownership of various coastal properties and have entered a
3 contract. The Title Company gave us that information.

4 CHAIRMAN CORY: Without objection, the contract
5 is approved as presented.

6 Item 25, adopted without objection.

7 Item 26. Boundary Line Agreement with San Mateo
8 Marina Homes, State-owned bed of Marina Lagoon, formerly
9 called Seal Slough, San Mateo County.

10 MR. TROUT: This is similar to the one last month
11 with a continuation of the same kind of problem they had last
12 month. It's a small area that is not included within the
13 legislative grant of the City of San Mateo. They are now
14 carrying a bill for the City which would include the area
15 within the City's grant.

16 This is a small portion where there are two or three
17 developers that want to get on with the building project.
18 We had a boundary last month. We have another boundary line
19 query this month, all of which are based upon an artificial
20 line. We wouldn't agree that the line is artificial, but we
21 will agree that the line is probably landward of any last
22 lateral line we would be able to locate. It's in dispute.
23 This is the settlement.

24 CHAIRMAN CORY: The Attorney General is happy with
25 the proposed agreement?

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1 MR. TAYLOR: It's consistent with the one we
2 approved.

3 CHAIRMAN CORY: Then the overall plan is something
4 you support?

5 MR. TROUT: I would appreciate a little more
6 enthusiasm from Mr. Taylor.

7 MR. TAYLOR: There is no problem.

8 CHAIRMAN CORY: That still was a little bit short
9 of what I was looking for. Do you endorse the proposal?

10 MR. TAYLOR: Yes, of course.

11 CHAIRMAN CORY: Item 26 will be approved as
12 presented, upon the strong recommendation of the Attorney
13 General's Office.

14 (Laughter.)

15 CHAIRMAN CORY: Item 27. Execution of title
16 settlement and exchange agreement, Novato Center, City of
17 Novato, Marin County.

18 EXECUTIVE OFFICER NORTHROP: That's Mr. Trout's
19 section.

20 MR. TROUT: The State, under the Commission's
21 jurisdiction, probably would be best to just take a quick
22 look at Exhibit B, following page 91.

23 CHAIRMAN CORY: Oh, it's right next to that housing
24 development at Hamilton Air Force Base.

25 MR. TROUT: The squiggly lines going through the

1 two parcels, identified there as Novato City Parcel and State
 2 Parcel, are unsold tide and submerged lands which we believe
 3 that the State has a claim to in fee. The Novato Center
 4 Parcel, the roughly triangular cross-hand piece in the
 5 upper part, is the subject of a tideland patent that lets
 6 us contend that the trust deeds would apply and that the
 7 State could use that property for trust purposes.

8 The present owner of the property wishes to
 9 develop that portion identified as the Novato Center Parcel,
 10 west of the Northwestern Pacific Railroad, commercially in
 11 the northern part and industrially in the southern part.
 12 They wish to be rid of the State's claim of interest.

13 They are offering in exchange two parcels of land
 14 on the east side of the Northwestern Pacific Railroad,
 15 totally 278 acres. The State claim totals approximately
 16 400 acres. We have evaluated the potential values of the
 17 exchange and find they are equal or greater in value to the
 18 State. In fact, slightly greater in value to the State.

19 The developer is retaining in the area identified
 20 as "dredged pond" on the State's side the right for five
 21 years to take up to 500,000 yards of material out at ten
 22 cents a yard.

23 There is a fee ownership of Pacific Gas and
 24 Electric Company dividing the two parcels, but from the
 25 standpoint of the title settlements and evaluations, we

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1 believe that this --

2 EXECUTIVE OFFICER NORTHROP: He agrees also to pay
3 ten cents a cubic yard for that half.

4 COMMISSIONER BELL: That is what we heard.

5 CHAIRMAN CORY: Did you get it personally, Bill, or
6 what?

7 (Laughter.)

8 EXECUTIVE OFFICER NORTHROP: No, just glad to see
9 him --

10 COMMISSIONER BELL: This is recommended by Fish and
11 Game?

12 MR. TROUT: Fish and Game is quite interested in
13 this project. It should be made quite clear, however, that
14 this is a settlement of title problems; and if permits are
15 required by other governmental agencies and mitigation is
16 required as part of those other permits, that is not
17 necessarily covered under this proposal.

18 We don't know that there will be any required, but
19 those are separate peaces that have to be made with other
20 agencies.

21 CHAIRMAN CORY: This dredged pond. What are the
22 standards of what we are going to have left with this?

23 MR. TROUT: This pond will be dug out in accordance
24 with plans and specifications submitted by the State. If the
25 State does take an unreasonable time to do it, the pond will

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1 be used off and on for temporary storage of storm water.
2 We have established contact with Fish and Game to the proper
3 form that those ponds might take.

4 CHAIRMAN CORY: I think I am unclear about if we
5 don't respond timely, does the person we are exchanging with
6 have carte blanche, to do as he sees fit; and leave us with
7 some environmental eyesore, some developmental problems that
8 we are going to have to go back and solve if we create a
9 monster?

10 MR. TROUT: Yes. I wouldn't think it would be
11 practical, because the intent is to remove the material
12 with standard drainage equipment. It wouldn't be terribly
13 practical to make a very deep and engineeringly feasible
14 project, but it does require the State to act in a timely
15 fashion.

16 CHAIRMAN CORY: What agency of the State, State
17 Lands?

18 MR. TROUT: Yes.

19 CHAIRMAN CORY: Okay. As long as you clearly
20 understand that somebody is going to be looking at that and
21 there had better not be any excuses that you didn't know what
22 was going on and why.

23 MR. TROUT: That's correct.

24 CHAIRMAN CORY: Without objection, then --

25 MR. TAYLOR: We think this one is fine, too.

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1 (Laughter.)

2 CHAIRMAN CORY: -- we will approve the Attorney
3 General's request on 27.

4 Without objection, such will be the order.

5 Item 28. Find that the City of Pittsburg has
6 substantially complied with the terms of Chapter 1835, of
7 1961; and 214 of 1937. Who knows. You have really looked
8 at that, and they have complied?

9 EXECUTIVE OFFICER NORTHROP: They have done some
10 really good things.

11 CHAIRMAN CORY: Okay. Done some nice things.
12 Does anybody wish to address themselves to the Commission on
13 Item 28? Any questions from the Commission? Without
14 objection Item 28 will be approved as presented.

15 Item 29. Requesting authorization of the
16 Attorney General to take the necessary steps to protect
17 sovereign title along Sonoma and Tolay Creeks in Sonoma
18 County.

19 EXECUTIVE OFFICER NORTHROP: Mr. Golden, Assistant
20 Executive Officer, has been closely involved in this project
21 for some time.

22 MR. GOLDEN: We have become aware of some severe
23 problems along that line due to one developer, in particular,
24 and we have some others who have extended their claims over
25 entity of lands that the State owns. This is merely an item

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1 to set about taking care of trespass problems which have
2 occurred in the past.

3 CHAIRMAN CORY: Is there anyone here who wishes to
4 address the Commission on Item 29? No problems? Without
5 objection, we will grant the authorization requested in Item
6 29.

7 Without objection, such will be the order.

8 Item 30. Requesting Attorney General -- Boy, you
9 guys are busy -- including litigation to protect that.
10 Tehama County. That is the island at the mouth of Tehama
11 Creek, at the request of Fish and Game?

12 MR. HIGHT: Yes, Mr. Chairman.

13 CHAIRMAN CORY: Are there any questions or
14 presentation from anybody in the audience on Item 30?
15 Without objection, the item -- authorization will be granted
16 as requested in Item 30. Such will be the order.

17 Mr. Northrop or -- I think, Mr. Northrop should do
18 that rather than his designee. Mr. Northrop or his
19 designee are requesting authorization to hold a public
20 hearing in Sacramento on the Draft Conflict of Interest Code
21 under Proposition 9. I have no objection to that. I have
22 been through two of them now with the Equalization and
23 Franchise Tax Board, and I wish you Godspeed in dealing with
24 that.

25 No problems with that. Without objection, Item 31

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1 will be approved as presented.

2 Item 32.

3 EXECUTIVE OFFICER NORTHROP: I think Mr. Hight has
4 some comments on this litigation, and I am sure the Attorney
5 General has.

6 MR. HIGHT: Yes, Mr. Chairman. Last Friday, the
7 Multi-District Panel in Washington, D.C., heard arguments
8 relative to the Long Beach Antitrust Oil suit, as to why all
9 now pending oil antitrust litigations should not be re-
10 transferred to California. It is expected that ruling will
11 be forthcoming shortly. Tentative observations indicate
12 that we have a pretty reasonable chance of litigation
13 returning to California.

14 MR. TAYLOR: I have two items in addition to the
15 Independence Lake matter which will be filed today. The
16 other two items -- Oregon versus Corvallis Sand and Gravel
17 has gone over to next term with the Supreme Court, which
18 will be October. So, we won't have an answer on it then.
19 We have been informed by the United States Solicitor General
20 he will not file a brief in that case, and if he does, he
21 will talk to us. He has not received a request from the
22 Court and does not intend to file at this time.

23 We will be filing an answer on behalf of the
24 Commission on the Berkeley Waterfront case. There is a
25 lawsuit against a man by the name of Murphy and also the

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1 Santa Fe Railroad over the status of title to the entire --
2 the filled area behind the Berkeley Marina and the freeway,
3 if you know the area.

4 CHAIRMAN CORY: Between the Marina --

5 MR. TAYLOR: Between the Berkeley Marina and the
6 freeway, there is a filled area. Where the boats are. The
7 Marriott, Grundy, I believe, and the Lord Nelson Restaurant
8 are located. In the area between there. There has been a
9 lawsuit for some time against the City of Berkeley over what
10 use, if any, may be made of that filled area.

11 The City of Berkeley states a position that that's
12 a portion of their grant from the State. Taking that position,
13 the private party has cross-complained, naming the State Lands
14 Commission as party to the litigation. It is in consultation
15 with your staff we are filing an answer tomorrow getting
16 into both of the lawsuits and, in addition, expanding the
17 lawsuit to include the entire Waterfront of the City of
18 Berkeley.

19 So, with all of the issues with regard to the status
20 of title conveyed -- the status of title to the lands which
21 were affected, by where the Tidelands Commissioners in this
22 area could be adjudicated, the City has taken the position
23 that it has an interest in the property by virtue of the
24 State's grant.

25 We will file a very general answer to begin with.

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1 This will be very extensive litigation. It's a very large
2 area and presents some interesting questions.

3 That concludes anything I have.

4 CHAIRMAN CORY: Question?

5 COMMISSIONER BELL: I have no question on the
6 litigation.

7 CHAIRMAN CORY: Next item, confirmation of the
8 meeting, May 27th, 10:00 a.m., Sacramento.

9 Any problems? If not, we will confirm that.

10 Any other items to come before us?

11 EXECUTIVE OFFICER NORTHROP: I would just like to
12 introduce my new Deputy Director to the Commission, Sid
13 McCausland. Do you want to stand up.

14 COMMISSIONER BELL: New fellow to the State?

15 EXECUTIVE OFFICER NORTHROP: He's my constitutional
16 deputy, so he can sit in for me at the meeting.

17 CHAIRMAN CORY: Thank you.

18 Any further items? If not, we stand adjourned
19 until the agreed upon date.

20 (Thereupon the April 28th, 1976 meeting of the
21 State Lands Commission was adjourned at
22 12:50 p.m.)

23 --oOo--

24

25

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1 STATE OF CALIFORNIA)
2 COUNTY OF YOLO) ss.
3)

4 I, DELORES DALTON, a Notary Public in and for the
5 County of Yolo, State of California, duly appointed and
6 commissioned to administer oaths, do hereby certify:

7 That I am a disinterested person herein; that
8 the foregoing State Lands Commission Meeting was reported
9 in shorthand by me, Delores Dalton, a shorthand reporter,
10 and thereafter transcribed into typewriting.

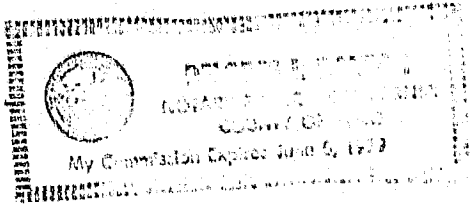
11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting, nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 and affixed my seal of office this 19th day of May, 1976.

Delores Dalton

DELORES DALTON
Notary Public in and for the County
of Yolo, State of California

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