

1
2
3
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MEETING
STATE LANDS COMMISSION

Resources Agency Auditorium
1416 9th Street
Sacramento, California

THURSDAY, MAY 27, 1976
10:00 A.M.

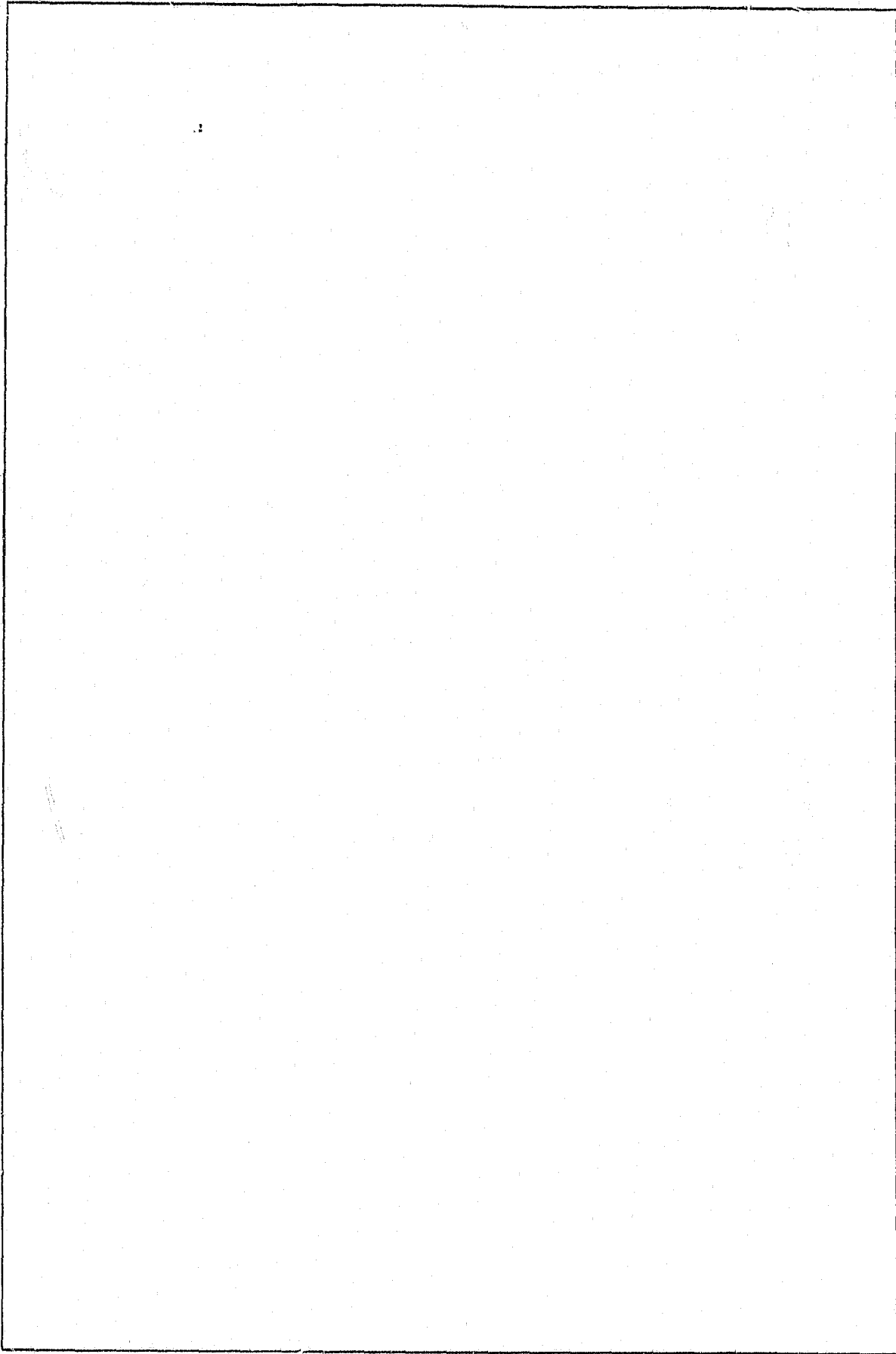
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I N D E X

	<u>Page</u>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
Members Present	vi
Proceedings	1
Roll Call	1
Report of Executive Officer	1
Mr. William F. Northrop	1
Run-down on FEA meetings	6
Mr. William John Lamont	6
Report of Executive Officer (Continued)	8
Mr. William F. Northrop	8
Approval of Minutes of April 28, 1976 Meeting	11
Approval of Consent Calendar	12
Item 19	12
Item 20	12
Mr. Robert C. Hight	12
Approval of Item 20	13
Item 21	13
Mr. James Trout	13
Mr. Steve Grumer	15
Mr. Harold Christin	17
Mrs. Marge Adkerson	18
Mr. Harold Christin	20
Mr. Dan Cook	21
Mr. James Trout	24

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

	INDEX (CONTINUED)	Page
1		
2	Mr. Gregory Taylor	28
3	Mr. James Trout	29
4	Mr. Gregory Taylor	30
5	Mr. Adolph Moskovitz	33
6	Ms. Pat Sutton	36
7	Approval of Item 21	42
8	Item 22	42
9	Item 23	42
10	Approval of Item 23	43
11	Item 24	43
12	Approval of Item 24	43
13	Item 25	43
14	Item 26	43
15	Item 27	43
16	Approval of Item 27	43
17	Item 28	43
18	Approval of Item 28	44
19	Item 29	44
20	Mr. W. M. Thompson	44
21	Approval of Item 29	44
22	Item 30	44
23	Mr. W. M. Thompson	44
24	Approval of Item 30	45
25	Item 31	45

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383 3601

	<u>Page</u>
1 INDEX (CONTINUED)	
2 Mr. W. M. Thompson	45
3 Approval of Item 31	46
4 Item 32	46
5 Approval of Item 32	46
6 Item 33	46
7 Item 34	46
8 Mr. William F. Northrop	46
9 Mr. Hugh Staton	46
10 Mr. Don Everitts	49
11 Mr. Hugh Staton	49
12 Mr. Gregory Taylor	51
13 Mr. Don Everitts	53
14 Mr. Gregory Taylor	59
15 Mr. Paul Sucato	60
16 Approval of 34	64
17 Item 35	65
18 Approval of Item 35	66
19 Item 36	66
20 Mr. Eugene Shea	66
21 Mr. Jerry Gordon	75
22 Item 44	78
23 Mr. Gregory Taylor	79
24 Mr. David Destino	80
25 Mr. Robert Leichtner	87

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

	<u>Page</u>
1 INDEX (CONTINUED)	
2 Motion to schedule a hearing to repeal 3 the regulations	89
4 Motion adopted	90
5 Item 37	90
6 Approval of Item 37	91
7 Item 38	91
8 Approval of Item 38	91
9 Item 39	91
10 Item 40 and Item 43	91
11 Mr. Gregory Taylor	92
12 Item 41	94
13 Approval of Item 41	95
14 Item 42	95
15 Mr. James F. Trout	95
16 Approval of Item 42	96
17 Adjournment	96
18 Reporter's Certificate	97
19	
20	
21	
22	
23	
24	
25	

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MEMBERS PRESENT

1
2 Hon. Kenneth Cory, Controller, Chairman
3 Hon. Roy M. Bell, Director of Finance, Acting Chairman
4 Mr. Keith Seegmiller, representing Kenneth Cory
5 Mr. Richard Thomson, representing Mervyn M. Dymally
6

MEMBERS ABSENT

7
8 Hon. Mervyn M. Dymally, Lieutenant Governor
9

STAFF PRESENT

10
11 Mr. William F. Northrop, Executive Officer, State Lands
Commission
12 Mr. James F. Trout, Manager, Land Operations, State Lands
13 Commission
14 Mr. W. M. Thompson, Manager, Long Beach Operations
15 Mr. Robert C. Hight, Staff Counsel, State Lands Commission
16 Mr. R. S. Golden, Assistant Executive Officer, State Lands
Commission
17 Ms. Diane Jones, Secretary
18

ALSO PRESENT

19
20 Mr. N. Gregory Taylor, Deputy Attorney General
21
22
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25

P R O C E E D I N G S

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ACTING CHAIRMAN BELL: Let's get the meeting started.

EXECUTIVE OFFICER NORTHROP: Chairman Cory?

MR. SEEGMILLER: Deputy present, not voting.

EXECUTIVE OFFICER NORTHROP: Lieutenant Governor Dymally?

MR. THOMSON: Deputy present.

EXECUTIVE OFFICER NORTHROP: Director of Finance, Mr. Roy M. Bell?

ACTING CHAIRMAN BELL: I'm here. We have a quorum.

MR. TAYLOR: Mr. Chairman, it should be made clear that Mr. Seegmiller is not participating in the meeting today as a Member of the Commission. The only members voting today will be the Lieutenant Governor's designee and yourself. Mr. Seegmiller will be observing the meeting and giving whatever comments that he may wish to make, but his comments will be in the capacity of any other person attending the meeting.

ACTING CHAIRMAN BELL: Thank you, Mr. Taylor. Let the record so note.

First item is the report of the Executive Officer.

EXECUTIVE OFFICER NORTHROP: Mr. Bell, Members.

1 First, there are a number of items, about five
2 in number, that will be deleted from the Calendar today,
3 and as those items come up, we will delete them. But,
4 for those in the audience, let me run through the Calendar
5 quickly and give the numbers of those items that have been
6 deleted, so if they have an interest they may care to stay
7 or make a presentation. However, they will not be considered.

8 Item Number 19 has been withdrawn from the
9 Calendar; Item Number 22 has been withdrawn from the
10 Calendar; Item Number 25 has been withdrawn from the
11 Calendar; Item Number 26 has been withdrawn from the
12 Calendar; Item Number 33 has been withdrawn from the
13 Calendar.

14 We have that clear for the record.

15 ACTING CHAIRMAN BELL: Thank you. That will
16 save a lot of people from sitting here and never getting
17 to their item.

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman and
19 Members.

20 Through the efforts of the FEA a grant in funds
21 in the amount of \$118,000 [sic] was obtained from the State
22 Energy Resources Conservation and Development Commission
23 to conduct studies to investigate and inventory energy
24 resources located on State lands. Upon authority of the
25 State Lands Commission, the Division entered into an

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1 interagency agreement with the Energy Commission on
2 August 27, 1975, to perform the following studies.

3 One, to develop proposed regulations for
4 California deep water offshore drilling operations. Two,
5 to assess the oil and gas resources on California offshore
6 lands and San Pablo Bay. Three, to develop equipment
7 techniques for measuring heat flow in the sediment and
8 water column of water bodies on State lands and to evaluate
9 their geothermal potential.

10 Today, I would like to report on Item 1, the
11 proposed regulations for California deep water offshore
12 drilling operations, as this study has been completed by
13 Brandt and Witherspoon. Studies are in various stages
14 of completion and will be reported on at a later meeting.

15 As you know, the present drilling procedures of
16 the State Lands Commission specifically cover operations
17 from fixed platforms and island structures existing on State
18 leases. To further explore and develop existing leases,
19 as well as other State offshore lands, it is recognized
20 that drilling operations will be conducted from drill
21 vessels or jack-up type drilling platforms, commonly called
22 "floaters". Although most of the requirements contained
23 in the existing drilling procedures would apply to floating
24 drilling operations, there are procedural areas and specifics
25 of these types of operations not presently covered.

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1 The study was a joint effort by the staff and
2 consultants, H. Brandt, R. C. Sharp and P. A. Witherspoon.
3 The consultants were retained for a \$15,000 contract which
4 was approved by the Commission and issued in October of
5 1975. The study was completed in March, 1976, and consists
6 of four parts, namely, one, training of personnel of
7 offshore drilling; two, blowout prevention systems for
8 offshore drilling; three, additions to existing regulations
9 for drilling and casing programs for offshore operations;
10 and four, a proposal for a working conference on safety
11 regulations for deep water subsea facilities used in oil
12 and gas recovery. The purpose of this conference would be
13 to discuss the operation and the safety aspects of subsea
14 production facilities and systems that support it as to
15 provide an understanding of the problems associated with
16 these operations, and identify the areas in which safety
17 standards should be developed.

18 As to the disposition of this study, the staff
19 proposes to use the information contained therein, to
20 revise the existing drilling procedures to provide the
21 needed specific coverage for the safe conduct of floating
22 drilling operations.

23 The next item I would like to report on is the
24 Santa Barbara Office.

25 The Division maintains a small office and

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1 laboratory in Santa Barbara. This is a small wood-frame
2 house, is some 20 years old and is located at one end of
3 an existing shopping center. The property is zoned C-2,
4 commercial. It is in a high demand area, and it offers
5 the additional attraction of having an existing water
6 connection. New water hookups are presently limited in
7 the Santa Barbara area.

8 I have asked the staff to evaluate the continuing
9 need for this office facility. Staff has also been asked
10 to consider alternative uses of the site, among these is
11 the possibility that office development proposals would
12 be an attractive approach to meeting both the needs of
13 the State and those of the immediate community.

14 A more detailed report will be presented later.

15 The concept of this is we have a very expensive
16 piece of property which we seriously doubt we're using to
17 its highest and best possible use.

18 MR. SEEGMILLER: The State owns that in fee?

19 EXECUTIVE OFFICER NORTHROP: The State Lands
20 Commission owns that in fee.

21 After the Commission authorized and staff filed
22 suit against Alamar Landing to require Mr. Alan Lewe, owner
23 of the marina, to comply with the Commission's leasing
24 regulations or be ejected from sovereign lands, thereafter,
25 Mr. Lewe sold his marina to Mr. Garlen R. Marquardson.

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1 The settlement of the Commission suit has been obtained,
2 and Mr. Marquardson has now obtained a lease, and the
3 Commission has received back rent in the amount of nearly
4 \$3,000.

5 Mr. John Lamont, our representative from
6 Washington, is here. I would appreciate if Mr. Lamont
7 would give us a run-down on the FEA meetings that are
8 scheduled in Los Angeles and Washington and the position
9 with regard to FEA and crude oil pricing.

10 ACTING CHAIRMAN BELL: Fine. Mr. Lamont, good
11 morning.

12 MR. LAMONT: Good morning, Commissioner Bell.
13 I think it's a good morning.

14 The Federal Energy Administration has begun the
15 hearing process on the third stage of the implementation
16 of the rather complex procedures of the Energy Policy and
17 Conservation Act. They were about a month late with
18 beginning the hearing procedure and they're unusually
19 complex with the form of it.

20 They're holding two series, the first of which
21 will be in Washington on June 2nd, which are the so-called
22 national hearings; then, they will be holding hearings in
23 Los Angeles, in Dallas and Anchorage, Alaska.

24 We have asked time at both the national and the
25 L.A. hearings primarily in order to make certain that we

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1 have an opportunity to present new material with respect
2 to the gravity differential problem which was raised in
3 this set of hearings. If all goes well, the primary
4 presentation will be made in Los Angeles on, I believe
5 it's the 8th --

6 EXECUTIVE OFFICER NORTHROP: And the 9th.

7 MR. LAMONT: 8th and 9th of June. And we will
8 use what time is made available to us in Washington
9 primarily as a matter of presentation and rebuttal, if
10 essential; otherwise, simply turning it back.

11 The difficulty with the presentations are that
12 this is a continuation of the gravity differential rule-
13 making proceedings which were begun back in February, 1975.
14 It's been suspended and renewed several times, and each
15 time under slightly different requirements by FEA as to
16 the material to be presented. In other words, we have
17 been asked, again, to reevaluate the effect on production
18 of the possible proposals that will be forthcoming from
19 this third stage hearing, which is sort of, again, like
20 shooting at a moving target from a moving base, and neither
21 the base nor the target are proceeding at a predetermined
22 speed.

23 At the same time, there are some legislative
24 presentations being made by the California Congressional
25 Delegation at the suggestion of the Governor's legislative

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1 liaison, which may have some impact on this. I'm not quite
2 certain what those proposals may be, but action is being
3 developed which hopefully will end some of this mess.

4 ACTING CHAIRMAN BELL: Well, it really wasn't
5 that good of a morning, was it?

6 MR. LAMONT: It really was not.

7 EXECUTIVE OFFICER NORTHROP: The last item I
8 would like to bring to the Commission's attention is that
9 Williams Brothers Engineering Company contacted the Land
10 Transactions Unit by telephone on May 18, 1976, and
11 requested permission to take three 5-inch by 30-foot core
12 samples from the California side of the bed of the Colorado
13 River. Williams Brothers is a contractor for Dames & Moore,
14 who are preparing engineering plans and environmental
15 documents for the SOHIO Pipeline Project which, you know,
16 is supposed to take Alaskan crude out of California. The
17 proposed alignment is approximately one mile south of the
18 Interstate 10 crossing the Colorado River near Blythe.
19 The information gathered from the core samples will be used
20 in preparation of engineering and environmental documents.
21 Williams Brothers has made arrangements with the Coast
22 Guard for core samples to be taken early in June, and
23 notice to mariners has already been given.

24 Ordinarily, this project would be handled by
25 lease, but because of the short time notice allowed for us,

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1 and the environmental data collection nature of the project,
2 it is recommended that the project be allowed to proceed
3 at this time. Data collected, of course, will be made
4 available to the Commission, and Williams Brothers has
5 agreed to pay for a permit.

6 I think it's significant enough that the
7 Commission should take notice of this even though we do not
8 have in our hands at the present time a completed document.

9 ACTING CHAIRMAN BELL: It does not require any
10 Commission approval, though, for them to proceed until
11 they do apply for ratification?

12 EXECUTIVE OFFICER NORTHROP: It's a ratification,
13 probably, Mr. Bell. I think time being of the essence --
14 I think the answer to your question is yes. I will approve
15 it if I don't get some adverse comments today on doing so.

16 I really have not had a chance to review it,
17 and the reason I brought it here is that the State has
18 been criticized for holding up environmental projects in
19 the time line, and this really points out the problem we
20 have many times. The contractors who want the permits
21 want them out of sequence of our ordinary operating
22 procedures, and it makes it very difficult for us to give
23 prompt action to these sort of things when they don't come
24 to us in a timely sort of manner.

25 The reason it is on the Agenda, or at least in my

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1 report today, is to tell you the dilemma I'm in, whether
2 to sign without prior approval and hope the Commission
3 will ratify my approval or come to the Commission.

4 ACTING CHAIRMAN BELL: What you're really asking
5 for is to cover you for a month until we get back with a
6 permit for an environmental research project.

7 EXECUTIVE OFFICER NORTHROP: That's really correct,
8 Mr. Bell.

9 ACTING CHAIRMAN BELL: Do either of you Members
10 have any comments?

11 MR. SEEGMILLER: I'd like to hear Counsel's
12 comments.

13 MR. TAYLOR: This is just a data collection
14 permit, very minor situation. I don't think there is any
15 problem with this.

16 ACTING CHAIRMAN BELL: Without objection, we'll
17 cover you until you get in.

18 EXECUTIVE OFFICER NORTHROP: Thank you.

19 ACTING CHAIRMAN BELL: By the way, how far is
20 this exploratory area from the present El Paso natural
21 gas line which SOHIO had originally been talking about?

22 EXECUTIVE OFFICER NORTHROP: It will be part
23 of that project, and the connecting link on that is in
24 Jal, New Mexico, I believe, and it will be short of that.
25 But, this just happens to be part of that overall program,

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1 Mr. Bell.

2 ACTING CHAIRMAN BELL: Any other comment by
3 Commission members?

4 If not, we'll go to the Consent Calendar. As
5 I understand it, this includes the first 18 items on the
6 list which are, in the staff's opinion, non-controversial.
7 As I understand it, the normal procedure is to find out
8 if there is any request to remove any item from the Consent
9 Calendar.

10 EXECUTIVE OFFICER NORTHROP: Mr. Bell, before we
11 get there, I think we should approve the minutes of the
12 last meeting, so to keep in order.

13 ACTING CHAIRMAN BELL: If there are no objections
14 the minutes of the April 28th meeting, which are before
15 you, will be approved. Are there any objections? Correc-
16 tions, modifications?

17 If not, they stand approved.

18 EXECUTIVE OFFICER NORTHROP: The staff apologizes
19 for not having it there.

20 ACTING CHAIRMAN BELL: Well, it's not on the
21 Agenda.

22 EXECUTIVE OFFICER NORTHROP: We apologize for
23 that, sir.

24 ACTING CHAIRMAN BELL: Now, as I said, we go to
25 the Consent Calendar. These 18 items, as I said, are on and

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1 I assume they are distributed as part of the normal Agenda
2 distribution.

3 Are there any objections or requests to remove
4 any of the items from the Consent Calendar by anyone? Has
5 anyone in writing asked for any?

6 EXECUTIVE OFFICER NORTHROP: No, sir.

7 ACTING CHAIRMAN BELL: All right. I assume, then,
8 everyone has had the opportunity to request removal of
9 an item from the Consent Calendar. And so without objection,
10 the Consent Calendar will be approved.

11 Item 19 has been withdrawn.

12 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, for
13 the record, 19 has been withdrawn at the request of
14 Mr. Harvey, the applicant.

15 ACTING CHAIRMAN BELL: Item 20, Mr. Northrop.

16 EXECUTIVE OFFICER NORTHROP: This is an application
17 from 4M Company for a Prospecting Permit. Mr. Hight has
18 worked very closely on this, and I would like him to advise
19 the Commission.

20 MR. HIGHT: Mr. Chairman, this is an item that
21 was before you last month, and as you will recall, the
22 Chairman had some reservation.

23 We've amended the lease requirements. The
24 applicant is in agreement with those amendments and this
25 would allow the applicant to prospect some 19,000 acres off

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1 the coast of San Diego.

2 MR. SEEGMILLER: This is strictly a prospecting
3 permit; the applicant has to return for any development?

4 MR. HIGHT: Yes. The applicant has to return
5 in order to obtain a lease from the Commission. He has
6 certain rights in which to obtain a lease, and the
7 Commission may limit the acreage, and an environmental
8 impact report is required of the applicant before that
9 lease may be issued.

10 ACTING CHAIRMAN BELL: Without objection, Item
11 20 is approved.

12 Item 21.

13 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
14 is a request for an extension through July of a permit
15 by the Truckee-Donner Public Utility District.

16 Mr. Trout from our staff has worked very closely
17 on this, and would like to address the Commission.

18 MR. TROUT: Mr. Chairman, for some period of time
19 we've been coping with an unpermitted pipeline in the bed
20 of Donner Lake. As a result of legal action by the
21 Commission, the Truckee-Donner Public Utility District
22 applied for a permit for this pipeline, and in addition,
23 applied for the water rights to the Water Resources Control
24 Board. The purpose of both permits would be to supply
25 water to a development called Tahoe-Donner, a Dart Resort

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1 subdivision. The Commission acted on that application
2 through the preparation of an environmental impact report
3 and held several hearings.

4 One of the results of the hearings was that much
5 of the public felt that there were alternate sources of
6 water other than Donner Lake. Dart Resorts had agreed to
7 investigate, and the District had requested extensions of
8 the processing of their application. Two six-month extensions
9 were granted in the normal processing by staff, the last
10 of these expired on April 21st of this year. Last month
11 in the Executive Officer's report, Mr. Northrop indicated
12 that the District had requested an additional six-month
13 extension.

14 At a special meeting of the District on April 19,
15 I appeared and indicated some of the frustration that the
16 staff was having with the processing of this application,
17 and suggested instead, that the District consider an
18 extension only until the end of July at which time the
19 District would make a complete report to the Commission
20 about the status of things and the possibility of a time-
21 table of when the project might be completed.

22 The question from the Commission, as I heard it
23 last month, was what's in it for the State; why should
24 the Commission permit the continued occupancy of the bed
25 of the lake while these alternate sources are investigated?

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1 Why shouldn't the pipeline just be plugged, why shouldn't
2 it just be terminated? Why shouldn't the Commission just
3 cancel the application and go on about its business without
4 prejudice, and at some future time if the pipeline was
5 actually needed, the District could reapply.

6 At the direction of the Commission, we advised
7 the District of the Commission's concern about that. And
8 in the audience today to speak for the District is
9 Mr. Paul Hobensack, Manager; Mr. Dan Cook, District Engineer;
10 Mr. McDonough, Attorney for Dart Resorts, and, I believe,
11 a staff member for Dart. I don't know whether they want
12 to say anything or not.

13 I think the real issue boils down to, in terms
14 of meeting the Commission's question, not whether or not
15 there is or isn't alternate groundwater sources, but whether
16 or not there is any benefit to the public for continuing
17 to defer action on the lease application.

18 ACTING CHAIRMAN BELL: Mr. Hobensack?

19 MR. GRUMER: My name is Steve Grumer. I'm
20 General Counsel for the Truckee-Donner Utility District.
21 Mr. McDonough was unable to make it today.

22 Gentlemen, the Truckee-Donner Public Utility
23 District basically concurs with and supports the staff
24 recommendation for an extension of time through July 31,
25 1976, and the filing of a comprehensive progress report on

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1 or before July 12, 1976.

2 We feel that part of the issue here is the fact
3 that there might be alternate water sources, groundwater
4 sources, and that during this period of time studies are
5 being conducted to determine with certainty whether or
6 not these, in fact, are available. We have a collateral
7 issue, and that is a loss of water right. I believe the
8 Commission would have at this time a trespass of this
9 pipeline, but the loss of the water right would be of
10 significant importance to the community until such time
11 as we know with reasonable certainty an alternate or
12 numerous alternate groundwater sources are available.

13 One thing for your information I'd like to correct
14 is on the Calendar item, page 64, in the second full
15 paragraph, last sentence of the second full paragraph,
16 it says, "In a special election". There was no special
17 election on this date and this sentence is totally inaccurate.

18 ACTING CHAIRMAN BELL: The entire sentence should
19 be removed?

20 MR. GRUMER: It should be.

21 MR. TROUT: It is our understanding, Mr. Chairman,
22 there was a general election of District Directors at that
23 time.

24 ACTING CHAIRMAN BELL: But, the voters did not
25 reject the idea of using Donner Lake as a domestic water

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1 source as part of that election, is that correct?

2 MR. TROUT: I would believe that's correct. We
3 might speculate on who was elected and what issues they
4 might have campaigned on, but I think the statement of the
5 gentleman is correct.

6 ACTING CHAIRMAN BELL: I just crossed it off
7 my Agenda.

8 MR. GRUMER: Thank you.

9 I have with me today Dan Cook from Cook Associates,
10 the District Engineer, and we felt that for the sake of
11 time we'd like to forego testimony at this time until the
12 public discussion, if any, is over, so we can wrap up the
13 complete package.

14 ACTING CHAIRMAN BELL: Okay, Mr. Grumer.

15 Mr. Cook will also reserve his comments until
16 later, is that correct?

17 There is a Marjorie Adkerson that wishes to speak
18 today. Is she in the audience?

19 MR. TROUT: Mr. Chairman, while Mrs. Adkerson
20 is coming up, I'd like to apologize to both Mr. McDonough,
21 who is not here, and Mr. Moskowitz, who is the attorney
22 for Dart, who is here, and who's name I messed up.

23 MR. CHRISTIN: I believe my name got left off
24 the record. My name is Harold Christin. We are members
25 of the Donner Lake Plug the Pipeline Committee of the

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1 Donner Lake Property Owners Association.

2 ACTING CHAIRMAN BELL: The two of you are together?

3 MR. CHRISTIN: Yes, we are. We consist of around
4 500 property owners around the lake.

5 Marge resides at Donner Lake and has been
6 attending the Public Utility Board meetings, and we feel
7 this Commission should be made aware of situations arising
8 since the current PUC Board was seated.

9 MRS. ADKERSON: My name is Marge Adkerson.

10 The vote which was under controversy just a
11 moment ago was by a previous Board of Public Utility
12 Directors who campaigned on the issue of Donner Lake water,
13 incidentally. And as our name may indicate, our Committee
14 is certainly in favor of plugging that illegal pipeline that
15 is in the lake. We are concerned at this point because
16 of actions that have been arising from the meetings of
17 the Truckee-Donner Public Utility District, their Board,
18 at a meeting when the most recent request for the 180-day
19 extension was made -- and by the way, that's the one you're
20 considering now that's been pared down now to 90 days.

21 Our Committee respectfully requested that the Board not
22 ask for this extension of time because there is an abundant
23 water supply, groundwater supply within their own District.

24 We were told at that time that the Board intended
25 keeping the application for Donner Lake water current quote

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1 "If 30 years from now water from the lake is needed, I do
2 not wish to be the one responsible for dropping the
3 application", is a rough quote from the Board Chairman.

4 And at the same meeting another Board member
5 stated that after this request they would ask for another
6 180 days, and after that still another, and so on.

7 On a three to two count the Board voted to make
8 the request for the extension of 180 days. Mr. Cook, the
9 District Engineer, apparently felt that a more substantial
10 reason for the application for extension was for exploratory
11 purposes. So, on April 12th or 19th, whichever it was
12 that the State Lands Commission staff, Water Resources
13 Control Board, and Department of Real Estate, came to
14 Truckee for the Public Utility District Board meeting, this
15 exploratory purpose was the rationale that was presented
16 to those people.

17 Since this time, Dart has informed Truckee-Donner
18 Public Utility Board that they do not intend to drill for
19 any other test wells, but that rather they intend to
20 develop the Sales Office Well which they were testing at
21 the time Mr. Trout and the other staff officers were in
22 Truckee.

23 This precludes the District gaining any further
24 water source information. Now, we do not feel that the
25 reasons and rationales and the actions of the Board majority

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1 have been consistent or that they warrant any extension
2 of time on Donner Lake water.

3 Thank you.

4 ACTING CHAIRMAN BELL: Thank you, Mrs. Adkerson.
5 Mr. Christin?

6 MR. CHRISTIN: We, the Plug the Pipeline Committee,
7 request that you do not grant Truckee-Donner Public Utility
8 District an extension, and that you reject applications as
9 of this date, because there are sufficient groundwater
10 sources to meet the needs of the District for use of
11 Tahoe-Donner. In fact, Tahoe-Donner has put up a surety
12 fee for first right of refusal for the Airport Well which
13 has an extremely large flow. We believe the District and
14 the research being done is to find the cheapest source of
15 water for Tahoe-Donner, which we do not object to, but which
16 does not indicate the need of an extension of the Donner
17 Lake water application.

18 If the State Lands Commission does reject the
19 Public Utility District's request for this application,
20 the Plug the Pipeline Committee of the Donner Lake Property
21 Owners Association offers to render inoperative the 24-inch
22 pipeline illegally placed in Donner Lake. We will render
23 it useless in whatever manner is agreeable to State Lands
24 at the expense of the Plug the Pipeline Committee.

25 Thank you.

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1 ACTING CHAIRMAN BELL: We are reminded of the
2 Owens Valley people from Los Angeles.

3 MRS. ADKERSON: I'm sorry, I could not hear you.

4 ACTING CHAIRMAN BELL: I came from Los Angeles,
5 and I was remembering what the Owens Valley people did
6 when the Los Angeles people put their aqueduct in and
7 swiped all the water away from them. And I assume you
8 wouldn't be doing that.

9 MRS. ADKERSON: Well, this isn't necessary. The
10 Hydrologist, which the Public Utility District and Dart
11 hired, has assured them of adequate groundwater. All they
12 need to do is drill for it.

13 ACTING CHAIRMAN BELL: Thank you. Mr. Trout?

14 MR. TROUT: I don't know if there's anyone else
15 in the audience who wants to address themselves or whether
16 the District would like to speak.

17 ACTING CHAIRMAN BELL: If there is no one else,
18 then the District better get up and close.

19 MR. COOK: Thank you, Mr. Chairman. My name is
20 Dan Cook, District Engineer for the Truckee-Donner Public
21 Utility District.

22 I did make the rationale, at the request for
23 the extension that was presented at the Board meeting that
24 Mr. Trout mentioned. The exploration, I feel, is very
25 important. As a person responsible for the providing

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1 of water to the community, I see my responsibilities maybe
2 a little more seriously than those people that have a
3 different water source than the one under consideration,
4 but yet, are part of the same utility district.

5 I need not remind you of the conditions that
6 exist throughout our state this particular year and the
7 deficiencies in water supplies in many areas. There would
8 appear to be a substantial groundwater supply within the
9 basin that was unknown to us prior to the Sharp Report,
10 Dr. Sharp with Hydro-Search, Inc., that explored the
11 Morris Valley, it has a substantial recharge and is very
12 deep. Prior to that report being issued, a big well in
13 our region was 250 gallons a minute. And back in time,
14 prior to that, the District undertook a Master Plan that
15 described the only known source of water for the growth
16 and development in satisfaction of the consumptive water
17 in the area as being Donner Lake. That was the purpose
18 for the original application.

19 At issue here is a loss of water right as well
20 as trespass, as we see it. I personally feel that until
21 we are reasonably assured that we can actually tap that
22 groundwater basin productively, that the request for
23 extension should be made. We concur with the staff on that.

24 ACTING CHAIRMAN BELL: Would you like to comment,
25 sir, on the Plug the Pipeline Committee's comments that the

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1 Dart Industry's people don't plan to do any more exploratory
2 work? I don't know whether it's true or not. If so, you're
3 not going to learn anything more.

4 MR. COOK: Well, we certainly are going to learn
5 more. At this point in time, the Sales Office Well is
6 the well that is currently in the pilot hole stage. The
7 sanitary seal is being installed at this particular time.

8 Last Tuesday, a series of logs were conducted
9 on it. The E-logs and resistivity logs showed some potential.
10 An ultrasonic log is being analyzed by the computer programmer
11 at this point which will give us further information.

12 Now, the significance of this particular hole,
13 and it's the one that changed, in my view, Dart's explora-
14 tion program that they had embarked upon, is that we passed
15 through the Truckee formation and the Loust-Toun formation,
16 at a depth of about 300 feet. Those two formations that
17 the Airport Well is in, is the one that our north side
18 well was founded in, both of which produced substantial
19 sums of water. The 600 feet below the Truckee formation
20 and the Loust-Toun formation are unknown at this point
21 as to their water bearing capacities. The geologist and
22 hydrologist in question seems to feel that there could be
23 substantial amounts. The very significant, in my view,
24 point will be the area of recharge which would increase
25 manyfold as compared to the February '75 report that was

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1 issued by Hydro-Search. That exploration is underway at
2 this time.

3 Because of the new information that's being
4 developed, they feel -- they being the Hydro-Search people --
5 that the development of that well as a production well and
6 pump testing is necessary before they go on to the third
7 pilot hole. Prior to penetrating the new formations,
8 additional pilot holes were envisioned, two additional
9 pilot holes, the Sales Office Well and one that is known
10 as Sha-neva.

11 So, I think the answer is that "Yes", they are
12 proposing additional testing, additional information is
13 being gathered at this time. The program is different than
14 the one we envisioned when Mr. Trout was kind enough to
15 come to our meeting in April.

16 ACTING CHAIRMAN BELL: You're talking about a
17 two-month extension at the moment?

18 EXECUTIVE OFFICER NORTHROP: Yes, Mr. Chairman.

19 ACTING CHAIRMAN BELL: Are you going to be
20 finished at the end of two months with exploratory work?

21 MR. COOK: Unfortunately, no.

22 MR. TROUT: The staff recommendation is a two-month
23 extension. But, to give you better advice in August,
24 the staff is looking for something significant in July.

25 On page 65, the staff recommendation is that the

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1 District submit a comprehensive progress report of the
2 findings of the test well drilling program, and also that
3 they give us a specific program for where they are going,
4 at least, as it relates to the Commission's lands and to
5 the pipeline application that's presently before it. And
6 I think that the staff recommendation is based upon the
7 acceptance on the part of the District to meet these
8 obligations, these requirements.

9 ACTING CHAIRMAN BELL: Any comments by Commission
10 members?

11 MR. THOMSON: I have one question. Is there any
12 water passing through this pipeline at this time?

13 MR. COOK: No. There is not. There's a set
14 of double valves on that pipeline, both of which are closed
15 and shut with seals on them.

16 MR. THOMSON: What do you think will actually
17 happen between now and July 31st?

18 MR. COOK: What I anticipate to be the case
19 between now and July 31st will be the results of the logging
20 that has been undertaken will be completed and a reasonable
21 guess based on that scientific information developed from
22 that logging as to the probability of yield, number one.

23 Number two, there will be a meaningful analysis
24 of the recharge area in the little subsection that we call
25 "G" that will have a profound effect on the District's

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1 facilities that now exist in the recharge area "G". We
2 feel that that recharge will be substantially greater.
3 That's number two.

4 Number three, I would anticipate that the District
5 would undertake the environmental review process at which
6 time the analysis will address many of the points to which
7 you are currently concerned.

8 MR. THOMSON: That's all going to be concluded
9 by July?

10 MR. COOK: Those three items, yes, sir.

11 Now, the pump testing will not be completed in
12 July.

13 The schedule we have, the physical delivery,
14 draw down, specific yield, and things of that nature so
15 that we've got tangible -- I like to call it tangible where
16 you can see it, measure it, taste it and pump test it,
17 actually touch the water supply -- that won't be available
18 until the first of October. We think meaningful information
19 can be provided to you in July.

20 I think there is one other and very important
21 factor, and this is the reciprocal question of what is the
22 loss if we were to proceed with the application at this
23 time.

24 The loss would be, number one -- these are not
25 my values. I contacted yesterday a firm that did the

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1 original draft and just asked them a hypothetical, what
2 if the Commission today said "No", and what if we must
3 proceed through the final, they indicate to me it would
4 be nine months to a year prior to publication. They
5 indicate the cost would probably be somewhere in the range
6 of \$30 to \$70,000. Those are a very broad spectrum of
7 numbers, I know that.

8 Furthermore, during that period of time, while
9 the EIR process is going on, we feel that the conclusive
10 information necessary by the pump testing should be in hand,
11 so there would be a duplication of effort during that
12 period that would be wasted, in my judgment.

13 We feel at this time very similar to Marge Adkerson,
14 that there is a substantial groundwater supply available.
15 We think the chances of it being available -- my personal
16 numbers based upon Dr. Sharp's work -- are probably about
17 85 percent. We feel that a 15 percent risk is not worth
18 taking at this point, my personal view, as the individual
19 responsible for the community.

20 COMMISSIONER CORY: I'm confused on this. If we
21 do not grant the extension, what are the legal ramifications
22 of that? Greg? Bob?

23 MR. TROUT: While they're getting their heads
24 together -- the statute requires, from the operating manager's
25 standpoint, that the Commission either accept or reject all

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1 applications within 270 days or 180 days after completion
2 of the environmental impact report. The applicant in
3 this case has voluntarily requested that this process be
4 waived. But, I think the real question is, as long as
5 this project remains open, the staff is compelled to spend
6 some time and effort on it.

7 COMMISSIONER CORY: No. My question is, what
8 happens if we just terminate it and say, "Fine, you don't
9 have your ducks in a row" --

10 ACTING CHAIRMAN BELL: I think by not taking
11 action on it we are terminating it.

12 COMMISSIONER CORY: If we do that, what's the
13 adverse effect if they want to come back in after they
14 get their act together and file a new application?

15 MR. TAYLOR: They can always refile, and it will
16 be the priority of the filing -- that they will lose that --
17 and they ought to go back and either update or redo the
18 EIR.

19 COMMISSIONER CORY: There was an earlier reference
20 to a loss of water right or something?

21 MR. TAYLOR: We do have an action pending, which
22 would require them to take out the pipeline, to take away
23 what is appropriate consistent with the advice of the
24 Department of Fish and Game.

25 MR. TROUT: The water right application is with

1 the State Water Resources Control Board Water Rights Division.
2 That's a separate application. If that were to be granted,
3 the pipeline would be one way of utilizing that water right.
4 But, those hearings have not been set.

5 COMMISSIONER CORY: I'm sorry. I don't understand
6 that.

7 MR. TROUT: There are two aspects to this thing.
8 There's a question, but there seems to be 2,000 acre feet
9 of water rights grandfathered under the former Donner Lake
10 Improvement Company, and those water rights apparently
11 exist to remove water from Donner Lake. I believe the
12 water is usually passed out of Donner Lake and picked up
13 down below, as Mr. Cook indicated.

14 The obligation, to my understanding, of Tahoe-
15 Donner with an agreement with the District, was to furnish
16 the District with a water supply source of 4,000 acre feet.
17 In order to come up with 4,000 acre feet, Tahoe-Donner
18 purchased the two existing grandfathered 2,000 acre feet
19 and applied for an additional 2,000 acre feet of water.

20 Now, that is under the jurisdiction of the Water
21 Resources Control Board, the allocation of water rights.
22 The pipeline is simply a device, a straw, for sucking the
23 water out of the glass, provided that you are allowed to
24 suck and --

25 COMMISSIONER CORY: Why don't we let them suck and

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1 terminate?

2 MR. TROUT: Certainly, if the Commission were to
3 reject the extension we, the staff, would suggest that
4 it be done clearly without prejudice. But, that is the
5 effect. The water rights seem to be a separable issue.
6 The pipeline is one way you have of utilizing water rights.

7 The present 2,000 acre feet are taken out of
8 Donner Lake by allowing the water to run out, is taken
9 somewhere else, but that's certainly another alternative.

10 Dart has invested significant amounts of money
11 in the pipeline, in the pumps, the pump house, the
12 transporters, the pipeline system which, I think, is
13 probably not, at least as a staff concern. But I'm trying
14 to put the thing in perspective.

15 MR. TAYLOR: Mr. Chairman, you asked for the
16 legal effect of your failure to approve the extension that
17 they have asked for. I don't think that that would terminate
18 the application. I think that you would have to take formal
19 action to terminate the application. We do have a time
20 period specified by statute. If we don't meet that time
21 period, however, it doesn't automatically kill the item.
22 It isn't life or death whether a function goes forward.

23 So, if there's no action taken on this today,
24 the action would be open, it would --

25 COMMISSIONER CORY: If our action was to terminate the

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1 application by saying the applicant is not ready to proceed,
2 we've got a time constraint on us, let's have everybody
3 go back to "go".

4 MR. COOK: I think the two issues are tied
5 together, if I might, by a common draft environmental
6 impact report that addresses both the issues, the issue
7 of the pipeline on State lands and the water right.

8 COMMISSIONER CORY: Is it complete?

9 MR. COOK: The draft is complete but the final
10 statement is not complete.

11 COMMISSIONER CORY: I'm sitting here and saying,
12 this is how you're coming across to me, there is some
13 private developer who wants to do some number in the hills,
14 and the time frame, the guy hasn't met it, and I hear no
15 reason why I should extend myself and the Commission to
16 keeping the door open. The door will be open tomorrow
17 when you get your act together, and you can come on in.

18 Why isn't that the expeditious way to proceed?

19 MR. TAYLOR: I think you need to take final
20 action on the pending EIR which we don't have before you.
21 So, I think you'd need to have one more meeting on this
22 subject to wrap up the EIR process which is going on, and
23 you could terminate it with that finding which has been
24 prepared.

25 As I understand the purpose of this Calendar item,

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1 is that there has been a considerable amount of staff time
2 spent with very little progress. The staff is trying to
3 maximize its use of time, and it's using the vehicle of
4 this Calendar item to bring it to the attention of the
5 Commission and try to get a clarification from the Board.
6 And if it's the Commission's desire to terminate this
7 application, then we'll have to wrap up the EIR process
8 and put it on the next Commission Calendar to terminate
9 the application. But, you'll have to finish the EIR process
10 which has been underway.

11 This action started with the authorization of
12 the previous Commission to reject Dart facilities which
13 were constructed without the permission of the State, and
14 this matter has been held in abeyance pending the work-
15 out of this problem. But, that action is still pending,
16 and if you terminate the application, you will have to
17 resume the lawsuit.

18 COMMISSIONER CORY: But, the question of where we
19 are, we are spending a lot of staff time and resources
20 allocated to the project, and for somebody who came in
21 and put a pipeline in under a trespass situation --

22 MR. TROUT: That is correct.

23 COMMISSIONER CORY: -- and I'm tired of dealing
24 with trespassers like they're nice people. And, you know,
25 that's just where my head is at. And it seems to me we

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1 should go ahead and terminate the thing and if you want
2 to come in, get your act together and have something for
3 the people of California, we'll listen to you.

4 ACTING CHAIRMAN BELL: I assume you want to address
5 the Board.

6 MR. MOSKOVITZ: My name is Adolph Moskovitz and
7 I'm the attorney for Dart Resorts.

8 I was going to sit here and listen quietly, but
9 since questions have been addressed to Dart's role and
10 Dart's intention, I thought possibly it would be better to
11 come from me than secondhand by others.

12 First of all, the well exploration program which
13 has been mentioned was commenced because of the objections
14 that had been raised to Donner Lake as a source of water.
15 And it was pointed out that possibly groundwater would
16 be available and would be a far better source. And I think
17 everybody agreed that groundwater was available in sufficient
18 quantities and could be obtained if environmental review
19 and water rights, and so forth, permitted that to be done,
20 that would be the desirable source.

21 Dart Resorts has been financing a very, very
22 expensive well exploration program and groundwater research
23 program. We've gotten the best man because we know the
24 District has gotten the same man, Dr. Sharp. We have done
25 a lot of work up to now, and we're going to continue with it.

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1 Mrs. Adkerson's information that we're stopping is not
2 correct. We are continuing, and we're continuing strictly
3 in accordance with the recommendation of Dr. Sharp. We
4 are following his professional advice.

5 His professional advice, right now, is as a result
6 of the latest test well that is being drilled, the so-called
7 Sales Office Site, it opens up new information not previously
8 known, and it requires that there be some test pumping to
9 find out the extent and the significance of this new
10 opening that's been penetrated. Before we can undertake
11 that without any possibility of legal challenge, an
12 environmental review process has to be commenced and
13 followed through. And that has to be done by the Public
14 Utility District because that's the entity that will own
15 and operate the well that is put into production.

16 We have requested the District to commence that
17 process. In the meantime, it will be the compilation of
18 the information already received and an analysis of the
19 computer work, so that there will be a better basis for
20 the test pumping.

21 Now, that addresses Dart's intentions with regard
22 to groundwater. We want to pursue it to a conclusion, and
23 we hope that it will result in confidence by everybody that
24 that is the source. And at that point, we will happily
25 suggest to the District that they withdraw its lease

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1 application, because that will end that controversy, and
2 we'd like it to end. But, the District feels, and we
3 concur with the District's feelings, that until that
4 groundwater source has really been pinned down, it's
5 imprudent to cut off this other alternative even though,
6 in all probability, it will not be. We just feel it's
7 imprudent to do so, and we feel the additional time while
8 we pursue in orderly fashion is of no prejudice to anybody,
9 has no prejudice to anybody. And for this reason, we
10 think that it's advisable from the standpoint of the State,
11 as well as the District, as well as Dart and the people
12 in the community, to simply maintain the matter in status
13 quo.

14 It's been mentioned that there is an environmental
15 impact report draft that has been completed subjected to
16 hearings, but it's not the final. In order to play this
17 game out, if you want to take final action and not defer
18 as has been requested, you would have to complete that
19 draft and make it a full-scale environmental impact report.
20 That will take time and money, and in light of the current
21 posture of the matter, it may well be money and time wasted
22 for no good purpose.

23 So, instead of doing that, we ask that the
24 District be permitted to proceed, we be permitted to proceed
25 and come in and show you very specifically what has been

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1 done and when we feel the final result would be obtained.
2 And we don't think anybody could be hurt by that.

3 ACTING CHAIRMAN BELL: Any questions?

4 MS. SUTTON: May I be heard?

5 I'm Pat Sutton. May I address the Board, please?

6 ACTING CHAIRMAN BELL: Would you please come down
7 here?

8 MS. SUTTON: I'm Pat Sutton from Truckee, and
9 I'm a Member of the Board of Directors from the Truckee
10 County Public Utility District.

11 Unfortunately, I did not get here when this
12 hearing started, and so, I don't know who told you what
13 about what. I've heard enough in the last few minutes,
14 though, that I feel that I must say something.

15 Mr. Moskovitz likes to refer to me as one of his
16 dissident Directors, and I guess that is perhaps what I
17 am. Last year I supported two requests by the District
18 for extensions of time on this matter, and I did that
19 because I thought that there was something to be gained
20 by it.

21 I've given you a rather long statement, and I
22 don't know whether you want to take the time for me to
23 read it or not. I'd like to clarify for you that last
24 year when I supported the extension the first time, it
25 was because the groundwater study had just come in and we

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1 needed to explore with Dart the alternatives presented by
2 the groundwater sources. And we did enter into negotiations,
3 and we came very close to acquiring what is known as the
4 Airport Well, which could provide a substantial amount of
5 water for Tahoe-Donner.

6 In October we requested another extension of time
7 because we needed to complete the agreement between Dart
8 and the District and the District and the Airport District
9 which was, in fact, the owner of the well. But, soon
10 after the extensions of time were granted, Dart lost its
11 interest in that well and not long after that, Dart decided
12 to pursue its water exploration program independently of
13 the District.

14 The District is not being consulted properly by
15 Dart in the groundwater exploration. Mr. Cook mentioned
16 a little bit ago that there is more than one test site. On
17 May 18th the representatives of Dart told us that they were
18 not going to do any more exploration, any more test drilling
19 until after construction of the present test hole into a
20 well. And I would say, then, that we are not assured of
21 another testing site being decided upon right now, we're
22 still fighting over who is going to make a decision and on
23 where the test sites shall be.

24 ACTING CHAIRMAN BELL: Just as a little short,
25 I see that your statement recommends June 30th rather than

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1 July 31st?

2 MS. SUTTON: Yes.

3 ACTING CHAIRMAN BELL: Otherwise, we certainly
4 agree with the other proposals that you are suggesting.
5 But, we have to cut this awful short because we have other
6 Commission business.

7 MS. SUTTON: Can I prompt you to read this someday?

8 ACTING CHAIRMAN BELL: I read it already.

9 MS. SUTTON: You took a speed-reading course, then.
10 What I'd like to suggest that you do is take
11 some kind of special action today and turn down your staff
12 recommendation which is a result of an ill-considered
13 decision by the majority of the Board of Directors, and
14 which I opposed, and I would ask you to only grant an
15 extension until June 30th and that you attach some conditions
16 to it which would help me and the community of Truckee,
17 and perhaps the people who are concerned about the Donner
18 Lake, to find a way to get back to a working relationship
19 with Dart on resolving the water problems whether they are
20 eventually at Donner Lake or underground sources.

21 So, the conditions I would like to see attached
22 to an extension to June 30th would be that the District
23 be required to present and plan to resolve its problems
24 on groundwater alternatives.

25 And two, that the District present a timetable for

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1 disposition of the Donner Lake lease application, so that
2 you know what we're doing and we find out what we're doing
3 right now. Nobody knows.

4 The third thing is that the District come back
5 to you by June 30th, or as soon as you meet after that
6 date, and present a request for a time extension that is
7 of a sufficient length to accomplish the resolution of the
8 problems and the disposition of the lease application.

9 We can go on like this, I think, for a few more
10 years because some of the Members of the Board do not want
11 any action taken on this application at all. They have
12 expressed on numerous occasions that they want to delay
13 your action as long as they can, and they are thinking
14 in terms of years.

15 ACTING CHAIRMAN BELL: We got you. Pat, our only
16 difference, really, is July 31st instead of June 30th, and
17 we have to have a meeting before that date.

18 MS. SUTTON: In July you have to meet or when
19 you meet?

20 ACTING CHAIRMAN BELL: If we give them until
21 June 30th, that means we have to settle the problem in June,
22 and I'm not sure just what our chances are. Otherwise,
23 our staff action is very similar to what you are saying.

24 MS. SUTTON: No, it really isn't because your
25 staff recommendation --

1 ACTING CHAIRMAN BELL: They have to come in and
2 ask for a course of action, and it's saying just about what
3 you are saying.

4 MS. SUTTON: Okay. No, it really isn't, because
5 I'm the one up there that's been doing the fighting.

6 The staff recommendation asks for a comprehensive
7 report on the findings of the test drilling, right?

8 ACTING CHAIRMAN BELL: Yes.

9 MS. SUTTON: This cannot be accomplished by
10 July 31st. We have very limited knowledge of the well,
11 officially, although Dr. Sharp, who is Dart's Hydrologist,
12 is proceeding with his evaluation. But, a well cannot
13 be pump tested or rated until after it has been built.
14 What we have right now is a hole in the ground that goes
15 down 132 feet, something like that.

16 ACTING CHAIRMAN BELL: Did you say October?

17 MS. SUTTON: Well, one of the things you should
18 realize was that it was suggested the District by-pass the
19 environmental review process on this well in order to provide
20 you with meaningful information by July. I don't think
21 that any of us want that to happen. I don't think Dart
22 wants to risk its money to proceed in that manner. So,
23 I would suggest that what the staff recommendation is does
24 not deal with the problem, and I would like for you to take
25 a close look at what the staff recommendation was and to

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1 look again at what I'm suggesting.

2 And I'd be glad to answer any questions.

3 ACTING CHAIRMAN BELL: Fine.

4 Mr. Cory?

5 COMMISSIONER CORY: I would like to move that
6 we place on Calendar for the July meeting termination of
7 this application. That would give us until the July meeting,
8 as opposed to the thing, for people to get their act
9 together and come in with a specific alternative proposal,
10 or they can start from scratch, again.

11 ACTING CHAIRMAN BELL: Now, do we need anything
12 else?

13 COMMISSIONER CORY: I'm asking the staff if we
14 need an additional meeting to wind up the EIR; can that
15 be accomplished at the July meeting?

16 ACTING CHAIRMAN BELL: Do you need to extend this
17 until July, or are you just incorporating that?

18 COMMISSIONER CORY: Yeah. I was thinking there
19 should be a final meeting at which --

20 MR. TAYLOR: It will take us the two months to
21 wind the thing up, at least.

22 COMMISSIONER CORY: And if the District and Dart
23 and the people of the community come up with a specific
24 alternative plan, I think the staff should, you know, during
25 the course of that time, be prepared to present that

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1 alternative plan to this Commission. But, I think that
2 we can spend years massaging mosquitoes, and I'm not sure
3 we should be doing that with our time.

4 ACTING CHAIRMAN BELL: Mr. Cory has made a motion.

5 MR. THOMSON: Second.

6 ACTING CHAIRMAN BELL: There is a second. All
7 in favor say aye?

8 (Ayes.)

9 ACTING CHAIRMAN BELL: Opposed?

10 Adopted unanimously. Item 21 is approved in that
11 manner.

12 MR. TAYLOR: It should be noted that Mr. Cory
13 entered during the beginning of the debate on this item,
14 and we now have three members voting.

15 ACTING CHAIRMAN BELL: You're absolutely right,
16 Mr. Taylor, and the record will show that.

17 Now, I have fulfilled my duty, and I'm going to
18 turn the Chair back over to Mr. Cory and trade places.

19 CHAIRMAN CORY: Sit still. I would like you on
20 my left.

21 COMMISSIONER BELL: I always thought I was more
22 conservative than you.

23 EXECUTIVE OFFICER NORTHROP: Item 22 has been
24 taken off Calendar.

25 CHAIRMAN CORY: Item 23? Application of

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1 William Morrow, Commercial Lease, Sacramento River, OakHall
2 Bend. Any questions?

3 Anybody in the audience who wishes to address
4 Item 23?

5 Without objection, Item 23 will be approved as
6 presented.

7 Item 24, application of Charles R. & Pearl I. Landers,
8 seawall, San Luis Obispo County, nominal rent, but at the
9 same time, we are defining boundary, I believe.

10 Is there anybody in the audience who wishes to
11 address this Item 24?

12 Without objection, Item 24 will be approved
13 as presented.

14 Items 25 and 26 are over.

15 Item 27, applicant is Harry C. Schilling for a
16 lease, San Joaquin River, Andrus Islands, Sacramento County,
17 for the maintenance of a commercial marina.

18 Anybody in the audience who wishes to address
19 the Commission on Item 27? Any questions from Members of
20 the Commission?

21 Without objection, Item 27 will be approved as
22 presented.

23 Item 28, Schnitzer Steel Products, verification
24 of dredging permit, to dump the hump in the hole of Alcatraz,
25 right?

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1 (Laughter.)

2 CHAIRMAN CORY: Is there anybody in the audience
3 who wishes to address themselves on Item 28?

4 Without objection, Item 28 will be approved as
5 presented.

6 Item 29, Long Beach Operation.

7 EXECUTIVE OFFICER NORTHROP: Mr. Thompson, from
8 our Long Beach Operation, would like to address the Commission
9 just briefly or answer questions on Items 29, 30 and 31 and
10 also Item 39 on the Agenda. Mr. Thompson?

11 MR. THOMPSON: Item 29 is merely a modification
12 of a projection of revenue as of December, 1976. It's a
13 little late getting here because of our problems with FEA
14 in getting additional information. It will be followed
15 by another one in a few months to bring you up to date,
16 and we ask adoption of modification. It has no impact
17 on the State revenues that we've already given to the
18 Finance Department.

19 CHAIRMAN CORY: Without objection -- anybody in
20 the audience wish to speak to Item 29 on this modification?

21 Hearing none, Item 29 will be approved as presented.

22 MR. THOMPSON: Item 30, a pipeline survey indicated
23 the need for some work on some pipelines on Pier J on the
24 shore portion of the Long Beach Unit. So, for the work to
25 be done, the Executive Officer has approved the transfer

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1 to us of some funds, and we're asking your ratification on
2 this.

3 CHAIRMAN CORY: Any questions on this?

4 Without objection, 30 will be approved as presented.

5 MR. THOMPSON: Number 31, project review, I believe
6 this is the first of this particular nature you've had
7 before this particular Commission.

8 Under Chapter 138 there are certain specific
9 projects for which the City of Long Beach may spend their
10 share of the revenues on certain projects that are defined
11 in Section 6, items (a) through (g), and Section (a) which
12 describes the procedure for which these are submitted to
13 the Commission for a determination, if the Commission
14 desires, that this money is going to be expended for one
15 of the projects on 6(a) through (h).

16 Item 6(c) here includes within it the provision
17 that these monies will be spent on recreational facilities,
18 and that's what this is. This is a fishing pier adjacent
19 to a bridge across the San Gabriel River. At that
20 particular point, the river is the dividing line between
21 Los Angeles and Orange Counties, so it's just the Long Beach
22 portion of the river bed and it's adjacent to a bridge,
23 there.

24 CHAIRMAN CORY: Any questions?

25 Anybody in the audience who wishes to address this?

1 Item 31 will be approved as presented.

2 MR. THOMPSON: Item 39 is a Calendar informational
3 item.

4 CHAIRMAN CORY: Item 32.

5 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
6 is a boundary line correction.

7 CHAIRMAN CORY: This is just to get the meets
8 and bounds to conform with reality --

9 EXECUTIVE OFFICER NORTHROP: Right.

10 CHAIRMAN CORY: -- as opposed to what someone
11 thought reality was.

12 Does anybody wish to address themselves on Item
13 32?

14 It will be approved as presented.

15 Item 33 is off Calendar.

16 EXECUTIVE OFFICER NORTHROP: 33 is put over.

17 CHAIRMAN CORY: 34, a maricultural agreement.

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
19 is an approval of an agreement between Atlantic Richfield
20 and California Marine Associates for a development off the
21 Platform Holly for mariculture.

22 Let the record show we have a letter from
23 Mr. E.C. Fullerton, Director of Fish and Game, asking the
24 Commission approve this lease because of the beneficial
25 effects that could possibly be derived from it.

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1 CHAIRMAN CORY: Those are what, money?

2 EXECUTIVE OFFICER NORTHROP: Beg your pardon?

3 CHAIRMAN CORY: Is that a money lease?

4 EXECUTIVE OFFICER NORTHROP: No. It's a --

5 MR. TAYLOR: It is some money, but it's not the
6 primary purpose.

7 Their interest is whether or not you can raise
8 abalone commercially in these pens and market them as a
9 resource.

10 CHAIRMAN CORY: The California Marine Association,
11 Mr. Hugh Staton?

12 I'm glad you're here because I was wondering,
13 we have it in our records as the California Marine
14 Association, and its the California Marine Associates.

15 MR. STATON: Associates, correct.

16 CHAIRMAN CORY: It is a --

17 MR. STATON: Limited partnership.

18 CHAIRMAN CORY: -- and a profit-making venture,
19 we hope?

20 MR. STATON: Well, thus far, we're about \$670,000
21 in the hole, but we hope to be sometime.

22 CHAIRMAN CORY: Do you wish to address the
23 Commission?

24 MR. STATON: Yes. We have at the bottom of the
25 paragraph on page 1, of the Research Agreement, we either

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1 take exception to, or, at least, clarification -- we don't
2 know whether we take exception to it or not -- starting
3 with the word "under" which is the fifth line --

4 EXECUTIVE OFFICER NORTHROP: Where are you quoting
5 from?

6 MR. STATON: Oh, page 1.

7 EXECUTIVE OFFICER NORTHROP: Page 93 of the
8 Calendar.

9 MR. STATON: I'll just read it:

10 "If Phase II is successful,
11 the parties may jointly undertake
12 a commercial venture for abalone
13 mariculture at Holly, or elsewhere,
14 under terms and conditions to be
15 determined at that time."

16 The terms and conditions for an ongoing commercial
17 venture are covered in our Research Agreement with
18 Atlantic Richfield beginning on page 5, section 5, Commercial
19 Venture.

20 CHAIRMAN CORY: What they're telling you is maybe
21 that's what your agreement is with ARCO, but the agreement
22 with the State can be something else. Is that what you
23 want clarified?

24 MR. STATON: I would like it clarified if this
25 is what it is to be. As it is written, the parties may

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1 jointly undertake a commercial venture under terms and
2 conditions to be determined at that time. I think terms
3 and conditions have already been determined for them.

4 MR. TAYLOR: I think the concern is whether the
5 ultimate plan is going to be developed and what effect it
6 will have on the structure. So, the way the Calendar Item
7 is drafted, Don, is that we have another look at this
8 before they go into Phase II.

9 MR. EVERITTS: Don Everitts, Manager Energy and
10 Mineral Resources Development.

11 If Platform Holly were used for the ultimate
12 commercial venture, then obviously, the State Lands
13 Commission would have to review and consider and approve
14 or disapprove it in terms of the contract. It's my
15 understanding that more than likely if the venture does
16 turn out to be commercial, that the commercial operation
17 would probably be conducted from tethered systems away from
18 Platform Holly, at which case, under current legislation,
19 the law of Fish and Game would be the sole negotiators on
20 the mariculture lease.

21 The term "at Holly" really means just in the
22 general area rather on Holly.

23 CHAIRMAN CORY: Not right on the platform?

24 MR. EVERITTS: That is correct.

25 MR. STATON: That was my next question of

1 clarification. When it says at Holly, are we talking about
2 the physical structure of Holly itself or on the whole
3 lease, PRC, whatever that comprises that lease at which
4 Holly sits?

5 CHAIRMAN CORY: Sir, what is your time schedule,
6 because I understand your concerns in terms of business
7 implications, and I really have reservations that you
8 should proceed without the lawyers really going over and
9 your lawyers and the State's lawyers really knowing what
10 the hell we're approving, because you may not get what you
11 want or we may end up giving you more than we should be
12 giving you if we really don't understand. I would not want
13 you to rely on verbal assurances as to be an amendment to a
14 written contract which we might probably later regret or
15 not have the power to grant to you. I don't know what
16 your time frame is.

17 Greg, do you have any qualms about us abiding
18 by the seat of our pants and amending these?

19 MR. STATON: The time frame is very tight. We
20 have had a 90-day wait imposed by law on the Fish and Game
21 lease which will be issued tomorrow. And this 90-day
22 scheduling is going to cut into our summary, and we only
23 have so many dependable days of good diving weather, and
24 it is of some importance.

25 I would say that the Fish and Game lease under

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1 paragraph 3 which is on the next page, it says: "will be
2 issued for an initial term of five years with an option
3 to renew the lease for two additional five-year periods".
4 That should read two additional ten-year periods.

5 MR. TAYLOR: We have not had a legal review of
6 the Agreement that is being proposed.

7 CHAIRMAN CORY: That is what I'm concerned about.
8 I think it's okay but --

9 MR. TAYLOR: I will say this, that if what
10 Mr. Everitts has expressed the intent that we are only
11 approving Phase I, which is the testing and exploration,
12 which is the way the Calendar is written, that the item
13 could be amended to provide that. We'll approve the contract
14 between them as to Phase I, which is the experimental
15 process, on the specific understanding that no approval
16 is given for Phase II at this time. And they will return
17 to the Commission at a time they are ready to proceed with
18 Phase II for full consideration of the matter at that time
19 as to whether it will have an effect on the platform.

20 Our jurisdiction is limited to the effect it's
21 going to have on the platform or any facility or upon our
22 operations with regard to oil and gas.

23 MR. STATON: Well, I think it has been determined
24 that neither I or Phase II would have any.

25 CHAIRMAN CORY: No. We're telling you that this

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1 Commission will make that decision.

2 MR. STATON: Yeah. Okay.

3 CHAIRMAN CORY: And that's the problem. I don't
4 want you to walk out of here thinking you've got something
5 that you haven't and that's why I'm hesitant to approve
6 it. And I think Greg's suggestion, to put it out "cold
7 turkey", that if we were just approving Phase I which
8 allows you to proceed, with the understanding at some point,
9 and it's probably totally technical, but there's certain
10 business risks incumbent upon that, and it may take the
11 lawyers a couple of days to sit down and realize that
12 there's never going to be anything there unless you want
13 to utilize the structure of Platform Holly. Then, at that
14 point, we get concerned vis-a-vis the effects of the platform
15 which we have jurisdiction on. That's what I'm haggling
16 with you. I don't want you to walk out of here thinking
17 you have the world and you don't.

18 MR. STATON: Our contemplation is not using
19 Platform Holly for a commercial-type venture. Our idea
20 is to use Platform Holly for a Phase I and Phase II study
21 which will culminate in a wealth of informational material
22 to determine whether the possibilities for a commercial
23 venture near Platform Holly or halfway between Platform
24 Holly and Santa Rosa Island could be, at least as a
25 possibility, of becoming something.

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1 CHAIRMAN CORY: But, this confusion that you
2 raise in terms of Phase II I'm not sure can be clarified
3 in this meeting.

4 MR. STATON: I'm not trying to raise confusion.

5 CHAIRMAN CORY: No.

6 MR. STATON: The confusion is at the time that
7 a possible commercial venture would come about from the
8 results of Phase I and Phase II -- because we have felt
9 that we would be off the platform, and this statement at
10 the bottom of the paragraph that any agreement for commercial
11 production involving the use of Holly, we're not sure
12 whether this is on the PRC lease on which Holly sits, or
13 the physical Platform Holly itself.

14 At the present time, we are not interested in
15 utilizing Platform Holly for a commercial venture because
16 of the possible problems with the integrity of the platform.

17 MR. HIGHT: Mr. Chairman, in a second we'll have
18 some language that will say all the Commissioners are
19 approving at this time is Phase I and that Phase II will
20 be subject to further review.

21 CHAIRMAN CORY: That's not what the gentleman
22 is asking. He means Phase I and II approved.

23 MR. STATON: If we're only going to get Phase I
24 approved, we might as well forget the whole thing. I can't
25 conceive of someone putting out \$180,000 to do a one-year

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SACRAMENTO, CALIFORNIA 95826
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1 study unless there was a possibility of taking it to
2 completion.

3 MR. HIGHT: I think the Chairman's problem is
4 we don't know what our rights and liabilities are when
5 you get into Phase II, and that's the point that we want
6 to look at.

7 MR. STATON: Phase II is a mild expansion of
8 Phase I. Maybe you are talking about Phase II as a
9 commercial venture. I'm not. We're talking about Phase I
10 as a small-scale study, Phase II as a slightly larger-scale
11 study where we will do studies on animal vitality in
12 quantity. You are talking about 3,000 animals in Phase I,
13 they have a lot of room to move around in. In Phase II,
14 you will be upping that to approximately 30,000 animals,
15 so that we can check the stress on the animal, the growth
16 of the animal in more crowded conditions. And, then, what
17 we would call a commercial venture would really be Phase III.

18 MR. EVERITTS: I'm not sure you are familiar
19 with some of the technical statements. But, he's talking
20 about testing some different types of containers at
21 different depths of water. And when they go to Phase II
22 they are simply going to put more animals probably in the
23 same containers, very few different -- not a great deal of
24 difference in the number of containers. But, structurally,
25 in the containers of the platform I don't see any difference.

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1 CHAIRMAN CORY: You are going from 3,000 abalone --

2 MR. STATON: To 30,000 over a period of a year.

3 CHAIRMAN CORY: -- to 30,000. So, you've got
4 the weight of 27,000 abalones submerged in seawater which
5 is buoyed up a certain way. What do they weigh, a pound,
6 a pound and a half?

7 MR. STATON: (Laughter.) These are tiny, two
8 and a half to three-inch animals which are somewhere in
9 the neighborhood of 90 to 100 grams. Suspended in water
10 we have a specific gravity of water of just slightly above
11 that of water. So, the containers themselves will have
12 a positive buoyancy.

13 CHAIRMAN CORY: So, the added weight of 27,000
14 animals is negligible.

15 MR. STATON: Right.

16 CHAIRMAN CORY: Do you have something for us,
17 Greg?

18 MR. TAYLOR: Well, if I understand, Phase I and
19 Phase II are exploratory. In other words, they are both
20 data gathering of information. As I understand the
21 Commission's concern, it is that there be no commercial
22 operation commenced pursuant to this Agreement without
23 our prior approval; is that correct, does that satisfy?

24 MR. STATON: Now, we are back to the crux of
25 the matter. Are we talking about the integrity of the

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1 physical Platform Holly itself, or are we talking about
2 the whole lease area?

3 MR. TAYLOR: We're talking about anything that
4 would enter here with the State Lands Commission's operation
5 of an oil and gas lease. Whether that would extend beyond
6 Holly or not would depend upon what you propose.

7 CHAIRMAN CORY: If you start building steel pens
8 around that we can't get to, the platform --

9 MR. STATON: Oh no, no.

10 CHAIRMAN CORY: We don't know your business,
11 that's our problem.

12 MR. STATON: Steel wouldn't last very long, anyway.

13 CHAIRMAN CORY: All right. Plastic.

14 MR. TAYLOR: I think that if the language in
15 Item 3 can remain the same as it is and just add a sentence,
16 or add a phrase there and change the period to a comma
17 after the word "Commission", "and subject to the Commission's
18 prior approval of any commercial operations which may be
19 undertaken as a result of said Agreement."

20 CHAIRMAN CORY: I really think --

21 MR. STATON: Now, you're putting yourself between
22 the Fish and Game Department.

23 CHAIRMAN CORY: We can deal with them.

24 (Laughter.)

25 MR. STATON: I don't want to get into a family

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26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
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1 squabble.

2 CHAIRMAN CORY: No, no. I'm asking the staff
3 if there is some mechanism by which we can approve this
4 tentative to say, the Executive Officer or the staff
5 negotiating the final settlement, because I see some serious
6 problems that had better be spelled out as to what our
7 concerns are or are not. And somebody better sit down
8 with these people before they spend any more money. I don't
9 want to delay you another month, but we are giving you
10 tentative approval, which means that if you can't cut a
11 deal with the staff and that everything is written up
12 explicit -- now, I'd even be prepared if you have a problem
13 to call some sort of quick meeting where you have one last
14 chance to thrash it out. But I'm really fearful that we
15 are not sure that we're communicating about the same thing.
16 And to draft a contract here in the room that we don't
17 know about, the staff had better do a better job of getting
18 together with you in terms of finding out what it is we
19 don't agree on.

20 MR. STATON: Well, in all fairness to the staff,
21 this was kind of a rush thing.

22 CHAIRMAN CORY: I'm not criticizing. I'm prepared --
23 the general concept doesn't scare me. I'm just fearful
24 of asking Bob and Greg to be drafting and you say "No" that's
25 not what you mean. That tells me that the lawyers are being

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26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
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1 asked to do something they don't clearly understand, and
2 they better have some more staff hours spent on it. Does
3 that make sense?

4 COMMISSIONER BELL: Are you saying we'd approve
5 it as submitted to us even without extra language subject
6 to ratification, whatever it is, being agreed to between
7 the staff and the party?

8 CHAIRMAN CORY: Yes. I figure that the staff
9 knows what we need, and they can sit there as long as this
10 is legal and proper, and if we see that as long as they
11 don't interfere with the oil and gas lease, they have
12 no great concerns. But, that has to be spelled out so
13 that you know the risk that you are undertaking.

14 I say steel tanks, you know, plastic tanks, those
15 are the kinds of things that go through my mind. I don't
16 know what your project is like.

17 MR. STATON: I have pictures and everything if
18 you want to get into it.

19 CHAIRMAN CORY: I think there are more intelligent
20 people who are better equiped to look at those pictures
21 to understand what it means.

22 EXECUTIVE OFFICER NORTHROP: The staff will take
23 it.

24 CHAIRMAN CORY: If there is not agreement, if
25 there is any hesistancy on the staff's part, contact the

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1 Chairman and we'll get a quick meeting, and I would imagine
2 you would be available to argue your point.

3 MR. STATON: We could really come to resolve
4 the whole thing if we just said involving the use of
5 Platform Holly or interference with the fine petroleum
6 production use of that platform.

7 CHAIRMAN CORY: I'm not sure that the lawyers --
8 that may, in fact, work, but they better think that one
9 through.

10 MR. STATON: Because once we move off of the
11 platform, from what I am able to understand, we come under
12 the total auspices of Fish and Game and the Federal Bureau
13 of Fisheries and the Army Corps of Engineers.

14 CHAIRMAN CORY: If you weren't interfering with
15 the lease rights that we have to protect.

16 MR. STATON: Correct.

17 CHAIRMAN CORY: And it's the final caveat that
18 the lawyers are going to have to haggle over. And then
19 it's how it's drafted -- if you don't agree with the
20 language you have the opportunity to come back and get
21 a special meeting.

22 MR. STATON: Oh, I will.

23 CHAIRMAN CORY: Okay?

24 MR. HIGHT: He wants to play with the language.

25 CHAIRMAN CORY: I don't want to.

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26 NISS COURT
SACRAMENTO, CALIFORNIA 95826
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1 MR. HIGHT: No. For the resolution.

2 CHAIRMAN CORY: Oh, for the resolution? Okay.

3 MR. TAYLOR: Mr. Chairman, your concern is not
4 the starting of the commercial operation as I previously
5 worded the language, but we would add a phrase at the end
6 of this that we authorize approval of the Agreement subject
7 to their getting a lease, and provided that the work done
8 pursuant to said Agreement shall not interfere with the
9 operations done pursuant to PRC Number 77 as determined by
10 the staff.

11 MR. HIGHT: That accomplishes, I think, your
12 goals and allows for us to negotiate with him.

13 CHAIRMAN CORY: Does that --

14 MR. STATON: I don't know. I don't know if
15 Atlantic Richfield would be willing to go ahead on that
16 basis. Here again, I can't speak for them.

17 MR. TAYLOR: It limits your concern, that we're
18 only concerned about oil and gas operations pursuant to
19 this lease, not just necessarily the structure, because
20 it could be there would be interference with landing or
21 safety requirements in connection with the platform. So,
22 it has to be a little broader than the actual platform.

23 MR. STATON: This is really already in our
24 Agreement with Atlantic Richfield.

25 MR. TAYLOR: All we want to do is retain the

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TELEPHONE (916) 383-3601

1 ability to say, in our opinion, it's interfering with it.

2 CHAIRMAN CORY: Our difficulty is that we are
3 not always happy with the way some of our lessees have
4 interpreted their best interests.

5 MR. STATON: Now, you are being caddy.

6 (Laughter.)

7 CHAIRMAN CORY: At times they make good decisions
8 and at times they make bad decisions. And we are saying
9 to you and to our other tenants the Lands Commission is
10 concerned about that. And they have taken certain risks
11 in that channel that, I think, they shouldn't have in the
12 past, and we're not going to let them --

13 MR. STATON: Well, I'm sure we can work out an
14 equitable agreement.

15 CHAIRMAN CORY: That is an approval with that
16 express understanding.

17 MR. STATON: Mr. Sucato is a representative from
18 ARCO and is here today.

19 MR. SUCATO: Yes. My name is Paul Sucato from
20 Atlantic Richfield.

21 I'm not in a position to say one way or the other
22 whether or not we'll approve this project as a result of
23 this meeting. I would like to recommend, though, would
24 it be possible for the staff to review our proposal within
25 the next month, and put it on your next Calendar meeting?

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SACRAMENTO, CALIFORNIA 95826
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1 This would expedite any consideration by ARCO management
2 with regards to the continuation of the project.

3 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, may
4 I say that I made this suggestion to ARCO through our
5 staff last week, and I was told that it was imperative that
6 this be on the Agenda at this time.

7 I wonder why ~~the change~~ in ARCO's position now,
8 to really, we're in ~~this~~ position trying to hurry.

9 CHAIRMAN CORY: We are prepared to give you
10 tentative approval subject to staff's drafting of the
11 language. Right now. We're prepared to put the whole
12 item over to next month, but the gentleman here seems to
13 not want to wait that long, and I can appreciate his concern.

14 MR. SUCATO: We're happy right now with the
15 temporary tentative approval, but we would like to resolve
16 this any further approval regarding our commercial operations
17 prior to spending our large amounts of money. We do need
18 approval today to go into Fish and Game tomorrow.

19 MR. TAYLOR: There's going to be a continuing
20 problem, one is to determine the feasibility of this as
21 I understood it. And quite frankly, I thought this was
22 a minor data gathering-type permit from the reading of
23 the Calendar Item. If it's more than that or if it's
24 problems of continued operations, there may be some
25 continuing liaison necessary to insure that we're satisfied.

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1 We're surely, if anything goes haywire with this, going
2 to be co-defendants in an action. And if they wanted to
3 go ahead, I would say that it would be provided that this
4 last language would be the understanding, that they bring
5 back a specific Agreement, then, they wanted to define
6 that more specifically next month. But, that we make that
7 delegation now.

8 CHAIRMAN CORY: Is that what you are asking for?

9 MR. SUCATO: You see, the only reason we came
10 to object today is we had not seen the write-up in the
11 Calendar until -- at least I hadn't seen it until yesterday.
12 And we had assumed that this approval to be granted by
13 the Commission was to include operation through some part
14 of a commercial venture. And that was our impression prior
15 to several days ago. Apparently, it has changed, or not
16 changed, there's been a miscommunication.

17 MR. EVERITTS: There certainly has been a
18 misunderstanding, because never at any time did we discuss
19 commercial operation, not once. And it's just a statement
20 of fact.

21 MR. TAYLOR: Mr. Chairman, with the uncertainty,
22 perhaps we better put the matter over for 30 days.

23 CHAIRMAN CORY: I'm really reluctant to, because
24 they do have a seasonal problem.

25 COMMISSIONER BELL: I see no problem with what

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SACRAMENTO, CALIFORNIA 95826
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1 you are proposing, and in effect, then, we set it on the
2 Calendar this month.

3 CHAIRMAN CORY: If you are at issue for some
4 reason, if you can't get together with the staff, ARCO
5 and California Marine Associates, we can --

6 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, do
7 I understand ARCO to say that they were opposed to this
8 project?

9 MR. SUCATO: No, that's not correct.

10 CHAIRMAN CORY: They aren't opposed to the project.
11 They were opposed to the way we were going to tentatively
12 approve it. They want the whole cake, not part of it.

13 MR. SUCATO: That was my understanding coming
14 to this meeting. Well, it was my understanding up to
15 several days ago.

16 MR. TAYLOR: As I understand the Commission's
17 expression, we're concerned that they operate in a manner
18 which will not interfere with our operations, but we think
19 the proposal is a good proposal. If it would accomplish
20 their purpose this morning, we could use the second language
21 I suggested, that the approval be subject to the fact that
22 the Agreement between ARCO and California Marine Associates
23 not interfere with work done pursuant to PRC Number 3842,
24 we could make that approval. If they want a more specific
25 agreement on that, we can put it back on -- a more specific

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26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 agreement defining this proposal -- at the next meeting.

2 MR. STATON: I think that would be fine.

3 CHAIRMAN CORY: Without objection, then, we'll
4 approve the language Mr. Taylor has presented to us, and
5 the thing will be approved on that basis.

6 I think before the staff releases those documents,
7 they should sit down with the principals, both the
8 representative from ARCO and California Marine Associates
9 and make sure that there is no misunderstanding as to what
10 it is, because there seems to be some confusion.

11 MR. TAYLOR: May I read the resolution as I
12 understand it has been adopted?

13 "and provided that the work
14 done pursuant to said Agreement
15 shall not interfere with the
16 operations done pursuant to
17 PRC Number 3842."

18 Shall I just leave it at that, or do you want
19 to add "as determined by the staff"?

20 COMMISSIONER BELL: At this point, I think that's
21 all you need. But, they ought to then have the next month
22 to look at it to see if they want it.

23 CHAIRMAN CORY: You are saying, as determined
24 by the staff?

25 MR. TAYLOR: Let's just leave it at that. "shall

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SACRAMENTO, CALIFORNIA 95826
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1 not interfere with operations pursuant to PRC Number 3942
2 period".

3 Then, it would be the understanding -- 3242,
4 I'm sorry. 3242.

5 Then, it would be the understanding that the
6 staff will bring back to the Commission for approval a
7 definition of this proviso which will be in the form of
8 an Agreement with California Marine Associates and ARCO
9 for your approval at a subsequent Commission meeting,
10 either the next one or the one after that.

11 CHAIRMAN CORY: Okay. I think having the staff
12 language in there will not be inappropriate because it
13 spells who is and who is not the determiner of fact.

14 MR. TAYLOR: All right. Then that would be in --

15 CHAIRMAN CORY: I think your suggestion there
16 is that an amendment is worthwhile if the other Commissioners
17 agree.

18 Thank God that was a simple item.

19 Major litigation, Item 35, request for authoriza-
20 tion for the staff of the State lands and/or the Office
21 of the Attorney General to take all steps necessary including
22 litigation to collect from Mr. and Mrs. Smith, just
23 compensation for their prior unauthorized use of the
24 submerged lands in Agate Bay in Lake Tahoe.

25 Anybody in the audience who wishes to address

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1 themselves of this item?

2 Any questions by Commissioners.

3 Without objection, Item 35 will be authorized
4 as presented.

5 Item 36, again, necessary steps including
6 litigation to eliminate the continuing trespass of
7 Eugene D. and Charlotte F. Shea in Lake Tahoe, El Dorado
8 County.

9 Is there anybody in the audience who wishes to
10 address themselves on this item?

11 MR. SHEA: My name is Eugene Shea. Before this
12 goes through, I would like to read a brief statement, if
13 I may, regarding this controversy between myself and the
14 State Lands Commission. It is in the form of a narrative,
15 and I'll make it as brief as possible to explain my position.

16 In 1960 my wife and I bought an old home in
17 Jameson Beach near Camp Richardson, remodeled it a little
18 bit, and along with our five children, are still enjoying
19 it very much. I say summerhome, because it is generally
20 inaccessible in winter, and our roads are not kept up by
21 the County.

22 In 1962, I was advised by a neighbor that I was
23 required to obtain a permit from State Lands to maintain
24 an old pier that ran out a short way into the lake on the
25 north side of our house. I wrote State Lands and completed

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26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
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1 its application, and for \$5 was granted a ten-year permit
2 for the pier and a buoy for our boat.

3 In October 1972, ten years later, I wrote State
4 Lands because the ten-year permit was expiring, or had
5 expired, and in return received a request for a \$25 filing
6 fee, a plat of the structures of the land, a copy of my
7 Deed, names of my neighbors, photographs of structures
8 and other information.

9 I replied to the request item-by-item. I was
10 also advised by Mr. Kirks that if I did not wish to replace
11 the permit to remove all the structures and advise him.
12 This I did not do.

13 There are additional short letters from Mr. Kirks,
14 Mr. Maricle, and phone calls from a Mr. Darrow.

15 Then, on April 10, 1974, almost a year and a half
16 from my renewal letter in 1972, I received a letter with
17 lease attached asking me for rent from October 11, 1972 to
18 October 10, 1974. The lease and attachments were 16 pages,
19 and it was for two years at \$75.40 per year. Not being a
20 lawyer and wholly unfamiliar with the terms of the leases,
21 or this lease, and being a public accountant and it being
22 April 10th, I did set the two-year lease for \$180 aside
23 until I had time to go over it and decide what I should do.

24 Well, on January 17, 1975, after receiving a
25 letter from Mr. Gordon of the State Lands Commission that

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1 I could be in violation of something, and adding 75.40 to
2 the 150.80 for another year, I sent the State Lands a check
3 for \$226.20 under protest. My protest at that time was
4 that I was the only person, to my knowledge, being asked
5 to pay 75.40 for a permit for the use of State lands for
6 a small pier.

7 Subsequently, on January 9, 1976, I received
8 another letter revising the other leases and informing
9 me that I owed State Lands 514.30, less the 226.20 I paid
10 for rents for the pier and buoy, plus rent for a waterline
11 that I used to provide water to my home.

12 Gentlemen, I am here today to enter another
13 protest in that I believe Mr. Gordon's interpretation of
14 the structures I described to State Lands as my home for
15 my family had been held by him to be somewhat on the order
16 of a commercial enterprise.

17 I have my home at Lake Tahoe on a 50-foot lot.
18 It's a two-story home, two small bedrooms downstairs and
19 a dormitory for the children and their friends upstairs.
20 About ten years ago, I built a small one-room structure
21 almost adjoining my home for the sole benefit of my mother-
22 in-law and sister who are kind enough to help us with all
23 the children once in awhile during the summer. When we do
24 not use this one-room structure, I allow my children only
25 to use it. I do not have two homes for separate families

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24 NESS COURT
SACRAMENTO, CALIFORNIA 95824
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1 on my 50-foot lot.

2 Except for the fact that we would have had to
3 tear out a group of trees, I could have added this one
4 room to the south side of our home. It has the same water,
5 utilities, except for no telephone, and the same sewer lines
6 as our home.

7 In conclusion, by applying for a permit to use
8 State lands in 1962, and again in reapplying in 1972,
9 indicates my intent to pay my fee or rent for the use of
10 its land. I certainly will continue to pay what others
11 in the same circumstances as I, with a family place in
12 Lake Tahoe, agree to pay. I also believe in the event that
13 a date is set by State Lands to start a universal lease
14 arrangement with like property owners who have never as
15 much as applied for a permit, that I should be included
16 in that starting date with a credit of \$251 paid to State
17 Lands since 1962.

18 In looking over your Agenda, I noticed on Item
19 C12 something about Pier Permits. I really believe,
20 gentlemen, I should have been included in that Item C12.

21 Thank you very much.

22 CHAIRMAN CORY: Staff?

23 EXECUTIVE OFFICER NORTHROP: Mr. Trout?

24 MR. TROUT: Mr. Chairman, there were two aspects
25 of this.

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SACRAMENTO, CALIFORNIA 95826
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1 The statute says that an upland owner who has
2 a single-family residence on the upland is entitled to a
3 rent-free permit. I think that the Commission might consider
4 what Mr. Shea has said and consider that a single out-
5 building for his mother-in-law and sister is part of a
6 single-family residence. The staff, in taking the strict
7 interpretation of the law, felt that this involved an
8 additional family, and therefore, was not included with
9 a single-family residence, but actually, was a single-family
10 residence plus a guest residence or facilities for additional
11 parties.

12 If the Commission were to take an interpretation
13 that this was, in fact, totally a single-family residence
14 on the upland, that would reduce the rental by \$332.

15 The problem also, in the second aspect, is that
16 the pipeline is not entitled to be free, should have been
17 paid for from the beginning, and that the minimum rent on
18 that would be during earlier times about \$20 a year, and
19 then would be slightly reduced during different periods
20 when regulations applied. And then, now, it would be
21 approximately \$100 a year under the Commission's minimums
22 adopted last June. That amount is \$182.39.

23 The Commission should be aware that the staff
24 has been guided by the statute. We've been a little
25 frustrated through Mr. Shea's periods of inaction. True,

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SACRAMENTO, CALIFORNIA 95826
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1 he may have been busy or so on, but, as he admitted, it
2 was between April of '74 and January of '75 during which
3 period we heard nothing. So, from that standpoint, I think
4 that it probably does resolve itself into one, an interpre-
5 tation of whether or not the upland is improved with a
6 single-family residence; and second, the fact that there
7 is a pipeline which would come under the regulation for
8 residential rates in any case.

9 Mr. Taylor might want to comment on the extent
10 of the Commission's discretion in this area, assuming
11 that Mr. Shea's children were to use this cottage, they're
12 part of his single family, and perhaps that construction
13 would be appropriate.

14 CHAIRMAN CORY: The other concern of Mr. Shea
15 would be Commission staff is proceeding against all
16 similarly situated property owners. Mr. Trout, is it not
17 true that the Commission staff is proceeding against all
18 similarly situated people?

19 MR. TROUT: That is correct, Mr. Chairman.
20 We now have an application from Mr. Shea's neighbor. We,
21 of course, will ask for back rent on all of these structures.
22 And in the litigation it will be pointed out that a major
23 case involving the Cinder Cove Lodge, HKM Corporation, has
24 been settled, favorably, and we have recovered not only the
25 lease but back rent in that case.

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SACRAMENTO, CALIFORNIA 95826
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1 CHAIRMAN CORY: The point of the question in
2 terms of the amount of the rate, whether it's a single-family
3 residence or not, is there any evidence contrary to indicate
4 Mr. Shea's contention that he has a 50-foot lot with a
5 single-family residence? That seems to me to be the area
6 where he has the greatest argument in his favor. Are there
7 some factors that are not yet on the table that we should
8 be discussing?

9 MR. TROUT: Not that I am aware of. In addition
10 to the pipeline, there is a buoy which is not covered under
11 the statute and for which there would be a minimum rent.
12 I don't think that the question would significantly affect
13 the rent, and I think everything is pretty much on the
14 table.

15 CHAIRMAN CORY: It's a single-family residence.

16 MR. TAYLOR: There is a question of the literal
17 ownership.

18 CHAIRMAN CORY: There is a question of whether
19 or not he's the literal upland owner which would allow him
20 to have any --

21 MR. TAYLOR: Let me say this. There's apparently
22 an intervening ownership with the property. I don't know
23 whether you agree with that statement or not.

24 MR. SHEA: This is the first I've heard of it.

25 MR. TAYLOR: The staff research indicates there

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SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 may be an intervening title interest in that area. I would
2 say this, that under that type, there would be very little
3 difference in net effect dollarwise to him considering
4 the term of recreational permits, if it went as provided
5 or if he had to pay the administrative processing fee at
6 the beginning.

7 I should also caution that the question of
8 recreational pier permits is pending, whether or not that
9 is constitutional is a pending question of the Commission
10 to the Attorney General's Office, and we're working on
11 preparing that. If that opinion were to be that there is
12 a constitutional problem about whether or not such permits
13 can be made, then the result would be as what is being
14 proposed to the Commission now with respect to that
15 question.

16 But, dollarwise, I don't think you're going to
17 see much difference between the two approaches, because
18 one is there as an administrative fee charged at the
19 beginning as a lump sum as opposed to stretching out the
20 payments over a period of years at a lesser amount.

21 CHAIRMAN CORY: If the landowner has not been
22 put on notice, it seems to me that the question of whether
23 or not he is or is not the literal owner, at least
24 temporarily, we should probably assume that he is.

25 COMMISSIONER BELL: I would say so.

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1 CHAIRMAN CORY: If there are facts that come
2 to light to prove different, then we can act accordingly.

3 MR. SHEA: Mr. Chairman, I have no objection at
4 all to paying a lease to the State. None. I've been doing
5 it in very small amounts since I built the place. I'd like
6 to take the stand that if it's good for me, I think everybody
7 around the lake who draws water out of the lake and has a
8 single-family unit on a 50-foot lot should start something
9 and pay the same amount.

10 CHAIRMAN CORY: We are in the process, sir --

11 MR. SHEA: I seem to be the only one.

12 CHAIRMAN CORY: Everyone has been brought in on
13 that, and I think it's an area where the previous Commissions
14 have not been as diligent where they could have been in
15 enforcement. And we have taken the stand that everybody
16 must pay and everybody must be treated equally. It may be
17 that the date that they pay will be different because of
18 when we find them and when we enforce them. Some of the
19 people will say "No, you are going to have to take us to
20 court". Then we will go to court and we'll win and we'll
21 get the money. But, everybody is going to be treated
22 equally.

23 There is the question in my mind, and I don't
24 know if the staff can give us some indication whether or not
25 this man has a single-family residence because everything

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26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 seems to indicate that he does.

2 MR. SHEA: Well, my own interpretation is nobody
3 could live in it. It is a single room, two foldaway beds.

4 CHAIRMAN CORY: Is it like 10,000 square feet in
5 a single room?

6 MR. SHEA: I really don't know how big it is.
7 There's a bathroom in it.

8 CHAIRMAN CORY: Are we talking about a second
9 apartment or what?

10 MR. TROUT: Probably in the low 100's. Jerry,
11 do you know how big it is?

12 MR. GORDON: I don't remember offhand, but it
13 is quite small.

14 MR. TROUT: We do have a great number of leases
15 in the Tahoe area. We may not have 100 percent leases,
16 but this isn't a new program.

17 MR. SHEA: May I ask, sir, who is my neighbor
18 that has applied for it?

19 MR. GORDON: Mr. Worthington has an application
20 in, and it is going before the Commission next month.

21 MR. TROUT: Mr. Gordon informs us it is
22 Mr. Worthington.

23 MR. SHEA: Where do I stand now, sir?

24 CHAIRMAN CORY: I'm trying to figure out where
25 we are.

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26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 I think that the Commissioners, I could be
2 mistaken, but I think they are of the opinion with the
3 photographic evidence we have before us that we have a
4 single-family residence. The question of whether or not
5 it's a literal owner, we really have nothing before us
6 if that case can be proven. And I don't want Mr. Shea to
7 be --

8 MR. SHEA: Who would the other owners be?

9 MR. TROUT: If any, it would probably be the
10 County of El Dorado.

11 MR. SHEA: \$100,000 a square foot.

12 (Laughter.)

13 MR. TROUT: The problem is that the subdivision
14 tract, one of the lots of which Mr. Shea has, terminates
15 at a line that is not the high-water mark. There is a
16 difference between the subdivision boundary as shown on
17 the subdivision maps and the high-water mark of the lake.

18 COMMISSIONER BELL: A lot of room or just a
19 little room?

20 MR. TROUT: It varies. It's extensive -- it's
21 a few feet on one end and perhaps tens of feet on the
22 other end.

23 In view of the expression of the Commission's
24 thoughts on this matter, I think we, in the staff, would
25 suggest that the Executive Officer consider the possibility

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26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 of putting this over until next month as a Calendar Item,
2 and let us sit down both with the County and Mr. Shea
3 and perhaps we can bring back a lease.

4 CHAIRMAN CORY: Do you understand, here, the
5 determination, rightly or wrongly, that we've got a
6 single-family residence. And if he's here in good faith
7 and willing to sign what everybody else is going to have
8 to sign, it seems to me that we shouldn't even spend
9 money litigating it.

10 MR. SHEA: May I ask another question, sir?
11 This waterline business, is this something new?

12 CHAIRMAN CORY: You're lucky we aren't charging
13 you improvement.

14 (Laughter.)

15 COMMISSIONER BELL: One hundred on the line,
16 a one-time charge, or minimum per year. Are you talking
17 about going back on that retroactively?

18 MR. TROUT: I'd like to look at the whole thing
19 again. It's 40 feet long and a penny a diameter inch,
20 it would be 40 cents a year. So, I don't think the
21 pipeline is going to be a significant factor. The significant
22 factor is going to be the minimum rent involving the buoy
23 and whether or not he'd be better off with a use permit
24 as opposed to the \$250 processing fee for the rent-free
25 structure.

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26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
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1 CHAIRMAN CORY: I think you and the accountant
2 can have a lot of fun discussing how to do that.

3 MR. TROUT: So, if Mr. Northrop concurs, the
4 staff will work in that direction.

5 CHAIRMAN CORY: We, in essence, do charge for
6 pipelines, for piers or whatever. We'll charge everybody.

7 MR. SHEA: This I was not aware of.

8 COMMISSIONER BELL: It's just a matter of getting
9 to everyone.

10 MR. SHEA: Everybody around the lake has a
11 pipeline into the lake, for years, and it's used for homes
12 there. It would be cheaper to put in a well.

13 CHAIRMAN CORY: Not at 40 cents a year.

14 COMMISSIONER BELL: Not at 40 cents a year.

15 MR. SHEA: Oh, 40 cents. I thought he was
16 talking about \$100.

17 Thank you very much.

18 (Thereupon a recess was taken.)

19 CHAIRMAN CORY: In view of the time, here, can
20 we take Item 44 out of order? I think that is the item
21 some people want to address the Commission on.

22 The question that we have on Item 44 is the
23 petition by the Western Oil and Gas Association for reconsidera-
24 tion and/or repeal of amendments to regulations of the
25 State Lands Commission which were adopted at the April 28th

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1 meeting. And Executive Officer, do we have a letter
2 petitioning us in this regard?

3 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
4 Counsel, Mr. Hight will go over -- or Mr. Taylor from the
5 Attorney General's Office will go over this.

6 MR. TAYLOR: Mr. Cory, we received a letter from
7 Western Oil and Gas Association written by their attorneys,
8 the McCutchen firm. Copies of the letter are attached
9 to the Calendar. You'll see them on page 117 and 118.

10 The request is made by the Association according
11 to its letter pursuant to California Government Code Section
12 11426. The Section following that in the Government Code
13 requires action within a 30-day period. Without admitting
14 whether this procedure or the Section is appropriate, we
15 have placed it on the Calendar for the Commission's action
16 so that a special meeting would not be required. In
17 essence, they are requesting your reconsideration and
18 recision of regulations which were adopted at the last
19 meeting, and which, as I understand it, will not become
20 effective until the 1st of June. The reasons set forth
21 for this request are enumerated in the letter, and the
22 staff recommends to you on the Calendar Item --

23 COMMISSIONER BELL: I'm sorry, Mr. Taylor. You
24 mentioned a 30-day period?

25 MR. TAYLOR: If the action that is being taken

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1 pursuant to this Government Code Section is correct, the
2 action must be taken within 30 days of the receipt of the
3 letter.

4 COMMISSIONER BELL: Oh, I'm sorry. Not 30 days
5 effective date?

6 MR. TAYLOR: No. What we're saying is if this
7 procedure we are following at the present time is correct
8 and timely, then the action would have to run 30 days from
9 that.

10 COMMISSIONER BELL: Thank you.

11 MR. TAYLOR: Basically, it's the same items which
12 have been previously discussed by the Commission. And the
13 recommendation of the staff is that the request be denied.
14 I anticipate that this is an attempt by the Association to
15 exhaust its administrative remedies.

16 COMMISSIONER BELL: We have a request from
17 Mr. David Destino.

18 MR. DESTINO: My name is David Destino, and I'm
19 appearing on behalf of the Western Oil and Gas Association.
20 I'm with the law firm of McCutchen, Black, Verleger & Shea.

21 Mr. Taylor is certainly correct, in part, as
22 far as our exhaustion of administrative remedies is
23 concerned. I thought I detected some question on his part
24 of the appropriateness of this procedure.

25 I'm not sure of its applicability, either, but it

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1 is my understanding that the Attorney General has taken
2 the position, at least, in one other matter which we are
3 involved in that this is necessary before bringing a
4 lawsuit. And this is one of the reasons we did bring it.

5 Another reason, however, ideally we would hope
6 the Board would reconsider. We do set forth reasons raised
7 in earlier hearings, and I don't see any purpose in
8 rehashing those again, save for the specifics with respect
9 to the adequacy of notes which was alluded to several
10 people speaking at both the April 21 and April 28th hearings,
11 without specific reference. A letter directs the Commission
12 to Government Code Section 11423, which requires a 30-day
13 notice before the adoption and/or appeal of amendments to
14 a regulation.

15 I understand that the staff's position is, of
16 Counsel, is that the requirement had been met with the
17 prior hearings back in 1975. We don't share that view.
18 Rather, it was, at least in our view, the matter had laid
19 relatively dormant since at least July of '75, and it was
20 almost in the beginning of April, some two weeks before
21 the April 21 hearing, that Western Oil and Gas was advised
22 that this matter was now on the Calendar. The changes in
23 the regulations are substantial, we think, and should have
24 required additional hearing, again the view that was
25 expressed by several at the prior hearings.

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1 I don't feel I want to expound on any of the
2 other reasons raised unless somebody has questions.

3 One point of clarification. I think Mr. Taylor
4 was reading on this Government Code Section 11427 [sic],
5 that Section provides -- and I think there was some confusion
6 on that -- that within 30 days of the receipt of such a
7 petition the Commission must either deny it in writing or
8 schedule a public hearing on it pursuant to Government Code
9 Sections 11423, 424 and 425.

10 CHAIRMAN CORY: Let me ask a question. Is there
11 anybody in the audience who wishes to discuss this item
12 pursuant to Section 114, et seq.? I mean, is there a bunch
13 of people who want to talk on this, now?

14 MR. DESTINO: I don't believe a hearing now would
15 be appropriate. If a hearing is to be set -- it is my
16 understanding the Commission's choice is one, to either
17 deny it in writing within 30 days; or two, to set a hearing
18 pursuant to the Section cited, which would entail as part
19 of it the requisite 30-day notice under Section 11423.

20 MR. TAYLOR: We have adopted the first procedure,
21 that of the recommendation of the staff to the Commission,
22 and that is, that it is recommended that the request be
23 denied and the staff be directed to notify the Petitioner,
24 which is the first part of that Section.

25 COMMISSIONER BELL: You think it is not appropriate,

1 then, to go to public hearing?

2 MR. TAYLOR: No. That would be up to the
3 Commission. If you would care to set that for further
4 public hearing, Mr. Bell, that is the other alternative
5 you have under this Section. You are free to take either
6 course.

7 MR. DESTINO: Our position, of course, would be
8 that there has yet been an adequate public hearing with the
9 requisite 30-day notice on the original adoption, which
10 is Reason 5 set forth in our Petition.

11 MR. TAYLOR: Mr. Chairman, we went to that at
12 the time of the meeting, and we had extensive hearings on
13 this matter, with the exception of during the time of
14 Jay Shavelson's death, it did not lie dormant. The staff
15 has been working on it and talking to people. It is our
16 opinion that this was a continuation of hearings that were
17 publicly noticed, and in addition, we feel that parties
18 were aware of this earlier than has been indicated by your
19 speaker. Those matters were covered at the previous
20 hearings. And I guess there were questions we talked about.

21 CHAIRMAN CORY: And you are satisfied with the
22 record on the previous hearing on that subject?

23 MR. TAYLOR: As it will stand on the record.

24 MR. DESTINO: I do not mean to suggest that the
25 staff is doing nothing in this eight to ten-month period

1 from July, I think 31, '75, with the meeting of the oil
2 company representatives, and the notice, I believe April 8,
3 1976. What I am suggesting is that the 30-day requirement,
4 I think, can be in run where you have the procedure where
5 you have the meetings in July of '75, there is, at least
6 no public showing of interest on the part of the Commission
7 for eight to ten months, and then a new regulation is
8 sprung, if you will, in two weeks in advance of the April 21
9 hearing. It is with reference to that that I say the
10 30-day notice is required as far as people having knowledge
11 in advance of 30 days. I believe the Government Code
12 Sections are fairly specific as to what notice entails,
13 how it is to be communicated.

14 EXECUTIVE OFFICER NORTHROP: May I point out to
15 the Commissioners that the changes incorporated in the
16 latter regulations were promulgated or suggested in the
17 earlier meeting. So, I think we have taken ample note of
18 their objection.

19 MR. TAYLOR: If the Commission feels that there
20 would be something gained by a further hearing -- your
21 alternative -- this hearing will have no effect on the
22 regulations becoming effective. This is a Petition, in
23 effect, to repeal them under the provisions of this Section
24 that's been used. So, you could give them a further hearing,
25 or you would deny it at this time. Those are the two

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26 NESS COURT
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1 courses of action authorized.

2 CHAIRMAN CORY: So, you are saying if we wanted
3 a hearing -- it's what, the 27th -- so we could have a
4 hearing like around the first part of July if the Commission
5 would like, but the regulations would still go into effect.

6 MR. TAYLOR: I would say that we would either
7 have 30 days in which to deny the Petition or schedule
8 the hearing. I think that would be the way it would be.
9 So, the hearing would not necessarily have to be within
10 the 30-day period.

11 CHAIRMAN CORY: If we gave a 30-day notice for
12 the hearing we'd be talking about the early part of July.
13 Now, the question in my mind, you're suggesting that this
14 is a Petition for a repeal of an already adopted regulation
15 so that the regulation would already be in effect. The
16 question before the Commission after the conclusion of
17 that hearing, should we choose to grant it, would be
18 whether or not we should repeal an existing regulation.

19 I would like to know whether or not the Attorney
20 for the requesting party would agree that this would be
21 the place where we would be.

22 MR. DESTINO: I've not had an opportunity to
23 look at that question. The reconsideration language was
24 put in with an abundance of caution, and at least my
25 initial reaction would be that Mr. Taylor is correct in that

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1 that the procedure as I envision it does not, in any way,
2 stay the regulation.

3 I would suggest that that would be appropriate
4 to do that for the one-month period, but I don't believe
5 that that is either necessary or, for that matter, really
6 even encompassed in the letter. But, I don't see any harm
7 would be done by that procedure.

8 MR. TAYLOR: It could be a part of the next
9 Commission meeting, as long as you take the action today
10 before the next meeting.

11 COMMISSIONER BELL: You feel there is no question
12 of proper notice?

13 MR. TAYLOR: We feel no --

14 CHAIRMAN CORY: Greg, Greg.

15 Given the context of how this came up, I would
16 prefer that we take about a two minute recess and have
17 you and Mr. Hight come up here, and pursuant to Government
18 Code Sections vis-a-vi Litigation, I think there are some
19 questions I have and they have that you should answer for
20 us, and then we can take this back up.

21 MR. DESTINO: Before you do, I have one comment.

22 I think that maybe I'm misunderstanding Mr. Taylor.
23 I think the action that is required under the Government
24 Code Section that the Petition is brought under that refers
25 within 30 days it either be denied in writing or a notice of

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1 hearing goes out. I don't believe the hearing has to take
2 place within 30 days, rather it contemplates that 30 days
3 notice would be given for whatever hearing takes place.

4 CHAIRMAN CORY: Given the context of this, I
5 think we had better discuss this with Counsel.

6 (Thereupon a recess was taken.)

7 CHAIRMAN CORY: Back in session for the Commission.
8 Do you have any further remarks? Somehow you have a
9 sequential presentation here with someone else.

10 MR. DESTINO: No. I have nothing further at
11 this time.

12 CHAIRMAN CORY: Is it Leichtner?

13 MR. LEICHTNER: My name is Robert Leichtner,
14 representing Pacific Refining.

15 I'd just like to make a couple of brief remarks
16 according to what Western Oil and Gas Association has said.

17 CHAIRMAN CORY: Let me get something in my own
18 mind, here, for the record. You are representing Pacific
19 Refining Company?

20 MR. LEICHTNER: Yes. I'm from the firm of
21 McCutchen, Doyle, Brown & Enersen of San Francisco, and
22 I'm appearing on behalf of them.

23 CHAIRMAN CORY: They are not related to McCutchen,
24 Black, Verleger & Shea?

25 MR. DESTINO: Not any longer.

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1 CHAIRMAN CORY: They were one law firm. But,
2 the McCutchens are related but separated?

3 MR. DESTINO: The law firm is separate.

4 CHAIRMAN CORY: The law firm is separate but
5 the families are related.

6 MR. DESTINO: Right.

7 CHAIRMAN CORY: Okay.

8 MR. LEICHTNER: Briefly, as I'm sure the
9 Commission staff is well aware, Pacific is very concerned
10 about the new --

11 CHAIRMAN CORY: Who are they?

12 MR. LEICHTNER: They bought the Hercules Refinery.
13 They also have an application to an assignment of the
14 State lease pending --

15 CHAIRMAN CORY: They've got guts. Go ahead.

16 MR. LEICHTNER: Representatives of Pacific
17 Refining and Coastal States would have been here if they
18 could, but we only learned about this item on May 25th.

19 I don't think it's necessary to take your time
20 to add arguments to what Mr. Destino has already said.
21 Just for the record, I'd like to say we support the
22 Petition for reconsideration and/or repeal of the regulations
23 and that we encourage the rescheduling of a meeting so
24 that everybody who is concerned about it, including
25 representatives of Pacific Refining and Coastal States can

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1 appear and present their views.

2 CHAIRMAN CORY: You are requesting that we grant
3 the Petition to consider repeal of the adopted regulations?

4 MR. LEICHTNER: That's correct.

5 COMMISSIONER BELL: I would move, Mr. Chairman,
6 that we reschedule this item. And unfortunately, since this
7 is so late in the month, the next normal June meeting does
8 not give us the 30 days. So, we probably ought to reschedule
9 it for the July meeting.

10 CHAIRMAN CORY: You're not asking to reschedule
11 this item, but to put an item on for a hearing pursuant
12 to --

13 COMMISSIONER BELL: I would like scheduling of
14 a public hearing as required by that Government Code Section,
15 or as one of the two options.

16 MR. THOMSON: Second.

17 CHAIRMAN CORY: Moved and seconded. Anybody in
18 the audience who wishes to address themselves to this item?

19 MR. TAYLOR: Mr. Chairman, it's my understanding
20 that this will be handled by the Commission pursuant to this
21 Section 11427.

22 COMMISSIONER BELL: Right.

23 MR. TAYLOR: And that it is not the intent of the
24 Commission that the regulations shall not become effective,
25 but that we shall have a hearing on whether or not they

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1 should be repealed at that time pursuant to the request.

2 CHAIRMAN CORY: Correct, and I understand that
3 is the request of the Petitioner, and we're taking that
4 option.

5 MR. DESTINO: We, of course, would prefer the
6 regulation, if not rendered not effective, at least,
7 stayed. However, I don't know what the Commission has
8 before it in the way of leases coming up. And I'm not
9 sure if that is necessary at this point in time. I would
10 suspect that language could be worked out in lease should
11 the rule be repealed; otherwise, that matter would be
12 taken care of at that time.

13 CHAIRMAN CORY: Anybody else in the audience
14 who wishes to address the Commission on this item?

15 Without objection, that motion will be adopted
16 unanimously.

17 Item 37.

18 EXECUTIVE OFFICER NORTHROP: Item 37, Mr. Chairman,
19 would you please on the record delete Wittpen, Garcia Bend
20 Marina as we now have a lease.

21 Item 37 is to authorize the State Lands Commission
22 to take all steps, including litigation, to bring
23 Schilling, formerly the Captain's Table; Hussey, Village
24 Marina; Powell, DaRosa Marina; and Robles, B. & B. Marina
25 under lease or litigation.

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1 ACTING CHAIRMAN BELL: All right. Is there anyone
2 in the audience who wishes to speak on this item?

3 If not, so moved.

4 Without objection, Item 37 approved as presented.
5 Item 38.

6 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
7 is a removal of a pier under an Agreement with Holly Sugar
8 Company. This authorizes the Attorney General or the
9 State Lands Commission to take whatever steps necessary,
10 including litigation, to resolve the dispute between Holly
11 and Glen Bowlzbeey.

12 ACTING CHAIRMAN BELL: Is there anyone to appear
13 on Item 38?

14 If not, without objection, Item 38 is approved
15 as presented.

16 Item 39.

17 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
18 Mr. Thompson addressed Item 39, but no action was taken.

19 ACTING CHAIRMAN BELL: Is action required?

20 EXECUTIVE OFFICER NORTHROP: No, it's just an
21 informative item, Mr. Chairman.

22 ACTING CHAIRMAN BELL: Item 40, status of Major
23 Litigation.

24 EXECUTIVE OFFICER NORTHROP: Mr. Taylor of the
25 Attorney General's Office.

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1 MR. TAYLOR: Mr. Chairman, we filed the appeal
2 in the Exxon pipeline case over the last weeks, controversy
3 with Exxon. This is on the Santa Ynez Exxon unit pipeline
4 coming into the shore, there. And that connection, it
5 should be noted, that the Court of Appeals recently reversed
6 the dismissal of a taxpayer's action challenging the
7 rezoning referendum. So, apparently, that is going back
8 to trial. It will probably be several months before the
9 record is prepared, and will be several months -- 45 days
10 after that before the first brief will be filed by the
11 State.

12 The Executive Officer executed a letter, which
13 I'm sure you are aware of, but just for the record I think
14 it should be stated that we are now in the second 75-day
15 period with the City of Long Beach over outstanding trust
16 accounting problems. No agreement has been reached yet.
17 It is our hope that an agreement would be reached with the
18 City of Long Beach by the end of the extension of 75 days.
19 If not, both parties reserve the right to go to litigation.

20 The State has been served as a party in the
21 Lane versus the City of Redondo Beach regarding whether
22 or not the City reserved adequate public access to the
23 beach. The Commission has now been made a party to that
24 action.

25 There is an item which we can take out of order,

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1 Santa Monica item which you don't have a minute item on
2 in your Calendar.

3 The City of Santa Monica appeared for a time
4 between the last meeting and this to have changed their
5 position with regard to who owns the tideland area in the
6 City of Santa Monica. And after, a letter was sent by the
7 Attorney General's Office requesting clarification on
8 behalf of this Commission and the Department of Parks and
9 Recreation. The City Counsel met and informed us that
10 there has been no changes in position, and we're proceeding
11 on the litigation on the basis of what we've always
12 understood to be the understanding of the State, and that
13 is, that the Department of Parks and Recreation has leased
14 the area to the City for use.

15 We have been sued -- you will recall the Decon
16 matter, which was the termination of a lease which Decon
17 has sued the State Lands Commission this last week on
18 that item.

19 Hamilton Air Force Base, the Federal government
20 has informed us that they will not negotiate whether the
21 State has any interest in that area. And the Executive
22 Officer will discuss with you what steps to take next.

23 We have another new lawsuit in Santa Ana which
24 was filed by Mr. Penbroke. We haven't seen the action yet,
25 but he has informed us that it is in the mail.

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1 Mr. Trout has mentioned to you that the staff
2 of the State Lands Commission and the Attorney General's
3 Office have reached a compromise in the settlement of the
4 HKM Settlement at Lake Tahoe, seeking payment of back rent
5 in recognition of the historic use by the public of a
6 certain beach area, of public parking for that beach area
7 and its operation by the City of South Lake Tahoe. That
8 item will be before the Commission shortly.

9 We have two other items regarding litigation
10 and potential litigation which we would like to discuss
11 with you following the meeting in connection with Newport
12 and some FEA matters.

13 ACTING CHAIRMAN BELL: That concludes Item 40,
14 and with it, Item 43, I assume.

15 So, we are now on Item 41 on cession of current
16 and retrocession of jurisdiction. Really, this is just
17 a technical correction.

18 EXECUTIVE OFFICER NORTHROP: Right.

19 ACTING CHAIRMAN BELL: With the U.S. Naval
20 Hospital?

21 EXECUTIVE OFFICER NORTHROP: Yes.

22 ACTING CHAIRMAN BELL: San Diego?

23 EXECUTIVE OFFICER NORTHROP: Yes. Counsel was
24 not pleased with the language as we had adopted it, so
25 they have asked that the new language as indicated on page

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1 109, 110 be adopted.

2 ACTING CHAIRMAN BELL: All right. Without
3 objection, Item 41 is approved as presented.

4 Since I have been reading without calling the
5 roll call, may the record show that Mr. Cory left after
6 a discussion of through freight regulations on Item 44,
7 and when we started over again on Item 37 Mr. Cory had
8 left and at that time there were only two voting members
9 left.

10 Item 42, annexation of tide and submerged lands.
11 Mr. Northrop.

12 EXECUTIVE OFFICER NORTHROP: Mr. Trout of my
13 staff will address this.

14 MR. TROUT: The City of Trinidad is interested
15 in putting in some 450 moorings in Trinidad, Humboldt
16 County. The first step in this project would be to annex
17 this area into the City. The Commission is required to
18 approve the legal description and then the annexation.
19 They have asked for lease of this area. We expect no
20 controversy at this stage, but the lease stage may result
21 in some opposition by the Humboldt Bay Harbor Recreation
22 and Conservation District, which is interested in expanding
23 its grant into Trinidad and Shelter Cove area. This will
24 be back at a subsequent time.

25 ACTING CHAIRMAN BELL: This is purely approval

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SACRAMENTO, CALIFORNIA 95826
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1 of the boundaries, and we will get it back again pretty
2 quick.

3 All right. Without objection, Item 42 is approved,
4 and that concludes the Calendar. Mr. Taylor?

5 MR. TAYLOR: Mr. Chairman, Mr. Graber has noted
6 that the City of Santa Monica was informed that we would
7 briefly discuss this matter today, and there is a possibility
8 that someone in the room might want to speak.

9 ACTING CHAIRMAN BELL: I'm sorry, I certainly
10 neglected my duty in asking is there anyone who wishes
11 to address the Commission in regard to the Santa Monica
12 State Beach and encroachment litigation?

13 If they are, they have given up.

14 With completion of the Calendar I see that the
15 next meeting of the Commission will be on Thursday, June 24,
16 1976 at 10:00 a.m.

17 EXECUTIVE OFFICER NORTHROP: In Sacramento.

18 ACTING CHAIRMAN BELL: And with that confirmation,
19 we are adjourned.

20 (Thereupon the State Lands Commission Meeting
21 of Thursday, May 27, 1976, was adjourned at
22 12:35 p.m.)

23

24

25

--oOo--

1 State of California)
2 County of Placer) ss.

3 I, DIANE LYNN WALTON, a Notary Public in and
4 for the County of Placer, State of California, duly
5 appointed and commissioned to administer oaths, do hereby
6 certify:

7 That I am a disinterested person herein; that
8 the foregoing State Lands Commission Meeting was reported
9 in shorthand by me, Diane Lynn Walton, a Certified Shorthand
10 Reporter of the State of California and thereafter
11 transcribed into typewriting.

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

15 IN WITNESS WHEREOF, I have hereunto set my hand
16 and affixed my seal of office this 10th day of June,
17 1976.

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25



Diane Lynn Walton
Diane Lynn Walton
Notary Public in and for the
County of Placer, State of
California
C.S.R. License No. 3067