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2
3
4
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MEETING
STATE LANDS COMMISSION

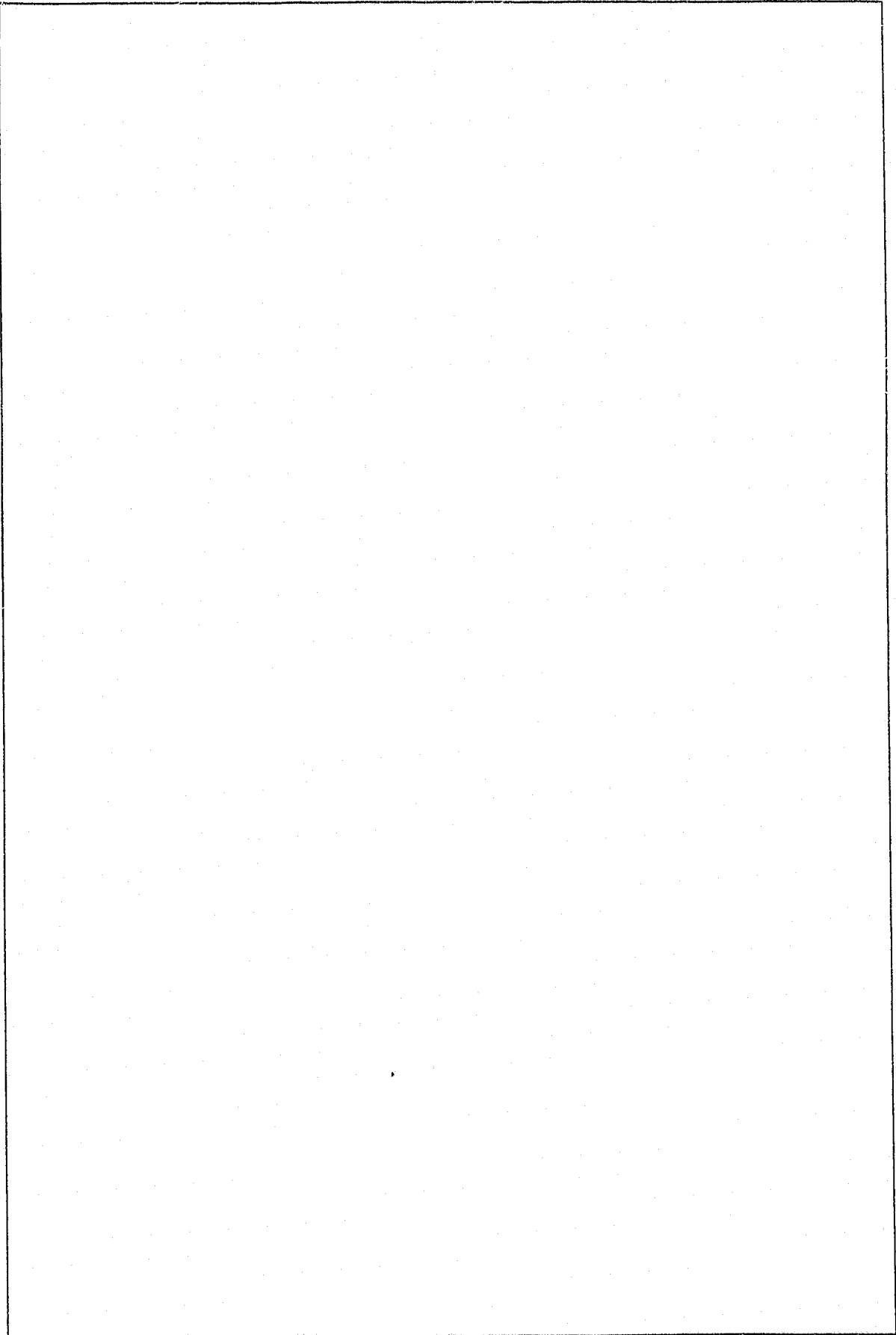
ROOM 2170
STATE CAPITOL
SACRAMENTO, CALIFORNIA

THURSDAY, JUNE 30, 1977
10:12 A.M.

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I N D E X

	<u>Page</u>
1	
2	
3	1
4	1
5	3
6	
7	3
8	3
9	13
10	21
11	34
12	54
13	
14	68
15	70
16	71
17	82
18	82
19	85
20	98
21	105
22	110
23	110
24	111
25	111

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 SACRAMENTO, CALIFORNIA 95826
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	<u>INDEX CONTINUED</u>	<u>PAGE</u>
1		
2	Calendar Item 28	112
3	Calendar Item 29	112
4	Calendar Item 30	112
5	Calendar Item 31	113
6	Calendar Item 32	113
7	Calendar Item 33	114
8	Calendar Item 34	115
9	Calendar Item 35	115
10	Calendar Item 36	115
11	Calendar Item 37	117
12	Calendar Item 38	118
13	Status of Major Litigation	118
14	Mr. N. Gregory Taylor	118
15	Adjournment	119
16	Reporter's Certificate	120
17		
18		
19		
20		
21		
22		
23		
24		
25		

MEMBERS PRESENT

1
2 Hon. Roy M. Bell, Director of Finance, represented by
3 Sid McCausland, Chief Deputy Director of Finance
4 Hon. Kenneth Cory, Controller, Chairman
5 Hon. Mervyn M. Dymally, Lieutenant Governor

MEMBERS ABSENT

6
7 None

STAFF PRESENT

8
9 Mr. Bob Hight, Chief Staff Counsel
10 Mr. William F. Northrop, Executive Officer
11 Mr. Dwight Sanders
12 Mr. James F. Trout, Manager, Land Operations
13 Ms. Diane Jones, Secretary

ALSO PRESENT

14
15 Mr. Jan Stevens, Assistant Attorney General
16 Mr. N. Gregory Taylor, Assistant Attorney General
17
18
19
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P R O C E E D I N G S

--oOo--

1
2
3 CHAIRMAN CORY: I will call the meeting to order.
4 I apologize for my tardiness, and there's no good excuse
5 for it and so we'll just proceed.

6 We have confirmation of the Minutes from the
7 meeting of May 26th. Any corrections or additions or deletions?

8 Without objection, the Minutes will be confirmed
9 as presented.

10 The Executive Officer wishes to talk to us.

11 EXECUTIVE OFFICER NORTHROP: Thank you very kindly,
12 Mr. Chairman, Governor, and Mr. McCausland.

13 The Federal Energy Administration in October, 1976
14 increased the ceiling prices for California lower-tier crude
15 oil reflecting the gravity differential adjustment, but the
16 crude oil purchasers did not increase their prices.

17 In the Long Beach tidelands, we contended the
18 FEA ceiling price should be paid under the crude oil valuation
19 terms of the net profits contracts. Monies were paid by
20 the contractor under protest until a judgment in Federal
21 Court required a refund. As of today, the last of about
22 a \$4 million refund has been made by adjustments in the
23 net profits account payments. Interest payments required
24 by the judgment will be adjusted between the City of Long
25 Beach and the State. This Court ruling, however, is being

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1 appealed.

2 It is anticipated that monthly crude oil
3 ceiling price increases will resume after a 14-month
4 freeze on lower-tier crude oil. These increases, which are
5 supposed to offset the inflation and maintain crude prices
6 at the February, 1976 level, should start in July or August.
7 Whether such increases in the ceiling price will actually be
8 paid by the purchasers is not known at this time.

9 We are still hopeful that an entitlement adjustment,
10 being considered by the FEA for California lower-tier crude,
11 would give us some price relief. This is necessary because
12 the inflation index used to increase crude prices is not
13 truly reflective of the actual increases in operating costs
14 due to inflation.

15 Mr. Chairman, that, with the request of the
16 Commission that Item Number 39 be moved to the consent
17 calendar and Item Number 38 be put over until next month,
18 completes my talk. Item 39 is a late arrival. It would have
19 gone on the consent calendar normally, and 38 is the Los
20 Angeles Harbor negotiation.

21 CHAIRMAN CORY: This is getting to be like "Mary
22 Hartman, Mary Hartman." There's no end to it.

23 (Laughter.)

24 CHAIRMAN CORY: Okay. Let's double back. Is
25 there anyone in the audience on Item 39?

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1 This item is being moved from that place on the
2 agenda to the consent calendar, and I don't want anybody
3 to miss the quick turn in the road because the consent calendar
4 sometimes is approved rather quickly. If there is anyone
5 on Item 39, please address it now.

6 Okay. Without objection, then, we'll move Item 39
7 to the consent calendar.

8 EXECUTIVE OFFICER NORTHROP: And Item 38 over.

9 CHAIRMAN CORY: 38 has been put over to the next
10 meeting.

11 The consent calendar consists of items C1 through
12 C20, plus Item 39. Is there anyone in the audience who
13 has any difficulties with any of these items and wishes to
14 address the Commission?

15 Without objection, then, we will approve those
16 items on the consent calendar as presented, including Item 39.

17 Do you have anything else on your report?

18 EXECUTIVE OFFICER NORTHROP: No. I'm just getting
19 ready for Item 21.

20 CHAIRMAN CORY: 21 is a review and discussion of
21 LNG and its impact on California. Do you have something
22 prepared for us?

23 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I have
24 a rather lengthy statement, which is a preamble to this
25 discussion.

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1 There has been much discussion of late as to the
2 future deliveries of natural gas to California and of the
3 projects which will deliver such supplies. California has
4 been a gas-importing state since 1947 and last year consumed
5 1.637 trillion cubic feet. This was 4.485 billion cubic
6 feet per day. Only 11 percent of this was supplied by our
7 own resources.

8 The State's traditional sources of gas have been
9 Canada and the Southwestern United States. Now, these supplies
10 have been delivered through an expensive pipeline network.
11 However, traditional sources and methods of transportation can
12 no longer meet California's demands.

13 There is some disagreement between gas utilities
14 and public agencies as to the timing of the anticipated
15 shortfall between available supplies and actual demand.
16 This debate revolves around the question of not "if" but
17 "when." According to figures furnished to the California
18 Public Utilities Commission, southern California will
19 experience a shortfall of approximately 1.2 billion cubic
20 feet per day in 1982. This amounts to approximately 25
21 percent of California's daily use of gas in 1976.

22 While the California Public Utilities Commission
23 feels that this shortfall can be mitigated or postponed until
24 1985-86 if specific measures are taken, the likelihood of
25 all conditions being met is slim. Others maintain that

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1 additional supplies of gas can be supplied through traditional
2 systems by drilling deeper into existing fields in Texas
3 and Oklahoma, but again, there is not enough certainty of
4 supply to gamble with the time remaining.

5 Industry predicts that without additional supplies,
6 curtailments could begin for Priority 1 customers -- residen-
7 tial -- as early as 1982 on the SOCAL system and 1983-85 on
8 the PG&E system. Priorities 2-5 would receive no gas at
9 all after these dates.

10 Staff, would you -- there is a chart back there
11 that graphically demonstrates that on the last areas as to
12 where that's going.

13 According to industry estimates, approximately
14 700,000 jobs would be lost in industries which depend on
15 natural gas and have no capacity to convert to alternative
16 fuels. The bottom line is this: California badly needs new
17 supplies of natural gas.

18 Future supplies of natural gas for California may
19 come from a variety of sources -- many of them Alaska and
20 North Slope, Indonesia, Mexico. The major systems proposed
21 to transport Alaskan North Slope natural gas, which is
22 estimated at 22.5-24 trillion cubic feet in proven reserves,
23 are as follows: number one, the Alaskan Arctic Gas Supply
24 Company; number two, the El Paso Alaska Company; and number
25 three, the Alcan Pipeline Company.

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1 The material before you contains a brief description
2 of each of the projects and pertinent maps. Briefly, the
3 Arctic and Alcan pipelines follow different routes from
4 Alaska through Canada to the Midwest. Each proposes a Western
5 Leg to provide a portion of North Slope gas to the West Coast.

6 In drastic contrast, the El Paso Alaska Company
7 proposes to transport such gas in the form of liquefied
8 natural gas, or LNG. It would come from a liquefaction
9 facility to be located in southern Alaska to a regasification
10 facility at Point Conception in Santa Barbara County. From
11 Point Conception, the gas would be placed in the El Paso
12 Natural Gas Company system. The ultimate distribution would
13 be determined by the Federal Power Commission.

14 Two other projects before the FPC would bring
15 additional LNG to California for in-state use. The project
16 proposed by the Pacific LNG Company would bring LNG from
17 the South Slope of Alaska to terminal facilities in the
18 L.A. Harbor. The other, proposed by Pacific Indonesia LNG,
19 would bring LNG from Indonesia to terminal facilities at
20 Oxnard. It should be noted that staff of the FPC has recom-
21 mended that all LNG terminals proposed for the West Coast
22 be consolidated at Oxnard.

23 Beyond considerations of a project's ability to
24 deliver gas are the factors of cost and timing. These factors
25 will clearly affect the feasibility of such deliveries.

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1 The chart there now gives some concept as to what the timings
 2 are from the various sources. These figures on this chart
 3 are subject to continual change and are the source of debate
 4 between the industry and public agencies. One conclusion
 5 is obvious -- the era of cheap and plentiful natural gas
 6 is over.

7 In any event, California's options in the decision-
 8 making process are severely limited by the Federal Govern-
 9 ment. Specifically, the FPC is charged with regulating the
 10 interstate pricing, transportation, and allocation of natural
 11 gas. Each of these gas projects is awaiting final action
 12 by the Federal Government.

13 The FPC has taken action, pursuant to the Alaskan
 14 Natural Gas Transportation Act, on those projects associated
 15 with Alaskan North Slope gas -- Arctic, El Paso, and Alcan.
 16 On February 1, 1977, the FPC administrative law judge recom-
 17 mended FPC approval of the Arctic Project with a Western Leg
 18 to supply the West Coast. In doing so, the judge rejected
 19 the proposals of El Paso and the Alcan Pipeline Company.

20 On May 1st, the FPC took its formal action. This
 21 resulted in a tie vote, 2-2, between the Arctic Gas Project
 22 and that of the Alcan Pipeline Company. In this decision,
 23 the FPC deferred any decision on a Western Leg for either
 24 project. They stated it was premature to determine the sizing
 25 of a Western Leg for at least two years. Thus, while the

1 Western Leg was not rejected outright, it was effectively
2 placed in limbo.

3 The FPC action, therefore, did not result in a
4 clear recommendation upon which the President can base his
5 recommendation to Congress on September 1, 1977. At his
6 discretion, the President may postpone his decision until
7 December 1. Once the President's recommendation has been
8 made, the Congress has 60 days to approve or reject his
9 recommendation. If the President's recommendation is rejected,
10 he must submit a new recommendation. This must come within
11 30 days of the end of the Congressional review period.
12 Presumably, the process could repeat itself until Congress
13 accepts a route or a project.

14 Regardless of any federal action, the ultimate
15 decision on the Arctic Gas or Alcan project will be made
16 by the Canadian government. A preliminary Canadian recom-
17 mendation regarding the Arctic Gas project has, in fact,
18 been made recently. It was made by Commissioner Justice
19 Berger, who is responsible for native claims and environmental
20 impacts of the Mackenzie pipeline. At present, a major
21 feature of the Arctic Gas project is the transportation of
22 Canadian Mackenzie Delta gas into the Canadian system.

23 Do you want to point out that little loop there?

24 Justice Berger's decision recommended against
25 the development of the Mackenzie Delta gas at this time.

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1 He also recommended --

2 CHAIRMAN CORY: Pardon me. Are you telling me
3 that they've got a Justice Berger, too, or is ours moonlighting?

4 (Laughter.)

5 EXECUTIVE OFFICER NORTHROP: He's a different one.

6 While no reference was made to the Alcan Pipeline
7 project, it is unlikely that it would encounter similar
8 problems because it would follow the right-of-way of the
9 Alcan Highway.

10 In contrast --

11 LIEUTENANT GOVERNOR DYMALLY: I think you neglected
12 to finish --

13 EXECUTIVE OFFICER NORTHROP: Did I miss a sentence?

14 LIEUTENANT GOVERNOR DYMALLY: For the record, you
15 might want to go back to "He also recommended. . ."

16 CHAIRMAN CORY: "He also recommended against the
17 approval of the Arctic Gas pipeline because of unsettled
18 native claims and significant environmental issues."

19 EXECUTIVE OFFICER NORTHROP: Thank you.

20 CHAIRMAN CORY: Next time we'll get somebody who
21 can read.

22 EXECUTIVE OFFICER NORTHROP: All right.

23 (Laughter.)

24 EXECUTIVE OFFICER NORTHROP: In contrast to the
25 Alaska North Slope gas projects, the Pacific Alaska and

1 Pacific Indonesia LNG proposals are still within the FPC
2 review process. These also may be influenced by external
3 factors. For example, the original contract for the
4 Indonesian gas was entered into in 1973. It contained a
5 requirement that all necessary regulatory approvals be
6 obtained by January, 1976. An extension of this provision
7 was obtained, but it expired on April 6, 1977.

8 While negotiations are currently ongoing for a
9 further extension, there are some fears because Japan is
10 also competing for additional Indonesian gas. The contract
11 for gas from South Alaska has a similar condition with expira-
12 tion in 1976. Again, the utility companies are attempting
13 to renegotiate this contract, also.

14 It is increasingly apparent that because of the
15 larger volumes available directly, the status of the contract
16 negotiations and inclinations of the Federal Government
17 regarding Alaskan North Slope gas, the State should focus
18 on those projects which would bring LNG to California from
19 Indonesia and South Alaska.

20 At the State level, there seems to be general
21 agreement that an LNG facility will be required in the near
22 future. However, there exists marked preferences and options.
23 There is also increasing discussion and support for an off-
24 shore site for an LNG terminal and a regasification facility.

25 This concept is one step beyond the requirements

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1 of existing law. At present, the California Coastal Act
2 states that until public health and safety questions are
3 resolved, there shall be only one LNG facility, and it is
4 to be located at a site remote from population concentrations.
5 Under such a provision, the proposed facility in Los Angeles
6 Harbor would appear to be ruled out, and the proposed facility
7 at Oxnard would be subject to considerable debate.

8 The offshore facility is gaining support in the
9 Legislature and among other interested factions, but the
10 concept is unacceptable to the gas utilities -- at least as
11 it applies to an initial facility. Time is the major deter-
12 mining factor in any decision between an offshore and a
13 remote facility. The utilities maintain that the projected
14 gas shortfalls will occur before an offshore facility can
15 be operational. Thus, the disagreements over the timing of
16 such shortfalls are critical to any siting at the State level.

17 In this regard, the Legislature is presently
18 considering two major bills, Assembly Bill 220 by Assemblyman
19 Goggin and Senate Bill 1081 by Senator Alquist. Each would
20 institute a formal procedure for the siting and permitting
21 of any LNG facility. Under the present provisions of these
22 measures, the State Lands Commission would have no decision-
23 making role in the siting of an LNG facility.

24 Further, the Commission's historical role as
25 guardian and manager of the State's tide and submerged lands

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1 could be restricted by the precedence established in either
2 piece of legislation. You have in front of you both pieces
3 of legislation. The staff will continue to suggest amend-
4 ments which will recognize the Commission's proper role.
5 There are some indications that the authors may accept our
6 suggested amendments when the Legislature returns from
7 recess.

8 Mr. Chairman and Commissioners, we have asked each
9 of the proposed transportation modes to send representatives
10 to this meeting today to briefly discuss -- and I hope, much
11 briefer than your Executive Officer -- their form of trans-
12 portation with the Commission. We have also received
13 indications from other concerned individuals and organizations
14 that they, too, might like to discuss the problem. So if
15 you have no objection, Mr. Chairman, we have made a list
16 as we have received the appearances, and with your indulgence,
17 if you don't mind, I'd like -- the first one on our list is
18 George Rice.

19 CHAIRMAN CORY: George Rice.

20 LIEUTENANT GOVERNOR DYMALLY: Just one question.

21 EXECUTIVE OFFICER NORTHROP: Yes, sir.

22 LIEUTENANT GOVERNOR DYMALLY: If, by some miracle,
23 we could implement either the Arctic or the Alcan proposal,
24 do we still need an LNG facility in California?

25 CHAIRMAN CORY: You do on the time frame for the

1 southern California shortfall, I think.

2 EXECUTIVE OFFICER NORTHROP: I don't see how --
3 aside from the question -- I think the question as to short-
4 fall --

5 LIEUTENANT GOVERNOR DYMALLY: Assuming tomorrow
6 the President selects either Alcan or Arctic, do we still
7 need -- with that decision -- an LNG facility?

8 EXECUTIVE OFFICER NORTHROP: I can't see how we're
9 going to get away without it. Yes. The answer is, in my
10 opinion, yes.

11 LIEUTENANT GOVERNOR DYMALLY: In any case, we
12 have to proceed with an LNG facility?

13 EXECUTIVE OFFICER NORTHROP: Correct.

14 MR. RICE: Okay. My name is George Rice. I'm
15 an attorney from Los Angeles with the firm of Lathan & Watkins.
16 I'm here to represent the Alcan project. Due to the lateness
17 of the notice, I could not get anybody out here from Salt
18 Lake City. Questions may come up which I cannot answer and
19 if so, I'll be glad to submit further comments in writing at
20 a later date.

21 I think a word first about the background of the
22 Alcan project -- initially, this was a two-ring circus. It
23 was between El Paso and Arctic Gas, and serious problems
24 surfaced with both of those proposals. The Arctic Gas proposal
25 is the yellow line on the right of the map, and it goes

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1 through the Mackenzie Valley. And very early on, it became
2 clear that there were difficult problems with the native
3 claims in that area, and the recent Berger Commission bears
4 that out.

5 The El Paso proposal also has serious problems
6 with siting and with its logistics. As a result, the Alcan
7 people saw an opportunity for a compromise proposal. The
8 Environmental Impact Report suggested the Fairbanks Corridor
9 as an alternative, and the Department of Interior had suggested
10 that as an alternative. So, the red line you see down the
11 middle is the Alcan project. It follows the existing gravel
12 bed of the oil pipeline through Alaska, and then it deviates
13 and follows the Alcan Highway route down into Canada.

14 Now, initially, Alcan had proposed a 42-inch line,
15 and this was subject to criticism by the Federal Power Com-
16 mission's staff. And at the express request of the Canadian
17 National Energy Board, Alcan submitted a 48-inch alternative.
18 Now, that was the alternative that two of the Federal Power
19 commissioners favored.

20 I think that the primary issue we have here today,
21 in response to Mr. Dymally's comment, is why do we need LNG
22 to bring North Slope Alaskan gas to California. I think
23 that all of the agencies that have really studied this
24 question have concluded that where you have a pipeline alter-
25 native, you take that alternative and you don't use LNG.

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1 You should minimize your reliance on LNG.

2 You look at the Federal Power Commission. It's
3 a 4-0 vote, 4 on an overland system against LNG. We think
4 it's a 4-0 vote for Alcan because the 2 commissioners that
5 voted for Arctic Gas did so only on the stipulation that
6 the Mackenzie native claims be tractable, and I don't think
7 they are.

8 The California Public Utilities Commission and
9 the Energy Commission have studied this problem, and both
10 have unanimously favored an overland system. The FUC backed
11 Arctic Gas, although that was before the Alcan 48-inch line
12 had been proposed. The Energy Commission has favored an
13 overland system and listed ten criteria for it.

14 I think I'd like to give you briefly why these
15 agencies have come out in favor of an overland system. I
16 think the first one is cost. Figures that the Federal Power
17 Commission used show Alcan and Arctic Gas at 76 cents and
18 79 cents as costs of service. El Paso is far behind at a
19 dollar, nine. Secondly, you have net national economic
20 benefits. El Paso talks a lot about being the best for
21 jobs. In point of fact, the Federal Power Commission found
22 that Alcan and Arctic Gas were about the same in terms of
23 net national economic benefits, and El Paso was far behind
24 at 75 to 82 percent of that figure.

25 CHAIRMAN CORY: Can you tell me how they came to

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1 that conclusion?

2 MR. RICE: I think that the two most important
3 reasons that go into that are the facts of cost and time,
4 that the gas is so much cheaper from an overland system that
5 the economy is stimulated by the fact that consumers are
6 spending less on natural gas and have more money to spend
7 elsewhere. And secondly, on time, if you get the gas here
8 sooner, we don't have the massive fuel switching and economic
9 dislocation that is projected, as Mr. Northrop indicated.
10 Everybody agrees that it's just a question of how soon a
11 shortfall is going to occur.

12 On time, Alcan believes it can complete its system
13 in late '81. The Federal Power Commission found it was
14 probable that its system would be finished in mid-'82. That's
15 a year ahead of the other two systems.

16 Another reason is expansibility. If there's more
17 gas up there -- if we're that lucky -- the pipeline systems
18 can be expanded at a relatively incremental cost, whereas
19 with LNG you have to add additional tankers, additional
20 liquefaction and gasification facilities at unit costs that
21 are similar to your initial cost.

22 Another factor is fuel usage. We found out when
23 we redesigned the system from 42 to 48 inches that gas is
24 much more expensive than steel. You can put your money into
25 steel and save fuel, and you come out better in the long run.

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1 The El Paso system -- its liquefaction process is very waste-
2 ful of natural gas.

3 Another factor is reliability of service. A buried
4 pipeline is a much more reliable system, especially Alcan's,
5 which is near to existing all-weather roads, than an extensive
6 LNG network stretching from southern California to Alaska,
7 crossing the seas and involving two large terminal facilities.

8 Now, I think that a brief word about a couple of
9 the claimed disadvantages of an overland system -- one is
10 the situation of the Western Leg. Alcan favors the Western
11 Leg, believes it is required by the federal law, and believes
12 that it must be certificated initially, or the project cannot
13 be financed. What the Power Commission was saying is that
14 you can wait a couple of years to start on the Western Leg
15 because it can be built in a relatively short time. It's a
16 small piece of pipe down where the red and the yellow lines
17 cross. Our Western Leg will go that direction, as will the
18 Arctic Gas.

19 In our view, we think that the Western Leg should
20 be built earlier and should be built now. There have been
21 dramatic discoveries of gas in Alberta on the order of
22 magnitude of 20 trillion cubic feet. It's almost the same
23 order of magnitude as the Prudhoe Bay natural gas. This is
24 a possible alternative source of gas for the shortfall period
25 between now and the late 1980's.

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1 Another claimed disadvantage is that the Canadians
2 are untrustworthy. I would only say that for the last 20
3 years, the Pacific Northwest has been relying on Canada for
4 about two-thirds of its natural gas. And we're looking to
5 Indonesia for natural gas -- I think if you give me the choice
6 between Canada and Indonesia, I'll take Canada every time.

7 On the issue of native claims and what the Canadian
8 government's going to do, I point out that on Monday the
9 Canadian National Energy Board is going to announce its
10 decision, its recommendation, so I won't speculate on that.
11 We'll know after the weekend.

12 I would say in conclusion that so often we have a
13 situation where you have important economic objectives that
14 can only be obtained at the sacrifice of environmental values.
15 Here, we have a situation where the environmentally preferable
16 alternative -- the alternative favored by the Sierra Club,
17 the Audubon Society, all the national organized environmental
18 groups -- this environmentally preferable alternative is
19 the best economic alternative. It gets you the gas the
20 quickest and the cheapest. And I think for those reasons,
21 it's not necessary for California to rely on LNG for North
22 Slope gas.

23 Thank you.

24 LIEUTENANT GOVERNOR DYMALLY: One question, Mr. Rice.
25 The FPC commissioner criticized your finance package. Do you

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1 have any comment on that?

2 MR. RICE: Pardon me?

3 LIEUTENANT GOVERNOR DYMALLY: The FPC commissioner
4 criticized your financing package, the manner that you proposed
5 to finance your system.

6 MR. RICE: Well, I think that all three systems
7 are looking to a cost of service type of tariff, where some
8 of the risks of noncompletion or interruption of service
9 are borne ultimately by the consumer. It's a question of
10 how much and just how it's done. I'm not sure specifically
11 what criticism you referred to.

12 LIEUTENANT GOVERNOR DYMALLY: Well, in the financing
13 of the line, your plan came in for some criticism on how to
14 adequately finance.

15 MR. RICE: Perhaps I could submit to the Commission
16 a copy of the financing brief we filed with the Energy
17 Commission. We had gentlemen from Loeb Rhoades, First
18 Boston and the Bank of America all testify at great length
19 on this issue. We believe our project is financeable.

20 CHAIRMAN CORY: Two out of three isn't bad --
21 out of three experts. Can you get a copy of that?

22 MR. RICE: Yes, I'll be glad to submit a copy to
23 you.

24 CHAIRMAN CORY: Who is Alcan?

25 MR. RICE: Alcan has three principal participants.

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1 The American Company is the Alcan Pipeline Company, which is
2 wholly owned by Northwest Energy Company. Northwest Energy
3 Company is a spinoff of the El Paso system. It's a New York
4 Stock Exchange traded company. It's a very large company,
5 but it was created ~~only~~ a few years ago as a result of the
6 El Paso divestiture. It's based in Salt Lake City, and it
7 serves the Pacific Northwest with natural gas. In addition,
8 there are two Canadian companies, the Alberta Gas Trunkline
9 and Foothills Pipeline. And they are two of the largest
10 Canadian gas transportation companies.

11 CHAIRMAN CORY: The criticism that you were talking
12 about, did that relate to the fact that the estimates of the
13 capitalization were not sufficient, or was it how they
14 arrived at their capitalization?

15 LIEUTENANT GOVERNOR DYMALLY: I think one of the
16 examiners raised the question of the problem of the dependence
17 on federal funding of the Alcan project at that time when
18 they took testimony.

19 MR. RICE: This project -- whoever builds it -- is
20 going to be the largest privately financed project in history,
21 as far as I know. The oil pipeline was one of the biggest.
22 This will be bigger. I am no expert on financing. Our
23 project is financeable, and I believe I can document that
24 to you.

25 LIEUTENANT GOVERNOR DYMALLY: But to a lesser degree,

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1 you still have problems with native claims, though?

2 MR. RICE: Yes, that's true. The jury is still
3 out on that. We have reason to believe that -- I would concur
4 with Mr. Northrop that I don't think we have anywhere near
5 the problems that Arctic Gas does. 160,000 people crossed
6 the Alcan Highway in 1975. Less than a quarter of the popula-
7 tion in that area is a native population. It's unlike the
8 primitive cultures of the Northern Yukon.

9 CHAIRMAN CORY: Thank you.

10 MR. RICE: Thank you.

11 CHAIRMAN CORY: Mr. Mike Holland.

12 You are with El Paso Alaska?

13 MR. HOLLAND: Yes, sir. That's correct.

14 CHAIRMAN CORY: That is what?

15 MR. HOLLAND: What is El Paso, sir?

16 CHAIRMAN CORY: El Paso Alaska as opposed to El
17 Paso.

18 MR. HOLLAND: El Paso Alaska Company, sir, is a
19 subsidiary company of the El Paso Company, which is head-
20 quartered in Houston. El Paso Alaska Company is a subsidiary
21 located in Anchorage, which was created for the purpose of
22 promoting this project.

23 CHAIRMAN CORY: Wholly owned subsidiary, separate
24 corporation --

25 MR. HOLLAND: Yes, sir.

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1 CHAIRMAN CORY: -- but wholly owned?

2 MR. HOLLAND: Yes, sir.

3 CHAIRMAN CORY: Go ahead.

4 MR. HOLLAND: Mr. Chairman and members of the
5 Commission, my name is Michael C. Holland. I am assistant
6 to Vice-President John Bennett and manager of El Paso's
7 offices in Anchorage, Alaska.

8 Since the late 1960's, we have known that over
9 26 trillion cubic feet of natural gas which is recoverable
10 exists in Prudhoe Bay. And since 1970 my company has been
11 working on a way to move that gas to market. Now, over
12 seven years later, we in the El Paso Company are delighted
13 that the final phase of the decisional process is at hand.

14 Pursuant to the provisions of the Alaska Natural
15 Gas Transportation Act of 1976, President Carter has announced
16 that his recommendation will be sent to the Congress sometime
17 in September of this year. Hopefully, Congressional ratifi-
18 cation will be swift. Although Canada has no statutory
19 timetable for its decision, we are encouraged by Prime
20 Minister Trudeau's recent statement that Canada will give
21 a final answer by the end of the year, following review in
22 both the Cabinet and Parliament. The many supporters of
23 the El Paso Project are further encouraged by Trudeau's
24 admission that "no answer" is also among Canada's options.

25 As you undoubtedly already know, El Paso proposes

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1 a combination pipeline and LNG ship system to transport
2 North Slope gas to markets in Alaska and throughout the
3 South 48. Our pipeline would cross Alaska adjacent to the
4 Alyeska oil line. It will be 809 miles long, 42 inches in
5 diameter, buried throughout its length, and chilled to avoid
6 damage to the Alaskan permafrost. Near Cordova on the
7 Alaskan south coast, we will liquefy the gas and then ship
8 it in a fleet of eight cryogenic carriers to Point Conception,
9 California.

10 There, it will be regasified and distributed
11 throughout the nation, essentially through the use of idle
12 capacity in the existing 1.1 million-mile nationwide natural
13 gas distribution network. Initially, our transport capability
14 will be 2.4 billion cubic feet a day because that's the
15 amount of gas the North Slope producers say will be immediately
16 available. The total El Paso system will cost an estimated
17 \$6.6 billion, in terms of 1975 dollars. We can easily expand
18 our facilities to haul a daily volume of 3.2 billion cubic
19 feet of gas, with an additional expenditure of a billion,
20 three.

21 Our project, like the two competing trans-Canadian
22 proposals, is quite complex. Literally thousands of pages
23 of factual data have been furnished by El Paso to numerous
24 state and federal agencies, including several agencies of
25 the State of California. I will not today attempt to repeat

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1 or even summarize such information. Rather, I believe it
2 would be more appropriate for us to present certain nontechnical
3 facts to support our contention that the El Paso system should
4 be the one ultimately approved by the U.S. Federal Government.

5 Firstly, our proposal is entirely under American
6 jurisdiction. We need no foreign approvals or permits,
7 no treaties, no protocols, no special defense arrangements,
8 no native land claims settlements, no foreign governmental
9 financial backing, no foreign materials or labor. The El
10 Paso project will be built, operated, and expanded in
11 accordance with U.S. requirements alone. The transportation
12 tariff will be set by the U.S. Federal Power Commission.

13 Labor disputes which might arise during the
14 construction or operation of the El Paso facilities will be
15 resolved by American entities in accordance with American
16 interests. Furthermore, our project does not force Canada
17 into a position where it must hastily decide monumental
18 issues respecting Canadian northern development. Canada
19 should be allowed to solve her internal difficulties in
20 accordance with her own self-interests and not because of
21 the urgent U.S. need for Alaskan natural gas.

22 Secondly, the sponsors of all three projects claim
23 a timing advantage, but let me give you some specific reasons
24 why the El Paso project can deliver Prudhoe Bay gas several
25 years sooner than either of the trans-Canadian proposals.

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1 I have already mentioned that the U.S. has passed a law
2 establishing a timetable for its decision, and Canada has
3 not. Of course, we have Prime Minister Trudeau's indication
4 that he will attempt to move the Canadian process along as
5 best he can, but his own National Liberal Party has pronounced
6 a policy of giving first priority for all-Canadian pipeline
7 projects, and the two-million member Canadian Labor Congress
8 feels that the monies required for an overland pipeline to
9 haul U.S. natural gas could be better spent elsewhere within
10 the Canadian economy.

11 Furthermore, international environmental organiza-
12 tions have threatened litigation over Arctic Gas' planned
13 crossing of the Arctic National Wildlife Range, and the
14 Yukon Conservation Society has stated that the public has
15 been, quote, "blindfolded and misled," end quote, by proponents
16 of the Alcan route.

17 Undoubtedly, though, the most critical barrier
18 facing implementation of both the Alcan and Arctic Gas projects
19 is the unsettled native claims in Canada. They exist in
20 both the Yukon and the Northwest Territories. The report
21 published May 9 by Justice Thomas Berger is seen by many
22 observers in both Ottawa and Washington as a fatal blow to
23 the Arctic Gas project. As you know, Justice Berger recom-
24 mended that no pipeline should ever be built across the
25 northern Yukon and that any pipeline in the Mackenzie River

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1 Valley should be delayed ten years to allow just settlement
2 of the native claims and to provide time for the establish-
3 ment of the new institutions and programs that settlement
4 will entail.

5 Arctic Gas suggests that some money can be escrowed
6 for the natives and right-of-way granted for their pipeline.
7 But Justice Thomas Berger said, and I quote, "I have given
8 the most anxious consideration to statements made at the
9 Inquiry about possible violent reaction to the pipeline if
10 it were built without a just settlement of native claims.
11 I have concluded that they cannot be ignored. No one who
12 heard them could doubt that they were said in earnest. I
13 am saying that there is a real possibility of civil disobedience
14 and civil disorder," end quote.

15 The Alcan people have consistently stated that
16 native claims problems along their route are not as severe
17 as those of Arctic Gas. This is not at all true. Only a
18 month ago the Canadian native leaders told the U.S. Council
19 on Environmental Quality that an Alaska Highway route is
20 no more acceptable than the Arctic Gas route.

21 Mr. Daniel Johnson, Chairman of the Council of
22 Yukon Indians, repeated his organization's position that at
23 least seven to ten years will be needed for settlement of
24 Yukon native claims in the area of the Alcan pipeline and
25 for establishing institutions to control development of the

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1 Yukon economy. Johnson predicted that the Lysyk Commission,
2 now studying the Alcan proposal in Canada, would come to the
3 same conclusions as did the Berger Inquiry -- that is, no
4 U.S. pipelines are to be built across Canada for ten years.

5 Mr. George Erasmus, President of the Indian
6 Brotherhood, said that it is, quote, "asinine and ludicrous"
7 end quote, to argue that pipeline construction would be
8 less devastating along the Alaska Highway than through the
9 Mackenzie Delta. Both Erasmus and Daniel Johnson told the
10 CEQ to give up the idea of an overland pipeline through
11 Canada and instead approve the El Paso proposal.

12 In addition, the six largest churches in Canada,
13 representing 80 percent of the Canadian population, are
14 pleading with American officials to hold the human rights
15 questions presented by the Canadian native issues above the
16 urgency of a gas pipeline through Canada to serve U.S. interests.

17 Now, besides the obvious immorality of pushing
18 ahead with either the Arctic Gas or Alcan projects prior to
19 native claims settlement in Canada, the practical issue
20 whether any lending institution will provide money for such
21 a venture when threats of Court action and physical violence
22 have been made.

23 The obvious point of all this, gentlemen, is that
24 the trans-Canadian proposals face many years of delay in
25 Canada. Each year of postponement will increase transportation

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1 costs by 15 to 20 percent, and capital costs by over a
2 billion dollars. We do not believe that the American consumer
3 can wait that long for Alaskan gas, nor could he afford it
4 when it finally came. One thing you can count on with
5 certainty, if Canada's natives are bought off so a gas pipe-
6 line can be built for U.S. purposes, the price is going to
7 be high and the American gas consumer is going to pay it.

8 In contrast, because El Paso will build its line
9 next to the Alyeska pipeline, the infrastructures we will
10 need for construction are already in place. The camps are
11 there, as are the work pads and haul roads. At least four
12 times the amount of additional gravel we will require is
13 now waiting at approved sites in Alaska. The logistics system
14 which has served Alyeska well for over three years can be
15 immediately applied to the El Paso project. Our labor force
16 is trained, and we have access to an estimated \$750 million
17 worth of Alyeska's environmental work and over a billion
18 dollars' worth of Alyeska's construction support facilities.

19 A third major point is that all economic benefits
20 resulting from implementing El Paso's plan for transporting
21 North Slope gas will accrue to the United States. Every
22 foot of pipe, every compressor unit, every ship in our fleet
23 -- in fact, every 2X4 and nail for our project will be
24 purchased from U.S. sources, fabricated in U.S. yards, and
25 shipped to the construction site in U.S. transport units.

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1 Our materials requirements in Alaska alone will exceed 1.4
2 million tons. Our ships and South 48 pipeline needs will
3 total at least another million tons. Every hour of labor
4 expended in our project will be provided by American citizens.

5 Mr. Robert Nathan, who is an internationaly
6 renowned economist, has conservatively estimated that some
7 765,000 man-years of labor will be generated in building and
8 operating the El Paso facilities. This is three times the
9 U.S. jobs which would result from either of the trans-Canadian
10 proposals.

11 Furthermore, we will pay \$7 billion more in U.S.
12 taxes than will our competitors. We will create no adverse
13 effects on the U.S. balance of payments situation, as opposed
14 to Arctic Gas' \$10 billion negative effect. On the consumer
15 end, every penny paid in American markets for the gas we
16 would deliver will flow into the American economy and stay
17 there. In contrast, up to 67 percent of payments made by
18 American consumers for gas delivered through either of the
19 trans-Canadian proposals will flow to Canada and other foreign
20 countries.

21 Let's go back to this matter of U.S. jobs for a
22 moment. I want you to know why the national organizations
23 of the Associated General Contractors, the AFL-CIO Executive
24 Council, the Teamsters and others are promoting our project.
25 On a national basis, 765,000 man-years' worth of new jobs

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1 would reduce the national unemployment rate by almost a
2 full percentage point from its present level.

3 Some 248,600 man-years, or almost one-third that
4 for the entire project, will accrue to the Pacific Region,
5 which includes the states of Alaska, California, Hawaii,
6 Oregon, and Washington. California's share is estimated at
7 just over 120,000 man-years. Primary jobs in constructing
8 the Point Conception regasification plant and 381 miles of
9 new pipeline will produce 16,500 man-years.

10 Secondary employment impacts will amount to an
11 estimated 24,000 man-years. These secondary jobs will
12 emanate from a \$1.3 billion expenditure in potential purchases
13 of materials, supplies, and services from the Pacific Region
14 as a whole, of which over \$250 million is associated with
15 the transportation industry.

16 Potential suppliers include International Harvester,
17 Kaiser Steel, Grove, Delaval Turbine, Byron Jackson, American
18 Bridge, Republic Steel, Johns-Manville, Upjohn, Mobile
19 Chemical, and countless other firms. These California
20 companies could supply materials such as power generation
21 units, valves, mainline pipe, fittings, pumps, structural
22 steel, paint, insulation and other items.

23 And San Diego has one of the two drydock facilities
24 on the West Coast which could perform the \$14 to \$15 million
25 worth of annual inspection and maintenance work for our LNG

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1 carrier fleet. Dames and Moore and Fluor Corporation have
2 done a major share of preliminary planning and design work
3 for our project thus far.

4 Turning to the subject of resources, the State of
5 Alaska has sold the El Paso Natural Gas Company, our affiliate,
6 a portion of its royalty share of Prudhoe Bay natural gas,
7 amounting to a total of 650 billion cubic feet. This is the
8 largest single acquisition of gas by El Paso Natural in
9 many years. Eighty percent of this acquisition is destined
10 for California markets.

11 But there's a condition on the sale, and you may
12 have already heard of it. The condition is that El Paso's
13 trans-Alaska route for the gas pipeline must be approved.
14 In other words, Alaska is willing to share its surplus energy
15 resources with California if you will help get the trans-
16 Alaska route approved. If El Paso loses, the contracts will
17 likely be voided.

18 On a daily basis, the amount of gas involved in
19 this purchase will heat more than 190,000 California homes
20 that could otherwise be without natural gas service. Obviously,
21 Alaska badly wants the El Paso project and is willing to
22 bargain with its gas to obtain additional support for it.

23 I must also mention the implication by our competi-
24 tors that their projects would somehow make more Canadian
25 gas available to the United States, and California in particular.

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1 Unfortunately, this allegation does not square with Canadian
2 press reports and the records of both the FPC and the National
3 Energy Board, which are replete with testimony that what
4 little Mackenzie Delta gas there is will be hauled as far
5 as the trans-Canada pipeline system and then delivered to
6 markets in eastern Canada.

7 In fact, when it became known that American firms
8 originally had contracts for Mackenzie Delta gas, Canada
9 angrily demanded that such interests be resold to Canadian
10 companies. Any decision on Canada's part to export additional
11 gas supplies will in no way be related to the success or
12 failure of the Arctic Gas or Alcan projects. And Mr. Marshall
13 Crowe, Chairman of the Canadian National Energy Board, has
14 said that himself.

15 We have recently heard reports that almost 20 trillion
16 cubic feet of proven, uncommitted reserves exist in northern
17 Alberta. Certainly, if Canada were going to increase gas
18 exports to the U.S., these Alberta reserves would be a far
19 greater reason to do so than would be the minor amounts of
20 gas in the Mackenzie Delta. As a matter of fact, America's
21 only hope for more gas from Canada seems to rest with the
22 Polar Gas project which crosses eastern Canada, with over
23 13 trillion cubic feet of proven reserves behind it and
24 which, by the way, happens to be mutually exclusive with
25 Alcan and Arctic Gas for reasons of financeability. The

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1 Polar Gas certificate application is expected at the NEB
2 this September.

3 California's only hope for an additional increment
4 of North Slope gas is the El Paso trans-Alaska project. And
5 with the expressed positions of the FPC staff and the Commis-
6 sion itself on the Western Leg of the overland systems, it
7 also now appears that we offer the only means of direct
8 delivery of such gas to California.

9 Mr. Chairman, in conclusion, the decision facing
10 the United States and this Commission this year will set the
11 direction of flow of what will initially be ten to twelve
12 percent -- and what may ultimately be as much as fifty
13 percent -- of America's natural gas supply for the next forty
14 or fifty years. The complexities of the Canadian political
15 situation, the human rights issues faced by Arctic Gas and
16 Alcan, and the benefits we offer to the American economy
17 demand that the El Paso project be selected. We hope you
18 agree, and we hope this Commission recommends to Governor
19 Brown and President Carter that the all-American route be
20 chosen to move North Slope natural gas.

21 I thank you very much for your courtesy. I'd be
22 happy to try to answer any questions you have.

23 LIEUTENANT GOVERNOR DYMALLY: What about your
24 financing package?

25 MR. HOLLAND: Sir, we are the only one of the three

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1 project sponsors who are not asking for new government
2 financial programs in order to finance our project. We
3 would use the available Title XI Program to finance construction
4 of our ships. Over 4,000 ships have already been built out
5 of the provisions of that program. Conversely, Arctic Gas
6 and Alcan both asked for some sort of new governmental back-
7 stopping in order to put their projects together.

8 CHAIRMAN CORY: Thank you very much.

9 MR. HOLLAND: Thank you, sir.

10 CHAIRMAN CORY: Next on our agenda, Mr. Daniel
11 Gibson and Mr. Harry Lepape.

12 You represent the interests of the Arctic system.
13 Is that correct?

14 MR. LEPAPE: That's correct.

15 MR. GIBSON: That's right, Mr. Chairman.

16 LIEUTENANT GOVERNOR DYMALLY: Are both of these
17 witnesses going to speak separately, or are you going to
18 have one presentation?

19 MR. GIBSON: This is one joint presentation.
20 Mr. Lepape will discuss certain issues that are very pointedly
21 related to his company, and I will try to limit myself to
22 issues which are more directly related to the company that I
23 represent.

24 CHAIRMAN CORY: Could you identify your respective
25 companies and who the Arctic system is so we can have some

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1 frame of reference?

2 MR. GIBSON: I'd be happy to, sir.

3 LIEUTENANT GOVERNOR DYMALLY: Just keep in mind
4 that the previous companies only had one witness.

5 MR. GIBSON: We will try to keep that in mind. In
6 view of the fact that we are representatives of the utilities
7 here that have the responsibility of serving gas in northern
8 and southern California, we hope that we can have some
9 additional light to shed that may be helpful to this California
10 Commission.

11 The Arctic Gas project is a group of around 16
12 Canadian and United States natural gas distribution and
13 transmission companies that have banded together in a partner-
14 ship to study ways of bringing gas from the North Slope of
15 Alaska and also from the Mackenzie Delta area of Canada's
16 North Slope. The group has been in existence in one form
17 or another ever since -- well, before the great gas dis-
18 coveries in the North Slope. Mr. Lepape, who has been in
19 this longer than I have, could speak probably to the genesis
20 of the group better than I. But suffice it to say for now
21 that Pacific Gas and Electric Company is a member of the
22 group, as is the Pacific Lighting Company in southern
23 California.

24 Now, PG&E -- there's a certain possibility for
25 confusion here -- and I think we should clear it up right

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1 at the beginning. PG&E supports two LNG proposals, which
2 are now before various regulatory bodies. Two projects --
3 one to bring liquefied natural gas from Indonesia, and
4 another to bring liquefied natural gas from South Alaska,
5 from the Cook Inlet area. We believe that those two projects
6 are the best hope for avoiding a gas shortage -- and a
7 serious one -- in California in the early 1980's.

8 We are talking here today about alternatives for
9 bringing into California another source of natural gas other
10 than these two -- one from the North Slope of Alaska. Now,
11 there is an LNG proposal, the El Paso Alaska proposal, that
12 was so ably discussed by Mr. Holland just now. We do not
13 support the El Paso Alaska project. PG&E could be involved --
14 and would be involved -- substantially in any of the three
15 competing projects for the transportation of North Slope gas
16 to California, but we've chosen one -- the Arctic Gas project
17 -- and I'd like to tell you why.

18 You have before you, I believe, a colored map which
19 indicates the three different means of bringing gas off the
20 North Slope into the lower 48 states -- the El Paso Alaska
21 project, depicted in the salmon color; the Alcan project,
22 depicted in the yellow; and the Arctic Gas, depicted in
23 white. Now, Arctic Gas studied various different ways of
24 getting gas off the North Slope and into the lower 48 states.
25 And in fact, they studied the two alternative routes that are

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1 shown here on this map. They studied them in great detail.
2 So far, the project has spent around \$150 million in engineer-
3 ing studies, environmental studies, and design to try to
4 pick the best method. That best method that the project
5 has come down on is this direct route which links up the
6 Prudhoe Bay gas with the Mackenzie Delta gas and brings both
7 of them down to the South in a large diameter, high-volume,
8 high-pressure pipeline, which divides at a place in Alberta,
9 with a Western Leg continuing on down here to California,
10 and an Eastern Leg continuing on to the Midwest for distri-
11 bution throughout the country.

12 The Western Leg is an expansion, a simple expansion,
13 of the existing Alberta-California pipeline, which now brings
14 in approximately one billion cubic feet of gas per day from
15 Alberta into California and also delivers some gas to various
16 states along the way in the Pacific Northwest.

17 That pipeline, gentlemen, is built and operated
18 by Pacific Gas Transmission Company, which is a partly owned
19 subsidiary of PG&E.

20 Now, the Western Leg --

21 CHAIRMAN CORY: Who are the other owners?

22 MR. GIBSON: Excuse me?

23 CHAIRMAN CORY: Who are the other owners?

24 MR. GIBSON: It is publicly held. It's 52 percent
25 owned by Pacific Gas and Electric Company, and the remaining

1 amount is traded on the Pacific Stock Exchange.

2 CHAIRMAN CORY: (Nods head.)

3 MR. GIBSON: The reasons that PG&E is supporting
4 one of these projects -- and we don't intend, by the way,
5 to be knocking the other projects. We're here to talk about
6 why we believe that Arctic Gas offers better benefits to
7 California -- we believe that Arctic Gas is going to be
8 cheaper for the consumer. It's going to be more efficient.
9 There's no question about that. And most importantly, it is,
10 gentlemen, going to be the best hope for maintaining those
11 large volumes of Canadian imports that we now have coming
12 into California.

13 I'd like to put those Canadian imports into
14 perspective, and you have attached to this colored map,
15 towards the end, another black-and-white map which shows
16 northern California or PG&E's present sources of natural gas.
17 And you'll see that 45 percent comes from Canada at the present
18 time, about eight billion cubic feet of gas per day.

19 Just to put that into perspective, that's the
20 annual energy equivalent of all of the power output of 60
21 Shasta Dams in a normal year. That's a lot of energy
22 coming into the State, and we are very, very concerned about
23 whether we will be able to maintain that supply -- let alone
24 enhance it, but maintain that supply from Canada if Canada
25 does not obtain early access to its own Mackenzie Delta

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1 reserves.

2 Now, what do I mean by "early access"? The reports
3 of the Canadian government, the National Energy Board and
4 the Energy, Mines and Resources Department, both indicate
5 that if Canada is not able to obtain access to new frontier
6 supplies of gas by the early 1980's, it is not going to have
7 enough gas to maintain service to its own customers and to
8 deliver present volumes of gas to the United States. Now,
9 this affects the Pacific Northwest, which is about 70 percent
10 dependent on Canadian gas, and northern California. By
11 the way, the amount that we bring into northern California
12 is about 21 percent of the total State's gas supply so that
13 is a big chunk for California as a whole.

14 It also affects some states in the Midwest which
15 are heavily dependent upon Canadian gas. But if the Canadians
16 do not obtain access to that Mackenzie Delta gas in the
17 early 1980's, there are going to be very grave shortages,
18 and it appears to us that the Canadians will probably feel
19 it necessary to cut back on the amount of gas that they
20 deliver to the United States. Put yourself in the Canadians'
21 place. It's unlikely that they would continue exports to
22 the United States at a time when they are asking their own
23 consumers in Canada to cut back.

24 Now, because of that, I think that even if the
25 other projects had other benefits -- such as economies or

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1 efficiencies -- we would probably be strongly supporting the
2 Arctic Gas project because it is so important that we main-
3 tain that gas. But the fact is that Arctic Gas -- because
4 it has chosen a direct route, because it has designed a
5 pipeline which is very, very efficient, also is going to be
6 much cheaper and much more efficient.

7 Just compared to the El Paso project -- El Paso,
8 in transporting the gas to California is going to use up
9 approximately 13 percent of the input gas along the way.
10 That means 13 percent of whatever the California companies
11 are able to buy on the North Slope is not going to get to
12 them. It's going to be used up on the way. These are figures
13 on the record from the Federal Power Commission.

14 Arctic Gas would use up only a little over five
15 percent of the gas under the lowest volume case of deliveries.

16 That means, if you demonstrate graphically the
17 difference between gas use -- as we have here in a chart
18 attached to the colored photograph -- this large bar at the
19 top is the difference between the El Paso gas use and the
20 Arctic Gas project's gas use for transporting California's
21 expected share of gas to California. About 20.2 trillion
22 Btu's of gas would be lost by El Paso that would not be lost
23 by Arctic Gas. And that, gentlemen, is more than enough
24 to satisfy all the residential needs of all the people in
25 the City of San Francisco, for instance, for a whole year.

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1 That's the kind of stakes we're talking about.

2 Now, Mr. Holland talked about the fact that El
3 Paso has a conditional contract from the State of Alaska
4 to purchase some gas. Well, a great deal of that benefit --
5 even if we were lucky enough to have that gas allocated to
6 California rather than someplace else -- would be eaten up,
7 I'm afraid, by this terrible waste of gas.

8 Alcan, too, is less efficient because of the fact
9 that while it uses a 48-inch pipeline like Arctic Gas, it's
10 a lower pressure pipeline. It's designed to carry lower
11 volumes so it's not going to be able to carry as much gas
12 and as economically as the other project.

13 Now, the other two projects just will not hook up
14 the Mackenzie Delta gas. El Paso never would. Alcan could
15 only if they put on another pipeline -- either this so-called
16 Maple Leaf pipeline, which is shown on this map as a dotted
17 line, which would add probably as much as 2,000 miles more
18 of pipeline to the entire system, 2,000 more miles of cost,
19 and 2,000 more miles of environmental impact. Or another
20 possible spur that they're talking about from time to time
21 is one which would run across the Northern Yukon through a
22 very mountainous area and through the winter grazing grounds
23 of the caribou herd up there.

24 So, there we are We have the three different
25 projects, and that's the reason why we've come out where we

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1 have.

2 Now, as far as the Western Leg is concerned, that's
3 vitally important to California, and the other State agencies
4 that have considered this have recognized that fact. The
5 California Public Utilities Commission and the Energy Com-
6 mission have both stated that an overland pipeline route
7 should be built with a Western Leg. The CPUC has gone
8 further and has supported the Arctic Gas project before the
9 Federal Power Commission. And I think it's notable, gentlemen,
10 that the Friends of the Earth -- the California representative
11 before the State Energy Commission a couple of weeks ago --
12 also endorsed the position that it should be an overland
13 pipeline route with a Western Leg.

14 LIEUTENANT GOVERNOR DYMALLY: Just one question.
15 I'm troubled by the fact that in either your proposal or
16 the Alcan proposal I see no evidence of a supply of gas
17 coming into California. You're talking about bringing it
18 here, and then you keep talking about the proposed Western
19 Leg as something to come in the future, like Christmas. But
20 there's no actual plan to bring the gas into California.
21 So what would we be doing here, supporting you to supply
22 the gas to all the eastern states? At the Lieutenant
23 Governor's Conference, I mean, they were all big for all
24 of your proposals because you guaranteed delivery to the
25 eastern states. You don't guarantee delivery to California.

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1 MR. GIBSON: The facts are otherwise, sir. There's
2 a great deal of misunderstanding about these various projects.
3 All of these projects are simply transportation projects,
4 and none of them can guarantee to any part of the nation
5 any amount of gas supply. They are projects which simply
6 will act as, if you will, common carriers, which will start
7 up at the North Slope and end up in the various market areas.
8 And every one of the projects has just as much ability to
9 guarantee gas supply or not to guarantee it as the others do.

10 LIEUTENANT GOVERNOR DYMALLY: There's still my
11 contention that the El Paso project has to come to California.
12 We could put the National Guard out and get some gas anyway.

13 (Laughter.)

14 MR. GIBSON: I'm afraid, sir, that the problem is
15 that the determination of who gets the gas is going to be
16 basically on who contracts for it.

17 CHAIRMAN CORY: You're missing the Governor's point.

18 LIEUTENANT GOVERNOR DYMALLY: How would you get
19 gas if the line doesn't even come to California? I mean, so
20 we have at least some possibility of negotiating with the
21 Federal Government, with Congress, the President to give us
22 a little bit of the El Paso gas because it passes through
23 California.

24 MR. GIBSON: Yes. The answer --

25 LIEUTENANT GOVERNOR DYMALLY: But I don't see any

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1 evidence of bringing the gas to California.

2 MR. GIBSON: Well, there is great evidence of that,
3 sir, because of the fact that the Arctic Gas project has,
4 as an integral portion, the Western Leg. It is a part of
5 the project.

6 LIEUTENANT GOVERNOR DYMALLY: Will you show it to
7 me on the map?

8 MR. GIBSON: Yes, sir. This map, which you have
9 before you --

10 LIEUTENANT GOVERNOR DYMALLY: Yes.

11 MR. GIBSON: -- the Western Leg is in white here,
12 following the route of the present Pacific Gas Transmission
13 Company line right down into California. That is where it
14 is, and that is where it's going to be.

15 LIEUTENANT GOVERNOR DYMALLY: But the FPC deferred
16 it for two years. They're saying --

17 MR. GIBSON: The Federal Power Commission indicated
18 that they would like to put off the question of how big the
19 facilities would be. They agreed, however -- and this is
20 important -- they agreed that the Congress has required that
21 there be direct delivery into the West and into California,
22 specifically. Moreover, just recently 64 western Congressmen
23 -- including, I believe, all of the Congressmen from
24 California -- have signed a letter to the President, stating
25 that the Federal Power Commission was wrong in deferring

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1 consideration of it for a year or two and stating that the
2 West must have that Western Leg. I believe that the record
3 in the Congress is clear, both when the Act was passed and
4 now, with the letter to the President, the Alcan and the
5 Arctic Gas projects both have agreed on this one point --
6 that there shall be a Western Leg. And I believe all the
7 western states are united on this. The recommendation of
8 the FPC is only a recommendation; in other words, what we're
9 going to see from the President, I believe, is going to be
10 a forthright authorization of the Arctic Gas project with a
11 Western Leg and an Eastern Leg at the same time.

12 CHAIRMAN CORY: But how, if the President should
13 choose to do otherwise, will California's interests be
14 served? How could we possibly support a pipeline system
15 which does not have a pipeline to get gas to California?

16 MR. GIBSON: I don't know that we could, but I
17 don't think we have to cross that.

18 CHAIRMAN CORY: I think you better cross that
19 bridge because there's one federal agency saying that you're
20 going to wait two years for that. And one thing that really
21 disturbs me about betting on the come -- that two years
22 from now somebody in the Federal Government is going to let
23 us have some gas, and I think that's what Merv is saying.

24 LIEUTENANT GOVERNOR DYMALLY: (Nods head.)

25 CHAIRMAN CORY: Now LNG, I've got some serious

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1 doubts about, but --

2 MR. GIBSON: Well, unfortunately, though, we don't
3 have any better shot at getting that gas in a federal project
4 like that than we do with a pipeline coming across the
5 United States.

6 CHAIRMAN CORY: But we've got a better shot with
7 an LNG terminal in South Alaska and one in California. Our
8 odds are a little bit better there.

9 MR. GIBSON: That is open to --

10 CHAIRMAN CORY: It may not be great, but it's --

11 MR. GIBSON: I don't agree. I think it's open
12 to a great deal of dispute because of the fact that --

13 CHAIRMAN CORY: That's what we're here for. Would
14 you address yourself to that question because the indications
15 as presented to me are that the Federal Government in the
16 agency level has turned down the Western Leg and postponed
17 it, which to me is the same as a "No." We'll have nothing.

18 MR. GIBSON: Well, no. That's the point, sir.
19 Mr. Cory, the recommendation of the Federal Power Commission
20 is just that. You have to go back to the Alaska Natural
21 Gas Transportation Act of 1976, which set up this very
22 specialized decision-making process for this one situation.
23 Normally, the Federal Power Commission would have the final
24 say. Normally, when you propose a gas transportation project,
25 you go to the Federal Power Commission, and you ask them for

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1 a certificate. They review it and subject only to Court
2 review, that's it. This is not the situation here, however.
3 The Federal Power Commission is but one part of the overall
4 question. The way that the decision is set up, the Federal
5 Power Commission was the first to issue its recommendation
6 to the President, which it did on the basis of a judge's
7 decision. And then, by July 1st, the other federal agencies
8 and state governors and Public Utilities Commissions are
9 to have their input to the decision, and we are --

10 CHAIRMAN CORY: Who makes the decision?

11 MR. GIBSON: And that input is to the President
12 of the United States. The President makes the final decision,
13 which is sent to the Congress for their approval within 60
14 legislative days. The President's decision is to be shipped
15 to the Congress by September 1 and within 60 legislative
16 days thereafter, the Congress must decide whether or not
17 to accept the President's decision. So you see that the
18 decision or the recommendation of the Federal Power Commission
19 is but a small part of the overlay.

20 CHAIRMAN CORY: Yes, but the other thing that we
21 have going for us -- so I truly understand this -- is the
22 close rapport on energy matters between the President and
23 Congress --

24 (Laughter.)

25 CHAIRMAN CORY: -- and so we've got 64 Congressional

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1 members who are saying, "Yes, give us a Western Leg" because
2 we've got this great demonstration of their closeness and
3 unanimity of opinion so we can be comforted by that. And
4 then, we have the great rapport that those of us from the
5 Democratic Party in California have with the current adminis-
6 tration. And on those two things, we can rest easy, and
7 you're willing to say, "Yes, go ahead with these projects."
8 It seems to me that we're really drawing to an inside straight
9 if we don't even have one of the cards on the outside.

10 MR. GIBSON: If the problem is as shaky as you
11 drew it, then we would have just as much of a problem in
12 trying to hold on to the gas that we see shipped into
13 California and shipped right out the other side. The Federal
14 Power Commission has -- we have a direct pipeline from
15 Texas. You're well aware, I am sure, of that.

16 CHAIRMAN CORY: (Nods head.)

17 MR. GIBSON: You're also well aware, I am sure,
18 that in the past couple of years the Federal Power Commission
19 has told us -- despite firm contracts not subject to any
20 interruption -- that we are going to have to give up our
21 gas to the east-of-California areas, to Arizona and New
22 Mexico, Texas because they've decided that those people back
23 there need it more than we do here in California with our
24 air pollution problems and with the dependence that our
25 industry has on natural gas. We fought that battle. We

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1 fought it as hard as we possibly could, and we lost it flat
2 out. Now, there you have the kind of problem. We have
3 a direct pipeline. Even if you have an LNG terminal here
4 with the gas coming into California, I'm afraid that your
5 position is not much better. What you've got to do is make
6 the case before the federal authorities and make it hard
7 that California has to have that gas and needs it just as
8 much as any other place.

9 LIEUTENANT GOVERNOR DYMALLY: With an LNG facility
10 via California coast, I think it's much different than
11 bringing gas in from Texas. I mean, this is a secondary
12 source. We're not speaking of a primary source. I don't
13 see how we can possibly be told that we can't get any of
14 that gas if the facility is in California. Now, here we're
15 dealing with another case where we were the recipient. Now,
16 we are the distributor.

17 MR. GIBSON: We would undoubtedly get the molecules
18 of gas, Governor, but whether we would get as much then from
19 Texas -- you see, that's what they would do. They would
20 back off the amount of gas that would come from Texas and
21 whether we would end up with a net benefit is quite another
22 question.

23 LIEUTENANT GOVERNOR DYMALLY: Will you address
24 yourself to Justice Berger's comments about native claims?

25 MR. GIBSON: Yes, I'd be happy to. There are

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1 several things that one has to recognize about it. Justice
2 Berger of the British Columbia Supreme Court, before he went
3 on the bench was a representative of native claims advocates
4 in the Courts in Canada. And I think that's where he started
5 out, and that's where he ended up. He was asked to recommend
6 terms and conditions for the installation of a pipeline in
7 the Mackenzie Valley. He came out with a statement saying
8 he didn't believe that there should be any gas pipeline
9 in that area for at least ten years. And that was not much
10 of a surprise to anybody who knew where he had been before.

11 The fact, though, that's most important about that
12 is that it's merely a recommendation. It's merely advisory
13 to the Canadian government. And I think that you will see,
14 as you've heard from Mr. Holland, that that recommendation,
15 to the extent it was going to be of any impact at all, would
16 impact both of the trans-Canadian pipelines. Both routes
17 have their native claims problems. But the bottom line on
18 this, sir, is that it's very unlikely, in our estimation,
19 that the Berger recommendation is actually going to be
20 followed.

21 Why? Because Canada needs that gas out of the
22 Mackenzie Delta. They need it in the early eighties. And
23 you're going to have to, as a Canadian decision-maker,
24 balance off the interest of 20-odd million Canadians in
25 southern Canada and their need for gas against the hypothetical

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1 concerns of some of the native groups, who have been most
2 vocal in the Northwest Territories. We think it's unlikely
3 that the Canadian government is going to cut off the gas
4 supply to 20 million Canadians.

5 But in any event, there's no need to speculate
6 about which way the Canadian government is going to go on
7 this because they've told us that they're going to decide in
8 a time schedule that is the same as the time schedule that
9 we have down here -- around September for the President. And
10 even if they didn't, if they didn't decide and we could see
11 that there was not much likelihood of getting a decision
12 out of them, well, that's a decision, too. And that means,
13 okay, you've got the El Paso project. You can go with it.
14 We think it's a poor second or third choice, though, Governor.
15 It's more expensive. It's going to waste gas. It's going
16 to deny Californians of a great deal of the clean-burning
17 natural gas off the North Slope. And the question for you
18 gentlemen now -- and actually, for the Governor and for the
19 State of California as the Governor makes his recommendation
20 to the President -- is: Why choose a poor second or third
21 choice on the basis of speculation? Why not tell the
22 Federal Government what project we believe is the best for
23 California, knowing that if we can't have it, there's always
24 the second or third choice laying around?

25 LIEUTENANT GOVERNOR DYMALLY: Let me tell you how

1 I answer that question. With the State of Alaska and the
2 Congress in support of the Alyeska project, yet environmentalists
3 in the 48 lower states were able to hold up that project
4 for over three years.

5 MR. GIBSON: But, Governor, that was without a
6 law that expedited judicial review. As soon as judicial
7 review was expedited, that project went forward, and that's
8 what we have here. We have a law that was passed by the
9 Congress last year which says that judicial review is going
10 to take five months and that's it.

11 LIEUTENANT GOVERNOR DYMALLY: Judicial review about
12 Canadian lands? I mean, what is --

13 MR. GIBSON: We have opinions of Canadian financial
14 counselors, sir, that indicate that there is no possibility
15 of anything but a frivolous lawsuit being brought in Canada
16 regarding native claims, and such a lawsuit could not delay
17 the authorization and the construction of the pipeline if
18 the Canadian government had authorized it.

19 Now, why is that the case? Because they have a
20 different kind of legal system than we do, and once the
21 Canadian government has decided this, it's a decision which
22 just simply is not subject to that kind of claim.

23 LIEUTENANT GOVERNOR DYMALLY: I don't know if
24 you're a lawyer -- I'm not -- but frivolous cases are the
25 dilemma which we face in the California economy so you cannot

1 take them frivolously.

2 MR. GIBSON: Well, frivolous cases are thrown
3 out of Court in Canada. And our bond counsel have indicated
4 that it is not a problem for the financing, and they're not
5 going to go out on a limb and say, "You can go ahead and
6 finance this project even if cases like that are hanging
7 fire if there is a real problem of delay." Financial
8 counsel don't do those things, sir.

9 LIEUTENANT GOVERNOR DYMALLY: They have a Supreme
10 Court and they go all the way to the Privy Council, don't
11 they?

12 MR. GIBSON: They don't any more. They go to the
13 Supreme Court.

14 LIEUTENANT GOVERNOR DYMALLY: Not to the Privy
15 Council.

16 MR. GIBSON: That's right. The State Department
17 of the United States has been asked by the U.S. Congress to
18 give an opinion on this very question. And Mr. Lawrence
19 Raicht, R-a-i-c-h-t, of the State Department testified
20 before Congressman Roncalio's committee this April on this
21 very question. And his opinion was quite clear that there
22 is no real possibility of native claims holding up the
23 authorization or the building of a pipeline if the Canadian
24 government has given its authorization. So, that's good
25 enough for us.

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1 LIEUTENANT GOVERNOR DYMALLY: Proceed.

2 MR. GIBSON: I believe that I should give my
3 colleague here, Mr. Lepape from Southern California Gas,
4 some time to hold forth now. So without further ado, I'll
5 turn it over to him.

6 MR. LEPAPE: Mr. Chairman, Governor, what I've
7 attempted to do is put, in as small a space as possible,
8 a summary of our present position, and we're distributing
9 a prepared statement. It was done in somewhat of a hurry,
10 but I was able to keep it down to 15 pages, double-spaced.
11 And I think that rather than get into a lot of numbers, I
12 would like to ask that this be accepted into the record.
13 And then I would like, in the time remaining, to make a
14 few general observations and hopefully have any time for
15 your questions. I might make better use of what time I
16 have available if I can

17 COMMISSIONER McCAUSLAND: Your statement is
18 accepted for the record.

19 MR. LEPAPE: Thank you.

20 I am a vice-president of Southern California Gas
21 Company, and I am president of their subsidiaries which are
22 responsible for our efforts in obtaining gas from the northern
23 part of Alaska and Canada, including the Arctic Islands. I
24 have personally been involved in this work since about
25 1968, '69 -- the Prudhoe Bay discoveries. We started with

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1 this program when we foresaw the shortfall in our traditional
2 sources of supply from west Texas and Oklahoma. We do not
3 import any Canadian gas at the present time. We are not
4 owners of any of the pipelines presently in existence and
5 would only be participating in pipelines to the extent it's
6 necessary in order to get the gas and get the projects built,
7 whichever project would be approved.

8 We have been in numerous predecessor groups trying
9 to analyze the best possible way to bring gas down from
10 the North Slope and from Canada. As such, our bottom line
11 is what is going to get us the most amounts of gas at a
12 reasonable cost to our customers in southern California.

13 To obtain this background, we started first drilling
14 wells in Canada with Canadian companies. We recognize that
15 one of the alternatives would be movement of gas through
16 Canada, that we lack the amount of background and detailed
17 firsthand information that we should have to try to make our
18 decision.

19 Through that drilling in Alberta, we've been
20 participating with Canadian companies for about eight years
21 in a very small program, but they're very fine companies.
22 And through that, we have had the benefit of direct contact
23 with a very broad spectrum of the Canadian and gas industry
24 and others in Canada.

25 The first project we were involved in -- really,

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1 the first study we made -- was to bring gas from Prudhoe Bay
2 across Alaska, as is proposed by El Paso at the present time.
3 And we've always considered that with the large amount of
4 reserves in Prudhoe Bay that that was a viable alternative.
5 The question was whether it was the best. Over the years
6 that have transpired since then and our involvement in the
7 various projects, we believe that that is not the best
8 alternative, provided Canada decides that it wants to approve
9 the Arctic Gas project. So we don't want to lose sight of
10 the fact that El Paso is viable. It could be built, and it's
11 been so found by a number of the agencies that have very
12 carefully gone over the enormous records.

13 And I am sure you're familiar with the fact that
14 we have 45,000 pages of transcripts, and the FPC has thousands
15 of exhibits, the Berger hearings, the hearings in Ottawa
16 before the National Energy Board. We participated in all
17 of these hearings. We have a large staff that has been
18 working on these projects during these years and have the
19 benefit of our own in-house evaluation of these alternatives.

20 Now, on the Canadian scene, we have participated
21 in the drilling in the Mackenzie Delta by making advances
22 to the Gulf Oil Company for the drilling they did in the
23 immediate area. And we still have a contractual right to
24 the extent that one-half of any of their gas that is found
25 to be surplus to Canadian requirements, we get first crack

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1 at it for Southern California Gas Company.

2 We've also been active in supporting drilling
3 in the Arctic Islands, and that has led to a dedication.
4 We have approximately a sixth of the gas that's been dis-
5 covered to date dedicated to us to the extent that is surplus
6 to Canadian requirements. We also, through our other
7 affiliate, have participation in probably some of the largest
8 blocks of land under lease in the Mackenzie Valley. That's
9 south, now, of the Delta. This is along the route proposed
10 by Arctic Gas.

11 And I mentioned earlier the drilling in Alberta
12 so we've had, over the last five or six years, a lot of
13 exposure to the Canadian scene and a lot of those alternatives.
14 We believe that there is a high probability that Canada,
15 looking at its situation, will decide it has to have
16 assurance that it will be able to connect frontier gas.
17 They're faced with an option, presented by Arctic Gas, that
18 the volumes that are proved and probable now in the Mackenzie
19 Delta -- in the six trillion range -- could be piggy-backed
20 down to the southern markets, along with the Prudhoe Bay
21 gas.

22 If that line were to be approved by Canada along
23 the terms and conditions proposed by Arctic Gas, we believe
24 very definitely that it will result in more energy being
25 available to the United States, both in terms of protecting

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1 the present levels of exports from Canada that Mr. Gibson
2 referred to, and it is more fuel efficient. And Mr. Gibson
3 covered that. I won't go over the same ground.

4 Now, Canada, when they look at how they're going
5 to protect themselves -- let me just pick off a couple of
6 their options. They have drilled off the west coast of
7 British Columbia, and it's been a terrific disappointment.
8 They have drilled off the east coast of Canada, and that's
9 been a tremendous disappointment. I mentioned our involve-
10 ment in the funding and the drilling of the Arctic Islands.
11 And unfortunately, there was just a very, very disappointing
12 dry hole drilled on Melville Island -- one of the key wells
13 -- and it knocked three trillion feet out of the proved
14 reserves.

15 We are also participating in the Polar Gas study
16 group, which is similar to the Arctic Gas study group,
17 that would bring a pipeline down. And there was mention
18 of the filing that they will make with the National Energy
19 Board in September. We have just decided in the Polar group
20 that the pipe size has to be reduced, and we're reworking
21 the application. And gentlemen, there's no question that
22 the Polar Gas project does not have the threshold volumes
23 at the present time and in our opinion, it could not bring
24 gas to southern Canada in time to take care of the shortfall
25 which is being forecast.

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1 Now, the other option that Canada has is hooking up
2 the Mackenzie Delta. There is not enough gas there now for
3 them to build their own pipeline based on those reserves
4 so they have this piggy-backing option. You heard mention
5 of the excess deliverability that they're developing in
6 Alberta now. They speak of these additional reserves.
7 Gentlemen, I've studied carefully these new reserve additions.
8 And what they're finding is high deliverability so far, the
9 price of gas -- wellhead price -- was increased substantially
10 in Alberta, there's been a great deal of shallow drilling.

11 Fortunately, they're also doing deep drilling.
12 But the additions to reserves, which is the key thing for
13 Canada, have not been very far from that which has been
14 projected by the National Energy Board and the Department
15 of Energy, Mines and Resources. So as far as Americans and
16 Californians looking at how are we going to obtain the
17 greatest amount of supplies of gas from Canada, we have to
18 be very concerned on whether Canada feels that they have
19 enough reserves to protect their market. They demand a
20 25-year supply of gas.

21 And it isn't the deliverability -- the term has
22 been coined a "gas bubble" in Alberta -- because they have
23 a lot of deliverability now, but they haven't greatly
24 increased their reserves. And we're anxiously awaiting the
25 decision of the National Energy Board, which now will be

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1 announced on Monday. At five o'clock the Panel is going to
2 read the decision in Ottawa. And I understand that they
3 have now decided that the entire report will be published,
4 and we're very hopeful that that will include in it the
5 supply-demand balance for Canada.

6 That will give us the opportunity to look into the
7 future, and it will help us evaluate. And certainly, that's
8 what the National Energy Board now has to do -- the importance
9 to Canada to hook up the frontier and be assured that they
10 have a means of doing it to take care of their needs. We
11 do not expect Canada to make their decision based on American
12 needs.

13 We expect it to be Canadian needs, and that's why
14 we went up there so many years ago and started associating
15 ourselves with the Canadian companies.

16 There have been several predecessor groups that
17 we worked with. Several groups were merged into the present
18 Arctic Gas group so we do have exposure to the Canadian
19 companies involved in there. And a very important element
20 of that project is the group of Canadian distributing
21 companies. They're like PG&E and ourselves. We're on
22 the firing line serving the public. We have the duty to
23 serve our customers and to get gas here, and we listen
24 very carefully to those Canadian distributors. The presidents
25 of those companies have testified before the National Energy

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1 Board. I've been there and heard it, and I know the men
2 personally. I've spent a lot of time talking with them and
3 their staffs. They say they need the Delta.

4 Trans-Canada Pipeline just newly issued an annual
5 report. They likewise have stated that in their opinion,
6 Canada needs a connection to the Delta, and they are supporting
7 Arctic Gas. Gentlemen, if there's any possibility that we
8 can have the Arctic Gas approved, we will have Canadians
9 with more assurance that they're going to have more reserves.
10 They'll have greater confidence in continuing the present
11 level of exports, which, as Mr. Gibson mentioned, is an
12 awful lot of energy. And it's energy that comes at a time
13 when we need it. Hopefully, this will allow the Canadians
14 to continue drilling up north and expand their base of
15 supply.

16 The Polar Gas project is one that will also
17 benefit. It's not competitive with, but complementary to,
18 the Arctic Gas project. If Canadians have access to the
19 reserves in the Delta and they're assured that that will
20 be there as it's needed to serve Canadian markets, then
21 we're faced with a much greater prospect that there will be
22 large volumes of the Polar -- the Arctic Island -- gas
23 available for export.

24 We have an agreement with Trans-Canada Pipeline,
25 which is the largest pipeline in Canada. They transport

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1 all the gas from Alberta to the eastern markets -- that any
2 gas we obtain in Canada -- should it be in the eastern part
3 of Canada and at the terminus of the Polar line -- they will
4 exchange a like quantity of the gas they own in Alberta so
5 that the Polar-Arctic Island gas is really something which
6 we will be able to reach if Canada decides they have a
7 surplus.

8 Now, a question of timing. Understandably, we
9 want the gas as fast as we can get it here. We do not agree
10 with the claims of timing of Alcan, in particular, that say
11 that could come in several years. My engineers and the
12 others that we've studied don't agree with that conclusion.
13 We likewise do not think El Paso could be operated any
14 sooner than the Arctic Gas project.

15 If the Arctic Gas project is approved as proposed,
16 I expect we will be able to get gas sooner because of the
17 Western Leg, and I'd like to respond to the Governor's
18 earlier question to one of the gentlemen with respect to
19 the Western Leg. As we look at it, the Western Leg is already
20 in existence and operative. Something which has cast
21 confusion on this question was the FPC recommendation. What
22 they did was they said, "We acknowledge the mandate of the
23 Alaska Natural Gas Transportation Act." That mandate is
24 contemporaneous direct delivery of Alaska gas. Judge Litt
25 clearly found the Western Leg proposal superior to a

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1 displacement scheme that the FPC staff was referring to,
2 and I think the Governor had that in mind when you were
3 making properly the identification with the Texas situation.

4 Now, what the FPC did in that decision -- if you
5 read the entire report -- they backed off telling the
6 Canadians what to do. And gentlemen, that was one of the
7 finest things that an American could do. In western Canada
8 they have a saying -- when I was up there in past years.
9 They say if you can't see an American, just be quiet for a
10 moment. You'll hear him. And there was a lot of bad feelings
11 created early in the exploration business up there when we
12 brought our roughnecks in and we did the exploration work.
13 And they tended to resent our rather positive way of speaking
14 about things, particularly when they concern Canadian
15 interests.

16 So, we looked at that opinion. And what it says
17 is that the law of the land, which is in that act approved
18 by the Congress and the President, we have a Western Leg.
19 What it didn't do is say what size of additional pipe --
20 we're going to put the same diameter pipes, same pressure.
21 We just put additional loops on. As a matter of fact, we
22 don't even add any more compressors. And because of that
23 and because of the lesser line friction loss, we'll actually
24 use less fuel at the time we would move 600 million more
25 to the Bay Area than we move now because of the characteristics

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1 of gas transmission through these large pipelines. We would
2 actually be saving fuel.

3 Now, the reason the FPC could not at that time
4 in their opinion -- say, to certify a fully looped line at
5 the present time -- it would have been presuming that the
6 Canadians were going to evergreen and continue to export
7 enough gas to keep the present facilities full. The entire
8 decision of the FPC left alone the Canadian issues. Judge
9 Litt addressed those. He heard testimony on them. And
10 gentlemen, there was resentment in Canada because we presumed
11 to talk about Canadian issues that we were yet to hear from
12 the National Energy Board on.

13 Now, the biggest advantage of the Arctic Gas system,
14 as far as we're concerned, is the fact that the line will
15 go by the Delta. It's the shortest route. If Canada merely
16 wants to accommodate us in the United States to build a
17 pipeline, the way to build it is not along the Fairbanks
18 alternative, but you build it right along the Arctic Gas
19 route. If there wasn't an mcf of gas in Canada to come down
20 the line, this is still the right route to build. It's
21 235 miles shorter for Americans. But gentlemen, if Canada
22 then is assured that they can hook up those Delta reserves,
23 then the present pipelines will be full and we will have to
24 build the additional facilities.

25 Now, I would have rather the FPC said, "We certificate

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1 conditionally -- or recommend the President certificate
2 conditionally -- the full loop system and then when you
3 come back and look at gas contracts and fine tune it, we'll
4 reduce, if necessary, the additional facilities you have to
5 build." That would have given us a stronger position with
6 producers when we're negotiating. But the people who own
7 the Alaska Gas now, we've been negotiating with for years.
8 They're very sophisticated on the facts of these pipeline
9 alternatives.

10 Any of the people who have been involved in this
11 project very long could really put on the other fellow's
12 hat and make his argument. We know what the other parties
13 are going to say. We each honestly know what the record is
14 in the case. We've all had very competent engineers. And
15 when you get down and start studying the facts, there are
16 not that many questions that, with a very carefully conducted
17 cross examination of witnesses, we've not been able to
18 ferret out where the pluses and minuses are.

19 Judge Litt did exactly that, and that's why he
20 saw the advantages of that Western Leg. In my opinion, if
21 the National Energy Board on Monday indicates that they're
22 recommending to the Cabinet approval of the Arctic Gas system,
23 the present pipeline facilities in the West will remain full.
24 And there is no question in my mind that the Western Leg
25 will be approved.

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1 Responding to the Chairman, again, back with
2 respect to the question of what would happen if it wasn't
3 in there -- we haven't had to come down on it, but my first
4 reaction to your question is that we would take a very
5 serious look at whether or not the President was following
6 the law of the land.

7 In my opinion, he is not free to recommend to
8 Congress a facility that does not have a Western Leg.

9 I hope that has covered this particular area, and
10 I would like to go on all morning but as I said, I prefer --

11 CHAIRMAN CORY: We'd save some time.

12 (Laughter.)

13 MR. LEPAPE: Well, I appreciate very much the
14 opportunity that you have allowed us to come up and speak.

15 CHAIRMAN CORY: It's an important issue, and we've
16 got to understand it.

17 MR. LEPAPE: Mr. Chairman, I've spent eight years
18 of my life working on this, and a lot of men -- I've been
19 involved in this more than any man in the room, I know.
20 And I have, I consider, a good group. I've dealt with
21 Alberta Gas Trunk. We had a planned Alberta project to
22 borrow gas out of. We were one of the strong supporters
23 of the Northwest pipeline in the divestiture case. We have
24 a contract with them that any gas that they obtain above
25 their customers' requirements -- up to 600 million feet a day --

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1 they offer to us.

2 El Paso is our largest supplier. We drilled wells
3 together all over the place. We have a great deal of
4 respect for the company and the staffs of all of the alterna-
5 tives. But I'd like to be identified here before this
6 Board as a gas distributor in California that has tried to
7 be objective in analyzing what is a very complex issue, and
8 I'd like it to be clear that we're not faulting anyone's
9 effort, and all of the alternatives have had a lot of work
10 done on them. We think the Arctic Gas, from our own assess-
11 ment, is the best one and that's why we support it and urge
12 that you do all you can to help support this issue.

13 If the Canadians are not prepared to go forward --
14 when I see that decision on Monday and read it -- and if it
15 gets into the supply-demand issue, we'll reassess our situation
16 if it isn't what we expect. We're not wedded to any project,
17 per se. If something changes that strikes our balance, our
18 job is to get gas for our customers.

19 We do need the other supply projects, Governor,
20 that you asked about -- the terminal sites down south. You
21 bet we do, and we're trying very hard all over the world to
22 get additional supplies.

23 Thank you very much for your courtesy. I'm sorry
24 to have double-teamed you today this way, but we did have
25 these additional issues that we wished to cover with you.

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1 CHAIRMAN CORY: There is a Mr. Roger Thompson.

2 MR. THOMPSON: Mr. Chairman, it will not be
3 necessary for me to speak. Mr. Gibson has already covered
4 those issues.

5 CHAIRMAN CORY: Okay.

6 MR. GIBSON: Thank you.

7 MR. LEPAPE: Thank you.

8 CHAIRMAN CORY: Thank you very much.

9 MR. GIBSON: We have two economic studies of the
10 competing projects, which I have previously delivered, and
11 I ask that they be made a part of the record as well.

12 CHAIRMAN CORY: Do you have them, Mr. Northrop?

13 EXECUTIVE OFFICER NORTHROP: I believe so. Yes,
14 we do, Mr. Chairman.

15 CHAIRMAN CORY: Okay.

16 MR. GIBSON: Thank you.

17 CHAIRMAN CORY: We'll take a short break.

18 (Thereupon a short recess was taken.)

19 7
20 LIEUTENANT GOVERNOR DYMALLY: Mr. Chairman, I have
a resolution.

21 CHAIRMAN CORY: We are back in session.

22 Governor Dymally?

23 LIEUTENANT GOVERNOR DYMALLY: (Reading)

24 "WHEREAS, California is vitally
25 concerned with the importation of new

1 supplies of natural gas, including the
2 rich resources which will soon be avail-
3 able from Prudhoe Bay in Alaska, and

4 "WHEREAS, the President and Congress
5 will soon select one of three competing
6 systems for delivery of Alaskan gas to
7 the lower 48 states, a subject which will
8 directly affect the economic well-being of
9 all Californians, and

10 "WHEREAS, recommendations made to the
11 President and Congress by the State of
12 California on this subject must be considered
13 with the greatest care as matters of critically
14 important public policy, and

15 "WHEREAS, a divided FPC has recommended
16 the selection of either of the two trans-
17 Canadian pipelines, neither of which is
18 certain to make use of the concept of a
19 Western Leg to bring Alaskan gas directly
20 to the western United States,

21 "BE IT RESOLVED that this Commission
22 urges the President and Congress to: One,
23 seriously consider the El Paso project as
24 one realistic alternative to transport
25 Alaskan North Slope gas to the lower 48

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1 states, and two, work toward the equalization
2 of natural gas supplies and prices throughout
3 the United States so that no state or region
4 is adversely affected by the increasing costs
5 and decreasing supplies of such resource."

6 CHAIRMAN CORY: You're moving the adoption of that
7 resolution?

8 LIEUTENANT GOVERNOR DYMALLY: Yes.

9 CHAIRMAN CORY: Mr. McCausland?

10 COMMISSIONER McCAUSLAND: I'll second it.

11 CHAIRMAN CORY: The motion is seconded. All those
12 in favor signify by saying "Aye."

13 (Ayes.)

14 COMMISSIONER McCAUSLAND: Before I'm recorded
15 as voting "Aye," I'd like to know if there's anyone who
16 wants to testify on the resolution.

17 CHAIRMAN CORY: Okay.

18 LIEUTENANT GOVERNOR DYMALLY: Before we give up
19 our lunch hours.

20 CHAIRMAN CORY: Are you on a diet, Sid?

21 (Laughter.)

22 CHAIRMAN CORY: The wording of the resolution, is
23 there anyone who wishes to discuss this?

24 MR. RICE: We'd just as soon you said that Alcan
25 was a realistic alternative, also.

1 CHAIRMAN CORY: Mr. Rice is suggesting that they
2 would just as soon, and perhaps prefer, that there be a
3 reference to Alcan as being a realistic alternative, also.

4 LIEUTENANT GOVERNOR DYMALLY: Let me respond to
5 that. The reason why it is not here is because you have
6 already been referred to as an alternative by the FPC.

7 MR. RICE: May I ask, then, just a question of
8 clarification. Are you expressing a preference for any of
9 the three routes by this resolution?

10 LIEUTENANT GOVERNOR DYMALLY: Well, I think the
11 resolution --

12 CHAIRMAN CORY: I think it speaks for itself.

13 LIEUTENANT GOVERNOR DYMALLY: -- is self-explanatory.

14 (Laughter.)

15 CHAIRMAN CORY: Yes, sir?

16 MR. LEPAPE: I was trying to listen carefully to
17 the last -- I have a comment on the first of it, but the
18 last one, there may be an element here that I'd like to draw
19 to your attention. My concern is that if we're suggesting
20 something that sounds like it speaks in favor of national
21 allocation of gas, I submit that that would be very harmful
22 to the interests of California.

23 LIEUTENANT GOVERNOR DYMALLY: Let me read the
24 second part again.

25 MR. LEPAPE: Thank you.

1 LIEUTENANT GOVERNOR DYMALLY: Two, work toward
2 the equalization of natural gas supplies and prices through-
3 out the United States so that no state or region is adversely
4 affected by the increasing costs and decreasing supplies
5 of such resources.

6 MR. LEPAPE: I think I understand what the purpose
7 was in putting it in, but I submit that it could be mis-
8 interpreted. And unless it's felt strongly by the Board,
9 I'd urge that that be deleted because there are some arguments,
10 which I think are unfounded, by other parts and markets in
11 the country and I'd like to --

12 COMMISSIONER McCAUSLAND: Well, may I --

13 CHAIRMAN CORY: Without objection, then, we --

14 COMMISSIONER McCAUSLAND: No. Well, wait.

15 CHAIRMAN CORY: Let's take care of the parliamentary
16 problem. Without objection, we will rescind -- the motion
17 has been made, and I have not announced the vote. And we
18 are rescinding putting the motion before the Commission.
19 We are now discussing the proposed resolution.

20 Mr. McCausland.

21 LIEUTENANT GOVERNOR DYMALLY: The second part of
22 the "RESOLVED" part.

23 COMMISSIONER McCAUSLAND: I believe that at least
24 that portion of it which says work towards "something" with
25 natural gas supplies so that no state or region is adversely

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1 affected by the decreasing supplies of such resource is a
2 message that you seriously wanted to convey, and I think
3 we should find the words to keep that in.

4 LIEUTENANT GOVERNOR DYMALLY: Give me in real
5 language what your problem is.

6 MR. LEPAPE: Well, see, here's the problem. Some
7 markets and some people in the country -- our job is looking
8 after California, not the rest of the nation. And there are
9 people that don't believe in self-help. They haven't put
10 money out. We've gone up and drilled. We've been working
11 on these projects and worked very hard over the years to
12 tie up supplies. And there are people who -- when I started
13 this -- were going to build a gun barrel to Chicago and said,
14 "Don't worry. We'll allocate gas and take care of you."
15 Now, they would love to see that sort of language come out
16 of a California agency. And if you could address each of
17 those gentlemen on the other side that would be trying to
18 misinterpret your statement, you could correct them, but you
19 won't have the ability to. And we found statements being
20 misused that come out of California in a way you wouldn't
21 believe, and I just want to alert you that there are some
22 dangers in there. And as a company that's involved in it,
23 I --

24 COMMISSIONER McCAUSLAND: Staff, I think you looked
25 at this for about five hours longer than I have. Have you

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1 taken any look at this language to see if there's a reasonable
2 alternative?

3 EXECUTIVE OFFICER NORTHROP: We have looked at
4 some other language, Mr. McCausland and Mr. Chairman. And
5 I understand what Mr. Lepape is saying. However, staff feels
6 strongly that there should be some guarantee that if we're
7 relying to a large extent on LNG, that we don't get an LNG
8 price for our entire market. There should be some price
9 equalization, as has been demonstrated, for example, in the
10 fuel oil prices in the Northeast, of a national averaging.
11 And that's really what we hope this language would address.

12 MR. LEPAPE: I do understand what the staff is
13 working on, and --

14 EXECUTIVE OFFICER NORTHROP: Would you help the
15 staff with language that would infer that, then?

16 MR. LEPAPE: Because this, then, reaches an issue
17 that has arisen as to whether or not -- because the molecules
18 -- say, El Paso's the project approved. The molecules come
19 in and have a cost associated with it, that that would
20 back off the cheap supplies that we otherwise would get.
21 And that is not the structure of the law. We do not feel
22 that it's obtainable under the present rules, but we'd be
23 glad to work with some precise words with the staff towards
24 that. When you speak of equalization across the country,
25 it has a sort of a different context. We have some of the

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1 cheapest supplies of anyone at the present time, you see,
2 that are coming in.

3 COMMISSIONER McCAUSLAND: Let me suggest that --
4 I think this "RESOLVED" clause should also make reference
5 to a Western Leg since we've had a lot about that.

6 LIEUTENANT GOVERNOR DYMALLY: Work towards the
7 establishment of a --

8 COMMISSIONER McCAUSLAND: So I would perhaps --
9 were you considering breaking for lunch?

10 CHAIRMAN CORY: I was planning on going through the
11 agenda and then going to lunch.

12 COMMISSIONER McCAUSLAND: Why don't we ask
13 interested parties to --

14 LIEUTENANT GOVERNOR DYMALLY: Let me just make a
15 suggestion. Let's pass the resolution without two and come
16 up with a separate resolution regarding this whole question
17 of equalization.

18 MR. IEPAPE: I would think that all three of the
19 applicants and the parties here would support -- and I'll
20 ask their representatives, if you don't mind -- would support
21 the representation that the regulatory approval for whatever
22 project is finally certificated should not work to back off
23 the cheap supplies for the California markets. Is it a
24 question that --

25 LIEUTENANT GOVERNOR DYMALLY: Let me just resolve

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1 this.

2 RESOLVED that this Commission urges the President
3 and the Congress to seriously consider the El Paso project
4 as one realistic alternative to transport Alaskan North Slope
5 gas to the lower 48 states, period.

6 COMMISSIONER McCAUSLAND: May I stick in "and/or
7 guarantee the construction of the Western Leg to bring
8 Alaskan gas directly to the western United States"?

9 MR. LEPAPE: Thank you.

10 LIEUTENANT GOVERNOR DYMALLY: Yes, but that diverts --

11 COMMISSIONER McCAUSLAND: Does it?

12 LIEUTENANT GOVERNOR DYMALLY: The original intent.

13 COMMISSIONER McCAUSLAND: In fact, I thought
14 our original intent was to make sure that whatever was done
15 by the Federal Government, that those on the West Coast had
16 an adequate service supply.

17 LIEUTENANT GOVERNOR DYMALLY: I think that proposal
18 you have ought to be relayed to Congress with reference to
19 the Alcan and Arctic proposals recommended by the four
20 Commissioners, but this is a separate subject. We are
21 suggesting El Paso be viewed by the President and the
22 Congress as a realistic alternative, if all the other factors
23 in Alcan prove to be adverse.

24 MR. RICE: I don't think it makes a lot of sense
25 for the Commission to just speak about the El Paso project

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1 and be silent on the Western Leg altogether. It suggests
2 you don't care about it, and you don't care about the overland
3 system. That's the inference.

4 MR. LEPAPE: May I suggest, Governor -- what if
5 we said that, after you have your statement -- I understand
6 what your collective opinion is in the first part of it --
7 what if you had a conditional clause in there that said,
8 "If an all-land pipeline was approved, it should have a
9 Western Leg"? We have many agencies that have done that
10 without -- it's not committing use of the all-land --

11 LIEUTENANT GOVERNOR DYMALLY: I have some problems
12 with that. I'd like to leave that in a separate resolution.

13 CHAIRMAN CORY: Let me suggest that I would like
14 to even be a little tougher on the issue. And one of the
15 things to try and put you, who are really at the mainline
16 of dealing with California's interests in this area -- put
17 your feet in the fire a little tougher -- that since the
18 Federal Government hasn't solved that question and in fact,
19 thrown a monkey wrench, in my opinion, on the Western Leg --
20 you know, because of what they've done with the Western Leg,
21 I'd say that they better look at this one very seriously
22 because they really better get back on track with saying
23 that we've got a pipeline delivering gas here or we're in
24 trouble. I don't know how we get off dead center here.

25 COMMISSIONER McCAUSLAND: Let me propose a procedure

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1 here that accommodates the Lieutenant Governor. As I under-
2 stand your original motion, we've accepted the first four
3 whereases in your resolution and the resolved clause. I'd
4 like to propose that we adopt two resolutions today, both
5 of which use the same whereas clauses. All right. The one
6 that I would like to vote on first -- since I think you
7 already know that I'm inclined to accept the language on
8 El Paso -- I'd like to first vote on a resolution that uses
9 your four whereas clauses and then says, "RESOLVED that this
10 Commission urges the President and Congress to guarantee
11 the construction of a Western Leg to bring Alaskan gas
12 directly to the western United States."

13 LIEUTENANT GOVERNOR DYMALLY: I so move, Mr. Chairman.

14 CHAIRMAN CORY: All right. Without objection,
15 it will be adopted.

16 MR. LEPAPE: Thank you.

17 COMMISSIONER McCAUSLAND: And then, the second
18 resolution --

19 LIEUTENANT GOVERNOR DYMALLY: I'm amenable to
20 working out some industry language for that second one to
21 express your concern.

22 COMMISSIONER McCAUSLAND: The second resolution is
23 now your call on the El Paso project as one realistic
24 alternative.

25 LIEUTENANT GOVERNOR DYMALLY: I thought that was

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1 the first one.

2 COMMISSIONER McCAUSLAND: No, we just voted on
3 one to guarantee the construction of a Western Leg.

4 LIEUTENANT GOVERNOR DYMALLY: I'm sorry.

5 COMMISSIONER McCAUSLAND: Thank you for moving it.
6 (Laughter.)

7 CHAIRMAN CORY: Where are we?

8 LIEUTENANT GOVERNOR DYMALLY: I believe that you
9 were going to take up the one which I had introduced first.
10 Mr. Chairman, I move that we rescind the action that we just
11 passed.

12 CHAIRMAN CORY: By unanimous consent, since there
13 was confusion, we will rescind that action. Now, we have
14 the proposal --

15 LIEUTENANT GOVERNOR DYMALLY: I want to take up
16 the El Paso one first.

17 CHAIRMAN CORY: Governor Dymally is suggesting
18 that it's a question of whether or not it's a square table
19 or a round table. No, it's a question of which resolution
20 we take up first. Now, Mr. McCausland would like to pass
21 a resolution which addresses itself to the same whereas
22 clauses and a resolved clause that address itself to the
23 fact that if they're going to use an overland route, it must
24 have firm commitments for a Western Leg -- some language
25 that says that.

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1 COMMISSIONER McCAUSLAND: Right. And in all
2 honesty, Mr. Chairman, the reason I didn't want to be recorded
3 on the initial vote before testimony was that I don't believe
4 I'm in a position to vote for a resolution that speaks solely
5 to the El Paso project unless it also makes some reference
6 to the other options that are still being considered in
7 Canada and by the Federal Government.

8 LIEUTENANT GOVERNOR DYMALLY: Now that I understand
9 that, we'll have two -- one on the El Paso and one on the
10 Western Leg.

11 CHAIRMAN CORY: So if we do them both simultaneously,
12 does that avoid our mechanical confrontation? Separate
13 resolutions but voted upon by the same motion?

14 LIEUTENANT GOVERNOR DYMALLY: No, separate motions.

15 CHAIRMAN CORY: Separate motion. Does it make a
16 difference to anyone --

17 LIEUTENANT GOVERNOR DYMALLY: It doesn't make
18 any difference to me. I'll vote on them, but I just want
19 them to be separate.

20 CHAIRMAN CORY: Okay. Mr. McCausland would like
21 to vote on the Western Leg so we will have the first four
22 whereas clauses and a resolved --

23 COMMISSIONER McCAUSLAND: RESOLVED that this
24 Commission urges the President and Congress to guarantee the
25 construction of a Western Leg to bring Alaskan gas directly

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1 to the western United States in the event of the approval
2 of an overland route.

3 CHAIRMAN CORY: Without objection, such resolution
4 is approved.

5 The next item before us is the same four whereas
6 clauses, the resolved clause in the draft here down through
7 subparagraph (1) and leave out (2)?

8 LIEUTENANT GOVERNOR DYMALLY: Correct.

9 CHAIRMAN CORY: So that we're just dealing with
10 the question -- as modified on your sheet, it says, ". . .the
11 El Paso as one realistic alternative. . ."

12 LIEUTENANT GOVERNOR DYMALLY: Right.

13 CHAIRMAN CORY: Do we have the wording of that
14 in the record?

15 COMMISSIONER McCAUSLAND: Let me read it one more
16 time.

17 RESOLVED that this Commission urges the President
18 and the Congress to seriously consider the El Paso project
19 as one realistic alternative to transport Alaskan North
20 Slope gas to the lower 48 states.

21 CHAIRMAN CORY: Without objection, such resolution
22 is adopted. Okay.

23 LIEUTENANT GOVERNOR DYMALLY: All right. We still
24 have the question of price equalization.

25 CHAIRMAN CORY: That is the one where the staff

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1 will come up with another resolution at the next meeting --

2 LIEUTENANT GOVERNOR DYMALLY: Fine.

3 EXECUTIVE OFFICER NORTHROP: Right.

4 CHAIRMAN CORY: -- so we won't trap ourselves on
5 that one, and we'll talk to you before we do it.

6 MR. LEPAPE: Yes, we were just speaking about how
7 to pinpoint the problem. Thank you, gentlemen.

8 CHAIRMAN CORY: Thank you for your time and infor-
9 mation to us this morning.

10 LIEUTENANT GOVERNOR DYMALLY: There's one contro-
11 versial issue which has to do -- I shouldn't prejudge --
12 one issue which has to do with the seeking of a permit on
13 State lands to build a home. I'd like to take that issue
14 up first.

15 CHAIRMAN CORY: That is the Tomales Bay --

16 EXECUTIVE OFFICER NORTHROP: Yes, Item Number 23.

17 CHAIRMAN CORY: Item Number 23 is before us. I
18 believe there is a map on the wall. Can staff give a quick
19 explanation?

20 EXECUTIVE OFFICER NORTHROP: Mr. Trout will make
21 the presentation, Mr. Chairman.

22 MR. TROUT: To make it very brief, Mr. Chairman,
23 Mr. Cassel is contemplating the purchase of property on
24 Tomales Bay for the construction of a single-family home.
25 It is the parcel shown as B and C on the wall underneath the

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1 clock. The area on both sides and including Parcels B and
2 C is a former tideland area, sold and patented by the State
3 as tidelands and surveyed 130, I believe.

4 There is an existing residence to the right of
5 the dark-outlined parcel. There is an existing motel on the
6 left with, in front of it -- which doesn't show on that
7 plat -- a very large breakwater and marina. The applicant,
8 Mr. Robert Cassel proposes to build a 2,000-square-foot home
9 at that location, shown by Mr. Sanders.

10 Pursuant to the Supreme Court decision in the
11 case of Marks vs. Whitney, the Supreme Court said on tideland
12 patents -- and Mr. Taylor can jump in at the appropriate
13 time -- that the trust over patented tidelands for commerce,
14 navigation, and fisheries was not limited to some of the
15 long-time traditional uses that could include such expanded
16 things as ecological and environmental concerns. It could
17 include sunbathing. It could include mud flats and various
18 other kinds of things.

19 The site Mr. Cassel proposes to build on is partially
20 filled. Parcel C involves some degree of fill and has been
21 raised above the original natural level. Since the whole
22 parcel is a former tideland patent, we would propose to
23 exercise the tideland trust over the entire parcel on behalf
24 of the public. We would propose that Parcel B be preserved
25 and the trust exercised for its natural position.

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1 We can quickly go through some slides.

2 --oOo--

3 MR. TROUT: And then, the Parcel C site, we would
4 recommend that the Commission find that the building of a
5 single-family home would not be inconsistent with the trust.
6 This is a slide of the --

7 CHAIRMAN CORY: Pardon me. The little ones are
8 being eaten by the big ones in my stomach. I presume there's
9 some controversy on this?

10 Is there anyone in opposition to this item?

11 MS. HOLBROOK: Yes, indeed.

12 CHAIRMAN CORY: Okay, fine. Proceed.

13 MR. TROUT: This is looking from the parcel to
14 the right at the end of the pier towards Mr. Cassel's
15 property.

16 --oOo--

17 LIEUTENANT GOVERNOR DYMALLY: You're saying --

18 --oOo--

19 LIEUTENANT GOVERNOR DYMALLY: -- that is private
20 property, when you say Mr. Cassel's property?

21 MR. TROUT: Well, it's private property. Mr. Cassel
22 does not now own it. He has an option to buy it if he can
23 get permits to construct the home on it.

24 MR. TAYLOR: Subject to a retaining easement in
25 the State.

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1 LIEUTENANT GOVERNOR DYMALLY: But it is private
2 property?

3 MR. TAYLOR: It's private property, but we have
4 an easement which we have exercised over it.

5 CHAIRMAN CORY: As I understand it, the patent land
6 is not fee land.

7 MR. TAYLOR: It's patented land. The fee title
8 is in the private owner, but when we patented it we retained
9 an easement which we could exercise under appropriate circum-
10 stances.

11 CHAIRMAN CORY: So we could do something for
12 commerce, navigation, and fisheries there and, in essence,
13 usurp some of the underlying landowner's rights to that
14 property.

15 MR. TROUT: That's correct. The Commission has
16 twice exercised the trust over patented tidelands, once
17 in the Hayward vicinity and once in South Morro Bay.

18 So this is the parcel. The property lies right --
19 --oOo--

20 MR. TROUT: -- down the center of this here. This
21 is the other edge of the property. This is the portion of
22 the motel.

23 --oOo--

24 MR. TROUT: This is from the property looking at
25 the Parcel B site, which has a small pond on it.

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--oOo--

MR. TROUT: This is another view out from the property.

--oOo--

MR. TROUT: This is from the building site itself.

--oOo--

MR. TROUT: This is again from the building site looking slightly towards Parcel C.

--oOo--

MR. TROUT: This is the highway -- Sir Francis Drake Boulevard in front.

--oOo--

MR. TROUT: This is a view looking directly from the highway at the parcel.

--oOo--

MR. TROUT: And again, this is the other edge of the parcel.

--oOo--

MR. TROUT: This is the small lagoon, which is inundated at certain stages of tide. This is on Parcel B, and we would recommend the Commission exercise the trust on Parcel B -- of the patented piece there to preserve the status quo. In addition, if Mr. Cassel gets all of his permits, he's agreed to clean this pond up --

--oOo--

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1 MR. TROUT: -- remove all of the debris --

2 --oOo--

3 MR. TROUT: And it would be subject to public use.

4 --oOo--

5 MR. TROUT: Now, this is the area from this bank
6 out towards the water. It would also have the trust exercised
7 and would be available for public use.

8 --oOo--

9 MR. TROUT: This is looking the other way, toward
10 the motel.

11 That's basically Mr. Cassel's proposal. We've
12 reviewed the County Engineer's location of the mean high
13 water and mean low water marks based on various charts. We
14 find that there's little disagreement among any of the
15 parties, including the present owner, that the parcel is
16 subject to the trust. And the last part of it would be a
17 finding that Parcel B, the now-filled building site -- use
18 of that parcel for a single-family residence would not be
19 inconsistent with the trust, provided the balance of the
20 parcel would remain in the status quo.

21 The opposition stems mainly from the proposition
22 that this is a piecemeal approach. However, as we pointed
23 out to the Commission last month, we feel that many of these
24 people have waited a great deal of time, following the Marks
25 vs. Whitney decision, in order to commence development.

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1 And we have had staff review this with the Department of
2 Fish and Game and with the Coastal Commission. And Mr. Cassel
3 has problems with the county in that they are somewhat unwill-
4 ing to act until the Commission makes a determination regard-
5 ing the trust.

6 This is a recommendation of the staff that would
7 apply to this parcel under these circumstances, and we
8 could recommend that you make the findings. We're aware that
9 there is opposition because they feel that this would set
10 a precedent for other parcels in the area. As far as I
11 know, we only have one other pending application at this time,
12 which was just recently received from a Mr. Cagle, for
13 another single-family residence on a combination of two
14 parcels.

15 LIEUTENANT GOVERNOR DYMALLY: What is staff's
16 recommendation?

17 MR. TROUT: Staff recommendation is that he be
18 allowed to proceed, subject to his agreement that Parcel B
19 will be cleaned up and will be left in the status quo, that
20 there will be no construction on it, and that the construction
21 be limited as to Parcel C -- there will be a 25-foot public
22 access along the motel side of the property and access for
23 a possible future bikeway along the front adjacent to Sir
24 Francis Drake Boulevard. He has applied to the Coastal
25 Commission, and the recommendation of the staff, if adopted

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1 by the Lands Commission, specifically would not prejudice
2 any other public agency -- the Coastal Commission or the
3 County -- as to whether or not they would give him a building
4 permit

5 CHAIRMAN CORY: I thought the recommendation was
6 not to exercise the public trust on Parcel B.

7 MR. TAYLOR: No, it is to exercise it on all of
8 the parcels.

9 MR. TROUT: The entire parcel, B and C. The trust
10 exercised on Parcel B would be for the status quo. He would
11 not be allowed to develop Parcel B. In addition, he would
12 consent to clean that up within the construction period
13 of his home. The Commission would likewise find that although
14 the trust was exercised on Parcel C, the construction of a
15 single-family home on that parcel would not be inconsistent
16 with the trust, given the balance of the finding.

17 MR. TAYLOR: We would not feel at this time that
18 it would be necessary to exercise the trust over Parcel C
19 in light of that use. It really isn't a consistency question.
20 It's just that we're determining that the remainder of the area
21 and the remainder of Tomales Bay that it's not necessary
22 to exercise the trust, and we would allow him to put that
23 use up -- however, subject to our right -- if we ever felt
24 it was necessary -- to pay him off only for the improvements
25 and to take that parcel as well.

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1 The resolution, Mr. Chairman, that is proposed by
2 the staff is on pages 66, 67, and 68. It should also be
3 noted that Mr. Cassel has been turned down by the Planning
4 Commission on an application to build this house and is
5 presently appealing that decision to the Board of Supervisors,
6 who have asked for this expression before they act on his
7 appeal from the two zoning matters. And the zoning matters
8 are referred to on pages 62 and 63, which are what he is
9 appealing.

10 CHAIRMAN CORY: So the question is -- as a policy
11 matter, a local agency is saying to us that they want us
12 to get involved and all these people mad at us to make a
13 decision before they deal with it? I mean, why shouldn't
14 the shoe be on the other foot or something?

15 LIEUTENANT GOVERNOR DYMALLY: Isn't that the way
16 supervisors operate?

17 (Laughter.)

18 CHAIRMAN CORY: Well, yes, but I think there's a
19 serious question about why we should put ourselves in that
20 box.

21 MR. TROUT: Mr. Chairman, we've looked at it
22 basically from that position -- in fact, almost exclusively.
23 And your staff looks at it this way: The Coastal Commission
24 and the County are exercising, basically, a police power,
25 zoning-type of regulation. The Lands Commission is involved

1 basically, in reviewing a property right. The Lands Commission
2 is the purveyor of wisdom regarding the retained interest
3 in the property that exists in the State. And so, the
4 County has said, as a property owner -- the person having
5 a right in the property -- we feel that the Commission should
6 advise the County as to whether or not a given use is con-
7 sistent or not inconsistent -- there may be a slight difference
8 between the two -- to the public's present needs for its
9 property rights on the property. Following that, the County
10 said that with that information, they could then evaluate
11 the property --

12 CHAIRMAN CORY: Well, then, can we not give the
13 County that information by exercising the trust on Parcel B
14 and remain silent on the remaining question and let them
15 go to their own devices?

16 MR. TAYLOR: I think that either way it goes, it
17 will be action. Even if we're silent, there would still be
18 action on that because the person would proceed, then, to
19 build. So I'm afraid that --

20 CHAIRMAN CORY: No. I'm saying that if we exercised
21 the public trust so the public has access from Sir Francis
22 Drake Boulevard to the Bay on Parcel B -- we just decline
23 the resolution of exercising the trust on that area -- and
24 remain silent as to what happens on Parcel C, maybe we'd
25 get to lunch sooner.

1 MR. TAYLOR: You're making an answer to that
2 question very difficult.

3 (Laughter.)

4 MR. TROUT: Unfortunately, Mr. Cassel is an attorney
5 and had a Federal Court appearance at 1:30 in San Francisco
6 and left. He is represented here by Felix Warburg, who is
7 a planning consultant and involved in this. And in my
8 discussions and staff discussions with the County, the County
9 really is asking the question: Is the construction of a
10 single-family home on patented tidelands -- period -- con-
11 sistent, or is it patently inconsistent with the trust?

12 CHAIRMAN CORY: Well, I'm suggesting that we not
13 answer that question.

14 MR. TROUT: Well, I think if we don't answer that
15 question, then we leave the property owners in Tomales Bay
16 basically in limbo. And I think that's a policy decision
17 that we have.

18 MR. TAYLOR: May I make two comments, Mr. Chairman?

19 CHAIRMAN CORY: No, I think you're missing the
20 point here. What bothers me is having to deal with a local
21 zoning issue. You know, the County should go do their number
22 and decide what their local zoning is or isn't and whether
23 they're going to do it or not do it before they bother us
24 with it.

25 MR. TROUT: Well, I think it's not a matter of

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1 zoning. It's zoned for a single-family residence.

2 CHAIRMAN CORY: And it meets all of the requirements?
3 They've issued the building permit? They're prepared to go?

4 MR. TROUT: No. The County said it could not
5 issue the building permit.

6 MR. TAYLOR: Can I set this matter in perspective
7 just for a moment?

8 CHAIRMAN CORY: Please do. I'm not anxious to
9 get into the question, as you can see.

10 MR. TAYLOR: I understand that. Mr. Chairman,
11 following Marks vs. Whitney the County of Marin announced
12 that it was going to exercise the public trust over Tomales
13 Bay. The Lands Commission at that time said the public trust
14 is under the jurisdiction of the Lands Commission, and we
15 would prefer to exercise that. We worked out an agreement
16 with the County, through informal negotiations that back
17 of the historic highest high water that ever existed --
18 ordinary high water mark that ever existed -- that the
19 County would proceed to issue permits with regard to that
20 without any consultation with the State and in the area in
21 front of that line -- which this parcel clearly is -- that
22 there would be some communication or expression sought from
23 the State.

24 What we are determining at this time is whether or
25 not from our title interest we would object to his construction

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1 and what we think, from a title standpoint, is satisfactory.
2 Then, the --

3 CHAIRMAN CORY: But that's not what's going to be
4 construed in that local community. It's going to be that
5 the State Lands allowed this guy to build a house.

6 MR. TROUT: That's the basic issue.

7 CHAIRMAN CORY: No. The only question we're
8 concerned with is what areas do we wish to exercise the
9 public trust and provide access to the public. And it seems
10 to me, from what limited things you've presented to me, that
11 we should probably exercise the trust on Parcel B. And
12 whether or not somebody builds a house is a secondary point,
13 and we shouldn't address ourselves to that until the Board
14 of Supervisors comes up with where they are on the hassle
15 over the zoning and the building permit. Somebody has already
16 denied them there locally. I don't see why we should get
17 into a local fray and start taking sides.

18 MR. TAYLOR: Part of the question determined
19 involves a public trust. And on page 63 you'll see the
20 grounds upon which he was denied the permit from the County.
21 And the Board of Supervisors said that these determinations
22 have been made with regard to the public trust by a local
23 agency, and they want to know from us whether or not we agree
24 with those findings.

25 CHAIRMAN CORY: We pass.

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1 MR. TAYLOR: That's certainly an option, if you
2 care to take it, Mr. Chairman.

3 CHAIRMAN CORY: I mean, why do we want to get into
4 this local hassle? I don't know anything about Tomales Bay.

5 COMMISSIONER McCAUSLAND: I have a couple things --
6 I do not want to adopt a resolution that says I have no
7 problems with the construction of a 4,000-square foot house
8 and its associated septic system until I've heard --

9 CHAIRMAN CORY: Yes.

10 COMMISSIONER McCAUSLAND: -- from somebody who
11 can tell me -- with that little estuary lagoon there, I
12 have no desire to run my drain tiles out through that lagoon.

13 CHAIRMAN CORY: I don't think we should have
14 these kinds of questions before the local people resolve
15 them.

16 MR. TAYLOR: Mr. Chairman, basically, there has
17 to be an overall plan adopted for Tomales Bay. One of the
18 things that may be recommended to the Commission is that
19 this area, which is relatively undeveloped at the present
20 time -- have the Commission exercise the trust over the
21 entire area. That may be a recommendation of the staff
22 or of the Coastal Commission or of the local planning body.
23 That plan has not been completed. At the present time
24 it's my understanding that we're relying in the initial
25 stages for the development of that plan upon the local agency

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1 which is developing the Coastal plan and that we will review
2 that plan and make appropriate recommendations at the time
3 that goes to the Coastal Commission before the Coastal
4 Commission acts upon them. In the meantime, there's been
5 a two-year delay in this, and these people have asked for
6 some consideration.

7 Now, there are several options. The Commission
8 may want to postpone this matter for further briefing. The
9 Commission may want to not take any action with regard to
10 Parcel C. That's certainly one action you could take. You
11 may want to put this over until a plan is adopted. There
12 was a recommendation last time, but there are a number of
13 sources. But ultimately, this Commission is the holder of
14 the public trust and will have to make some decision with
15 regard to that. You will recall that some of the people
16 that have --

17 CHAIRMAN CORY: Yes, but my options and the politi-
18 cal battles I get into can be limited by requiring the local
19 people to fish or cut bait first. And you know, somebody
20 has rejected. Somebody's appealing it. Why should I step
21 into that fray until -- if, in fact -- the denial is going
22 to be sustained anyway?

23 COMMISSIONER McCAUSLAND: Let me add to the
24 confusion for a minute because as a member of the Wildlife
25 Conservation Board, I've bought up parcels to save them from

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1 development within a quarter of a mile of this site and as
2 part of the Public Works Board -- has bought huge blocks of
3 land as part of a park development scheme, but I have never
4 seen in any of those forums a development plan for the water-
5 front area. And I would like to know where that area is
6 going before this Commission is forced to begin making a
7 permit-by-permit decision on whether construction is appro-
8 priate. Has this site been reviewed by Fish and Game for
9 its possible inclusion in a Wildlife Conservation Board
10 acquisition scheme?

11 MR. TROUT: Yes.

12 COMMISSIONER McCAUSLAND: Has it been determined
13 to be suitable for development because of its proximity to
14 the motel?

15 MR. TAYLOR: Let me say this: It would not be
16 necessary to pay any compensation whatsoever to the owner
17 for a purpose within the trust. And if it were the desire of
18 Fish and Game or someone else that this area be retained in
19 its present condition for that purpose, there would be no
20 compensation required except if you wanted to eliminate the
21 fee title interest. And that interest would be determined
22 based upon the effect of the Commission's resolution. One
23 of the things that the Commission has done in the two items
24 that you've passed previously is to endeavor to establish
25 for General Services and the Wildlife Conservation Board a

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1 precedent for the exercise of the trust so it can begin to
2 be taken into consideration in evaluating this property. I
3 did not realize that there had been a lot of acquisition up
4 in that area. I don't know whether that was taken into
5 consideration when it was done.

6 LIEUTENANT GOVERNOR DYMALLY: Mr. Chairman, with
7 all due respect to the parties here -- and my motion does
8 not preclude testimony -- but I move that this matter be
9 deferred until after the Board of Supervisors takes their
10 position in this particular application.

11 CHAIRMAN CORY: There's a gentleman in the audience
12 who --

13 MR. WARBURG: May I testify?

14 CHAIRMAN CORY: Yes, sure.

15 MS. JACOB: I'd like to testify as well.

16 CHAIRMAN CORY: Fine, come on. We've got lots of
17 time.

18 LIEUTENANT GOVERNOR DYMALLY: Mr. Chairman, can we
19 get the opposition to select one spokesman?

20 MS. JACOB: He's for, and I'm opposed.

21 MR. WARBURG: I'm for the applicant.

22 CHAIRMAN CORY: Would you identify yourself?

23 MR. WARBURG: Yes. My name is --

24 LIEUTENANT GOVERNOR DYMALLY: Mr. Chairman, can we
25 just have one for the opposition?

1 MR. WARBURG: We have.

2 MS. JACOB: I am the opposition.

3 LIEUTENANT GOVERNOR DYMALLY: All right. But you
4 have other people who want to speak, don't you?

5 MS. HOLBROOK: On the opposition, Ms. Jacob can
6 certainly speak for the two organizations that I'm representing,
7 the Inverness Association and the Marin Conservation League.

8 CHAIRMAN CORY: Would you identify yourself for
9 the record?

10 MR. WARBURG: Yes, I was trying to do that, sir.
11 My name is Felix Warburg. I'm an architect and planning
12 consultant and representing Mr. Cassel, who had to appear
13 in Federal District Court at 1:30 in San Francisco. He
14 was here until about 12:00.

15 I think there's some administrative procedure here
16 that you may not be aware of at the local level, and I
17 appreciate your concern about not getting involved in it.
18 The fact is that there are a series of approvals involved.
19 We have gone through the first two steps, the environmental
20 review of the Environmental Protection Committee and the
21 Planning Commission. In each case, they felt that it was
22 really not within their power to determine what the use of
23 public trust lands were. We agreed with them that the property
24 is outside --

25 CHAIRMAN CORY: I agree with them, too.

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1 MR. WARBURG: Yes, we do, too.

2 CHAIRMAN CORY: But the real questions are: Do you
3 have a building permit and if you wanted to build -- why
4 should we exercise the trust or not exercise the trust before
5 that issue has been decided?

6 MR. WARBURG: We're a long way from the building
7 permit. We cannot do anything until the Board of Supervisors
8 makes the determination. They are anxiously awaiting --
9 have been for some time -- for a determination by the State
10 Lands Commission as to what uses are allowable on public
11 trust lands. Under Marks vs. Whitney that authority was
12 given to the State Lands Commission.

13 LIEUTENANT GOVERNOR DYMALLY: The response to that
14 is not a resolution on the part of this Commission about
15 what does its staff mean. What the AG's Office -- and I'll
16 ask the Lands Commission's legal counsel to explain to the
17 Board of Supervisors and the County Administrator what the
18 law is.

19 MR. TAYLOR: Well, we have. And what we're down to
20 is the specific instance and whether or not this Commission,
21 which is vested without authority, deems it necessary at this
22 time to exercise that. Otherwise, if we stand aside and
23 this man constructs anything on this property or on all of
24 it, then prior to the Commission ever again considering
25 whether it wants to exercise a trust, it must tender to him

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1 the amount of the improvements on the property.

2 CHAIRMAN CORY: It seems to me that the Board of
3 Supervisors of any county shouldn't be in a position of
4 telling the State agencies when we should act and when
5 we shouldn't act.

6 MR. TAYLOR: Well, I think maybe we should discuss
7 this privately. The question is that we asked them to stop
8 interpreting the public trust because that was a matter
9 within the scope of the Lands' jurisdiction.

10 CHAIRMAN CORY: That's right.

11 MR. TAYLOR: And they are saying that until they
12 know whether we deem this area as one necessary for us to
13 exercise the easement in terms of protecting the public trust
14 as it applies to this total area, that they do not want to
15 act.

16 CHAIRMAN CORY: Then, there has been a denial of
17 Mr. Cassel's request by the local people and --

18 MR. TAYLOR: Yes, that's on page 63 -- exactly the
19 grounds.

20 CHAIRMAN CORY: Okay.

21 MR. TAYLOR: But the grounds for the denial were
22 that in the opinion of the two agencies -- the Planning
23 Commission and I can't recall --

24 MR. WARBURG: The Environmental Protection Committee.

25 MR. TAYLOR: -- the Environmental Protection

1 Committee, the public trust required the turning down of
2 this application.

3 LIEUTENANT GOVERNOR DYMALLY: Mr. Chairman, I'm
4 not --

5 CHAIRMAN CORY: That doesn't necessarily require
6 that.

7 LIEUTENANT GOVERNOR DYMALLY: May we hear the
8 witnesses and then --

9 MR. TAYLOR: If you read on the top of page 63,
10 you'll see what they're basing this on.

11 LIEUTENANT GOVERNOR DYMALLY: I'm not prepared to
12 vote on it today. I need a little more enlightenment.

13 MR. WARBURG: I just wanted to continue that, as
14 Mr. Cory indicates, why don't we come back when there is a
15 building permit? Before we can do that, we have to get a
16 sanitary permit from the Environmental Health Department.
17 We cannot do that until we have a determination as to whether
18 we're going to have entitlement from the County itself.
19 Once we have done that, we still then have to prepare all
20 our drawings for a building permit and have a building permit
21 issued. And only then, do we go before the Coastal Commission.
22 So we have three different hurdles in addition to yours before
23 we're anywhere near that point.

24 CHAIRMAN CORY: Pardon me, sir.

25 MR. WARBURG: Yes.

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1 CHAIRMAN CORY: Greg, the thing you referred to
2 me on 63 refers to a Marin County code that is placing the
3 requirement on me, and I say in Marin County codes' ear that
4 they can't tell me how I've got to act.

5 MR. TAYLOR: I understand that, but the problem
6 is that they have interpreted the public trust --

7 CHAIRMAN CORY: Okay. If they've interpreted it
8 incorrectly, that's their problem and that's Mr. Cassel's
9 problem with his local government, and now I don't want to
10 get hoisted on their petard. Why are we getting into this
11 fight?

12 MR. WARBURG: Well, read Marks vs. Whitney.

13 CHAIRMAN CORY: We can come in at any time and
14 exercise our jurisdiction over the public trust. That's a
15 separate and distinct question. And what Marin County wants
16 to do -- if they want to use that as an excuse to hold you
17 up, your beef is with Marin County, not us.

18 MR. WARBURG: Well, they will turn around and say
19 the opposite so obviously, somebody has to get together.
20 We're in the middle.

21 CHAIRMAN CORY: Yes, you're in the middle. Go
22 through the County. We'll act when we want to act.

23 MS. JACOB: Is it appropriate for somebody else --

24 CHAIRMAN CORY: Go ahead. Why don't you conclude
25 what you have to say, and then we'll go on.

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1 MR. WARBURG: All right. The other point that I
2 think has been alluded to here is that the planning process
3 under which the Coastal plan is certificated -- the Marin
4 County plan is certificated and the Coastal plan is in the
5 process -- it will be at least a year before those two plans
6 are brought into compatibility and will be there. Our feeling
7 is that this is a piece of property that is in between two
8 existing developments of rather large scope, particularly
9 the motel, which has quite a few units and a great deal of
10 public access to the water, including the launching ramp.
11 And for those reasons, we feel that this particular lot is
12 not going to set any precedent -- and I think the staff
13 concurs in this -- is not going to set a precedent in terms
14 of what options the planning process over there may have.
15 It's an in-fill piece of property, and it has no particular
16 significance. And for this reason, we feel that you could
17 very well act on it without prejudicing any actions you
18 might want to take in the future. And I believe I'd like
19 to hear the comments of the staff on that one.

20 MR. TAYLOR: Mr. Chairman, I believe there's an
21 inconsistency in what we've been saying to the Board of
22 Supervisors, which is, "Keep your hands off the public trust.
23 That's our area." And if what you're saying to them is,
24 "You can proceed with your zoning matters and so on -- leave
25 the public trust out of it, and then we'll take a look at it

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1 after that process is complete," that may be possible. But
2 it also may be difficult, and there's a danger of being
3 inconsistent with previous statements of the staff and the
4 Commission to the County in the past. And in light of the
5 difficulty we're having, maybe it would be better to put
6 this item over for a month. Mr. Cassel can either take his
7 chances with the Board or wait another month while we have
8 discussions between the staff and the Commission so that
9 we apparently are not inconsistent with each other.

10 MS. JACOB: My suggestion to you is going to be
11 that you continue this whole matter for a considerably longer
12 time because our --

13 EXECUTIVE OFFICER NORTHROP: Would you identify
14 yourself?

15 MS. JACOB: I'm sorry. My name is Susanna Jacob.
16 I am Chairman of the Environmental Action Committee of
17 West Marin, and I'm also this morning representing the
18 Inverness Association and the Marin Conservation League. And
19 I forgot to tell you how many we all are, but we're a lot
20 of people.

21 MS. HOLBROOK: And the Tomales Bay Association.

22 MS. JACOB: I'm sorry, the Tomales Bay Association,
23 too. I'd rather not talk about the subject project this
24 morning. I have a very lengthy report here that I was going
25 to read to you, and I would rather simply submit to your

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1 staff, in which I critique your staff's report and talk
2 about other documents that you are required to read before
3 you make certain findings. But the thing that has bothered
4 us the most is not this particular house, but we don't like
5 the willy-nilly approach.

6 We think that you ought to have some kind of
7 comprehensive guidelines to deal with the Tomales Bay area
8 before you put one here and put one there. I think if you
9 did do it this way, you would be in violation of one of
10 the sections of the Coastal Act, which says you must not
11 do anything that -- let me read you that particular --

12 LIEUTENANT GOVERNOR DYMALLY: We don't recognize
13 the Coastal Commission.

14 MS. JACOB: You've never heard of them before.

15 (Laughter.)

16 CHAIRMAN CORY: We're not necessarily bound by
17 them.

18 MR. WARBURG: You're lucky.

19 MS. JACOB: I understand, okay. But yet, we would
20 all appreciate it if you didn't take away our local options,
21 you know, in that kind of fashion. One thing that I think
22 you should know that I found out from the County Assessor's
23 Office yesterday -- as Mr. Trout and your staff seemed to
24 feel that there are very few parcels in this area that are
25 similar to Mr. Cassel's -- well, the County Assessor tells

1 me we've got 1785 parcels in the County of Marin that fall
2 within the Marks vs. Whitney provisions of the public trust
3 tidelands. And I don't want to come up here 1785 times to
4 talk to you guys, but we will. And it would seem to me
5 that if you developed a comprehensive policy that we could
6 all agree on eventually -- I mean, with some kind of delibera-
7 tion -- then we'd know where you were coming from, and we
8 could make our plans accordingly.

9 But in the meantime, I just urge you to take a
10 more serious look at this thing and don't do it piecemeal
11 because I think that's going to get us all in a lot of
12 trouble. I'd like to submit these documents for your perusal
13 later.

14 LIEUTENANT GOVERNOR DYMALLY: Mr. Chairman, I have
15 a motion. I move that this matter be deferred until the
16 staff can properly brief the Commissioners or come up with a
17 comprehensive plan for the development or nondevelopment of
18 this area.

19 MS. JACOB: Thank you.

20 CHAIRMAN CORY: We have a motion.

21 COMMISSIONER McCAUSLAND: I'll second the motion.

22 CHAIRMAN CORY: The motion is seconded. Do you
23 have any comments on it?

24 COMMISSIONER McCAUSLAND: I'd just like to ask
25 the staff to invite someone from the Bay Conservation and

1 Development Commission to share with us their exercise of
2 the public trust in their jurisdiction because if we're
3 going to be spending much time in Tomales Bay, I think we
4 should have some understanding of how these kinds of problems
5 have been dealt with before.

6 MR. TAYLOR: We have the primary portion of the
7 public trust. That authority is shared either with BCDC in
8 the area where it has jurisdiction, and it has a public trust
9 basis for its regulatory function. It would take a "go" from
10 both BCDC and from the State Lands Commission on the question
11 of public trust for someone to be able to do something on
12 the property. And this area is not in BCDC's jurisdiction.
13 It's in the Coastal Commission's jurisdiction, and it goes
14 to the ocean. And I believe what we have here is a very
15 prime area of California, which is in a relatively undeveloped
16 state, which is ready for development.

17 It is a natural area, as you saw from the photo-
18 graphs. It's a very beautiful area. There are quite competing
19 demands.

20 Usually in the past when this has occurred, the
21 Lands Commission has not been aware of it. At this particular
22 time, if you chose to, you could exercise the trust and that
23 would be the end of the problem. If you do not exercise the
24 trust, then we must go through each one of these steps in
25 this situation, and of course, private parties who have

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1 bought this property in the expectation of some development
2 are going to be very upset.

3 I think you heard some of them at the time we
4 exercised the trust in Fremont. And as a result of that,
5 we went over and met with some of the people there. There
6 are buildings up. The buildings that are there, we did not
7 object to. We did not exercise the trust, and they went in.
8 Marks vs. Whitney highlighted the problem, and the County
9 said, "We want some comprehensive overview on this as to
10 whether this area is to be preserved below the ordinary
11 high water mark pursuant to a property right which is in
12 the Lands Commission, or whether we're going to do it on
13 a piecemeal basis according to some standards with regard to
14 whether we allow people to do some limited development in
15 this zone below the ordinary high water mark as it has
16 historically existed."

17 COMMISSIONER McCAUSLAND: Let me suggest that when
18 you bring this matter back to us, you offer us the alternative
19 of a comprehensive definition of a public trust in the area.

20 MS. JACOB: Please.

21 CHAIRMAN CORY: All those in favor, signify by
22 saying, "Aye."

23 (Ayes.)

24 CHAIRMAN CORY: The motion is carried. The matter
25 is over.

1 MS. JACOB: May I ask a question, Mr. Chairman?
2 Does this motion mean that the other property that was
3 mentioned earlier -- the Cagle property -- the hearing will
4 be held off on that particular one?

5 CHAIRMAN CORY: Not necessarily. Consistency is
6 the hobgoblin of small minds.

7 (Laughter.)

8 CHAIRMAN CORY: It probably means that, but it
9 doesn't necessary mean that.

10 MS. JACOB: I won't rely on it, then.

11 LIEUTENANT GOVERNOR DYMALLY: I have a motion,
12 Mr. Chairman.

13 CHAIRMAN CORY: Yes.

14 LIEUTENANT GOVERNOR DYMALLY: I move that considera-
15 tion of SB 1081 and 8020 be deferred until next time.

16 CHAIRMAN CORY: Without objection, it shall be
17 ordered.

18 Item 22, request for authority to conduct public
19 hearings on proposed compromise settlement with Westbay. Is
20 there anybody in the audience on Item 22?

21 LIEUTENANT GOVERNOR DYMALLY: So move.

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

24 Item 24, proposed boundary line agreement with
25 Caltrans. Do you find this in the best interest of the State?

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1 Is there anybody on Item 24 in the audience?

2 LIEUTENANT GOVERNOR DYMALLY: So move.

3 CHAIRMAN CORY: Without objection, Item 24 will
4 be approved as presented.

5 Items 25 and 26 are two items which would complete
6 the necessary number of wells for a geothermal power plant
7 in the Geysers Steam Field. Is there anybody on Items 25
8 and 26 in the audience?

9 Any questions from members of the Commission?

10 LIEUTENANT GOVERNOR DYMALLY: So move.

11 CHAIRMAN CORY: Without objection, Mr. Dymally's
12 motion will be approved as presented on Items 25 and 26.

13 Item 27, Getty Oil Company wants an extension on
14 its permit to prospect for geothermal resources in Surprise
15 Valley, Modoc County.

16 Modoc County?

17 MR. HIGHT: Wonderful place.

18 CHAIRMAN CORY: I hope the Attorney General is
19 keeping a close watch on things relating to Modoc County.

20 (Laughter.)

21 CHAIRMAN CORY: The other people have turned their
22 permits back, as I understand it, and Getty wants to continue
23 to prospect. Is there anybody in the audience on Item 27?

24 Without objection, Item 27, the extension will be
25 granted as presented.

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1 Item 28, Cyprus Mines Corporation, the redetermina-
2 tion of royalty for a talc lease in Inyo County, and it is
3 a three-year volumetric lease based upon the price of talc?

4 EXECUTIVE OFFICER NORTHROP: It's based upon the
5 current market price of talc.

6 CHAIRMAN CORY: That's exciting. Is there anybody
7 on Item 28?

8 LIEUTENANT GOVERNOR DYMALLY: So move.

9 CHAIRMAN CORY: Without objection, Item 28 will
10 be approved as presented.

11 Item 29, Western LNG Terminal Company wishes some
12 core holes and drilling permits so in case they ever get
13 anything approved, they could find out how to build some-
14 thing. Is there anybody on Item 29? Anybody in the audience
15 on Item 29?

16 Questions from the Commissioners?

17 LIEUTENANT GOVERNOR DYMALLY: So move.

18 CHAIRMAN CORY: Without objection, Item 29, authori-
19 zation will be granted as presented.

20 Item 30, somebody is going to inform us about
21 Long Beach operations and geological hazards.

22 EXECUTIVE OFFICER NORTHROP: We've monitored and
23 it's on the wall, Mr. Chairman.

24 CHAIRMAN CORY: That is the result of monitoring?

25 EXECUTIVE OFFICER NORTHROP: Yes, sir.

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1 COMMISSIONER McCAUSLAND: We learn something better
2 by the day.

3 MR. TAYLOR: Basically, there is no change seismically
4 in this area.

5 EXECUTIVE OFFICER NORTHROP: No change seismically.
6 We show a slight rebound in the center, and the zero line
7 is the green line at the extreme right, and the negative
8 line is the red.

9 CHAIRMAN CORY: Hey, Bill, remember me? I'm Ken.
10 (Laughter.)

11 CHAIRMAN CORY: So there has been no seismic change?

12 EXECUTIVE OFFICER NORTHROP: No seismic change.

13 CHAIRMAN CORY: If they're getting more bilateral
14 symmetry in that chart -- although I think it's a fraud. Okay.
15 We have duly noted that information.

16 We have project review from Long Beach Operations.
17 Item 31, wanting us to approve the expenditure of \$310,000
18 for some seismic studies. Is there anybody in the audience
19 on those items?

20 Questions from the Commissioners?

21 LIEUTENANT GOVERNOR DYMALLY: So move.

22 CHAIRMAN CORY: Without objection, Item 31 will
23 be approved.

24 Item 32, this is \$95,000 that the City of Long
25 Beach has approved for subsidence remedial work. That has

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1 been approved --

2 EXECUTIVE OFFICER NORTHROP: It's been approved
3 by staff.

4 CHAIRMAN CORY: Everything is okay?

5 EXECUTIVE OFFICER NORTHROP: Yes.

6 CHAIRMAN CORY: Any questions by Commissioners?
7 Anybody in the audience on Item 32?

8 LIEUTENANT GOVERNOR DYMALLY: So move.

9 CHAIRMAN CORY: Without objection, Item 32, the
10 \$95,000 will be approved to Long Beach.

11 Item 33, we need an extension of time for the Bair
12 Island Environmental Study because somebody didn't get his
13 work done.

14 Any objection?

15 Is there anybody in the audience on that item?

16 LIEUTENANT GOVERNOR DYMALLY: So move.

17 CHAIRMAN CORY: Without objection, the extension
18 is granted on Item 33.

19 Item 34, they want us to determine that the
20 Catamaran Pier Lease in Mission Bay, San Diego County is
21 consistent with a Public Resources Code Section.

22 Is there anybody in the audience on the Catamaran
23 Lease?

24 Any questions from Commissioners?

25 LIEUTENANT GOVERNOR DYMALLY: So move.

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1 CHAIRMAN CORY: Without objection, such a determina-
2 tion has been made pursuant to the recommendation of staff.

3 Item 35, litigation. They want to authorize the
4 staff of Lands and/or the Attorney General's Office to take
5 necessary steps, including litigation, to deal with the
6 trespasses of Robert Torrey, Bradford Jeffry et al., dba
7 Paradise Point Marina from State-owned tide and submerged
8 land adjacent to Bishop Tract in Disappointment Slough,
9 San Joaquin County.

10 Is there anybody in the audience on this item?
11 Any questions from members of the Commission?

12 LIEUTENANT GOVERNOR DYMALLY: So move.

13 CHAIRMAN CORY: Without objection, authorization
14 is granted.

15 Item 36, authorize the Attorney General's Office
16 to file suit for the recovery of back rentals and other
17 appropriate relief from Pacific Refining Company in San
18 Pablo Bay.

19 Is there anybody in the audience on Item 36?

20 MR. TAYLOR: No comments on our draftsmanship?

21 CHAIRMAN CORY: No. I think your draftsmanship is
22 fine. You know, these are some sharp operators who want to
23 renege on the terms and conditions that they agreed to in
24 the lease. And I, for one -- if I am on this Commission
25 when that comes up for renewal -- if that's their attitude

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1 on life, I don't want to do business with them.

2 MR. TAYLOR: Okay.

3 CHAIRMAN CORY: That's just my attitude toward
4 people who openly and willfully enter into an agreement
5 and then try to take cheap shots about it. If they don't
6 want to live up to their agreement, they can stick it in
7 their ear. I hope there's somebody from Pacific Refining
8 out there who understands that if they're up for renewal,
9 I'm going to vote against their renewal because I don't think
10 we need to do business with people like that -- if they're
11 not going to honor a commitment. But I think we should go
12 ahead with the litigation, and I frankly think your draftsman-
13 ship is fine. I think they're nitpicking beyond belief.

14 MR. TAYLOR: Thank you.

15 LIEUTENANT GOVERNOR DYMALLY: So move.

16 CHAIRMAN CORY: So without objection, Item 36 is
17 approved.

18 As long as we're dealing with litigation, nobody
19 reported to us that a Master has been appointed on our
20 boundary line dispute.

21 MR. TAYLOR: Yesterday.

22 CHAIRMAN CORY: You should know that we're making
23 great progress. Have you watched your appropriate suits
24 for -- do you have the right kind of suit to appear before
25 a Master of the Supreme Court or --

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1 MR. STEVENS: That's a different suit, Mr. Chairman.

2 (Laughter.)

3 CHAIRMAN CORY: Are you going to get before the
4 big league, or are you going to have to just deal with the
5 Master?

6 MR. STEVENS: We'll have to deal with the Master,
7 and it's my understanding that the initial determinations
8 will be made in whatever way he wants them. But we're going
9 to request, at least, that he come out and take a look at
10 things and have some hearings out here.

11 CHAIRMAN CORY: You want a trip to Tahoe, right?

12 MR. STEVENS: He may. He's from Nebraska.

13 CHAIRMAN CORY: You want it.

14 MR. TAYLOR: He files a report. If we don't like
15 his report, we file exceptions. If the other side doesn't
16 like it, they file exceptions. We brief the exceptions and
17 argue those to the Supreme Court. But on factual matters,
18 he makes the recommendations and rulings to the Supreme
19 Court. That's his function.

20 CHAIRMAN CORY: Okay. Item 37, we want to authorize
21 the Attorney General to file an appropriate legal proceeding
22 to quiet the State's title to lands within the area of
23 Davis Lake -- that's Davis Lake South.

24 Is there anybody in the audience on Item 37?

25 Any questions from the Commissioners?

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1 LIEUTENANT GOVERNOR DYMALLY: So move.

2 CHAIRMAN CORY: Without objection, authorization
3 is granted.

4 Item 38 has been put over. As soon as we adjourn,
5 will somebody please notify the gentleman who wanted to talk
6 to us on that subject.

7 Item 39, assignment and conversion of a noncommercial--

8 COMMISSIONER McCAUSLAND: That went to Consent.

9 CHAIRMAN CORY: That's in Consent.

10 We have the status of major litigation.

11 MR. TAYLOR: Cory versus State Lands Commission --

12 now known as Exxon versus the State Lands Commission --

13 was argued in the Court of Appeals on Thursday here in
14 Sacramento and has been submitted for decision. We would
15 expect the decision probably within six months.

16 CHAIRMAN CORY: You may have been cautiously
17 optimistic on that.

18 MR. TAYLOR: I would say that there was rather a
19 warm reception.

20 (Laughter.)

21 CHAIRMAN CORY: Okay. The next item on our agenda
22 is confirmation of time and place of the next meeting,
23 which is San Francisco, July 26.

24 EXECUTIVE OFFICER NORTHROP: Yes, and we hope we
25 will discuss the Westbay settlement.

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LIEUTENANT GOVERNOR DYMALLY: That's July 26th.

CHAIRMAN CORY: Any questions from members?

Any other items to come before us?

If not, we stand adjourned.

(Thereupon the meeting of the State Lands
Commission was adjourned at 12:52 p.m.)

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

3 I, KATHLEEN M. REED, a Notary Public in and for
 4 the County of Sacramento, State of California, duly appointed
 5 and commissioned to administer oaths, do hereby certify:

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

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

14 IN WITNESS WHEREOF, I have hereunto set my hand
 15 and affixed my seal of office this 4th day of June,
 16 1977.



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KATHLEEN M. REED
 Notary Public in and for the
 County of Sacramento, State of
 California
 CSR License No. 3486

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