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MEETING  
STATE LANDS COMMISSION

ROOM 2117  
STATE CAPITOL  
SACRAMENTO, CALIFORNIA

ORIGINAL

MONDAY, DECEMBER 19, 1977  
10:00 A.M.

WENDY E. SCHILLER

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MEMBERS PRESENT

Hon. Kenneth Cory, Chairman  
Ms. Betty Jo Smith, representing Mervyn M. Dymally  
Sid McCausland, representing Roy Bell

MEMBERS ABSENT

Hon. Mervyn M. Dymally, Lieutenant Governor  
Roy Bell

STAFF PRESENT

Mr. William F. Northrop, Executive Officer, State Lands  
Commission  
Mr. R. S. Golden, Assistant Executive Officer, State Lands  
Commission  
Mr. James F. Trout, Manager, Land Operations, State Lands  
Commission  
Mr. Robert C. Hight Staff Counsel, State Lands Commission  
Ms. Diane Jones, Secretary

ALSO PRESENT

Mr. Jan Stevens, Attorney General's Office

P R O C E E D I N G S

--oOo--

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2  
3 CHAIRMAN CORY: We'll call the meeting to order.

4 Are there any corrections or additions to the  
5 minutes of the meeting of November 30th?

6 They will be confirmed as presented.

7 We have the report of the Executive Officer.

8 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, this is  
9 a rather lengthy report, and really what we've done here is  
10 a recap of some of the highlights of '77 and to inform you  
11 as to what's happening.

12 The Commission has been successful in negotiating  
13 several percentage of gross revenue leases on our  
14 commercially-used lands. It is anticipated the use of this  
15 type of lease will be expanded during 1978.

16 In spite of numerous impediments to leasing  
17 activity in several areas, calendar item production during  
18 1977 increased to 302 from 289 in 1976. Litigation on  
19 highs/low water and the public trust issues, as well as  
20 studies at Bethel Island, have thwarted efforts to increase  
21 leasing in those areas.

22 We are receiving some positive results in  
23 negotiations with the U.S. Navy and General Services  
24 Administration, both at the regional and Washington levels,  
25 regarding potential exchanges of lands that will provide us

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1 a more manageable land unit. It is anticipated long-range  
2 benefits from these efforts will be substantial.

3 In March, revised Administrative Code sections  
4 were implemented and provided for realistic charges for  
5 the recreational use of our lands.

6 The Commission entered into two significant  
7 volumetric lease arrangements during this calendar year  
8 which will result in increased rental revenues of over  
9 \$75,000 annually.

10 Rental negotiations have been concluded on five  
11 additional volumetric rental lease agreements which will  
12 appear before the Commission early in 1978. It is  
13 anticipated that annual revenues on these five leases will  
14 exceed half a million dollars.

15 By the end of 1978, it is anticipated that an  
16 additional four to five volumetric rental leases will be  
17 concluded which will increase revenues by another several  
18 hundred thousand dollars.

19 A settlement agreement was reached and approved by all  
20 parties of a long-standing dispute concerning tide and  
21 submerged lands granted in trust to the City of Los Angeles  
22 and administered by the Board of Harbor Commissioners.  
23 Negotiations were conducted under the auspices of the staff  
24 and the Attorney General's Office.

25 Settlement, we feel, avoided a prolonged court

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1 battle and provides for the resolution of past claims  
 2 and establishes procedures for handling billings, rents  
 3 and payments in the Los Angeles Trust from now on. It  
 4 paved the way for much-needed capital improvements and  
 5 other projects on the tidelands and strengthened the  
 6 objectives of the tideland trust and increased the job  
 7 activity in the Los Angeles area.

8           A settlement of U.S. Forest Service timber tres-  
 9 pass activity resulted in approximately \$81,000 in revenue  
 10 for the State and additional jobs in the timber harvesting  
 11 industry.

12           Procedures were developed for the handling of  
 13 emergency projects and other health and safety projects  
 14 such as mosquito abatement activities during the year. With  
 15 Commission approval, staff was able to react quickly to  
 16 requests from other agencies in handling emergencies brought  
 17 on by the drought and other natural conditions.

18           Significant progress has been made in developing  
 19 proper administration of the trust in Tomales Bay.

20           Staff has responded to some 1600 Corps of  
 21 Engineers notices during 1977 compared to 1500 in the  
 22 previous year.

23           Substantial Commission efforts in cooperation with  
 24 the Wildlife Conservation Board and the Attorney General's  
 25 Office resulted in a Boundary Line Agreement and settlement

1 of the San Elijo Lagoon project, which allowed that  
2 project then to start building. Briefly, it amounted to  
3 the state's acquisition of some 267-plus acres of property  
4 owed by United California Bank.

5 The settlement successfully reduced the potential  
6 claims from \$2,650,000 to the amount of approximately  
7 \$910,000. The property is being utilized as a valuable  
8 wildlife refuge and natural area.

9 Similar efforts have been successful in other  
10 areas.

11 In the San Francisco Bay Area the Division has  
12 continued its program of sovereign trust identification by  
13 compromise title settlements. Staff has submitted ten proposals  
14 for your consideration this year, including exchanges and  
15 boundary agreements in lieu of litigation as well as  
16 settlements, in whole or in part, of three major law suits  
17 for a total identification of the trust, in fee or easement,  
18 in over 10,385 acres of estuary land. So, the Commission  
19 has done its area in environmental protection as well.

20 The Commission is proceeding with the implementation  
21 of its exchange evaluation and the Land Bank Concept.

22 On title and boundary settlements in general, a  
23 record high of 13 Boundary Line Agreements were finalized in  
24 1977, including those in the San Francisco area. In contrast,  
25 seven were processed in 1976 and only one in 1975. If one

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1 really needs to understand the importance of a boundary  
2 line agreement, one should just witness the development  
3 that has gone on now that the boundaries have been  
4 established.

5 Fourteen field surveys were conducted in 15 counties  
6 from the Oregon border to Needles on the Colorado River.

7 In addition, the Commission has independently  
8 settled four trespass lawsuits, three of which were on the  
9 Sacramento River.

10 During this second year of the drought, the  
11 Commission has initiated a number of major programs to  
12 remove obstructions, both man made and natural, from the  
13 State's navigable waterways. A portion of this program  
14 is financed by \$500,000 allocated to the Commission by  
15 the State Legislature in the '77-'78 fiscal year budget. Under this  
16 program, the Commission has thus far arranged for the  
17 clean-up of the Lower American River, the Sacramento River  
18 from Shasta Dam in Shasta County to Grimes in Colusa County  
19 and has already removed 82 percent of the designated  
20 obstructions at Lake Tahoe.

21 We have also been successful in obtaining approximately  
22 \$2.5 million in federal grants in the past four months.  
23 The staff has, in effect, increased the Commission's budget  
24 by one-third.

25 These monies are contained in three separate

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1 grants: two for approximately \$1.2 million for removing  
2 obstructions from the Sacramento-San Joaquin Delta. This  
3 project, as you know, is already underway; and \$787,000  
4 for the identification and removal of obstructions from  
5 Southern California tidelands, that is, Elwood, Goleta  
6 and that area along Santa Barbara; and a half a million  
7 dollars for watershed and forest rehabilitation of State  
8 school lands which were burned over during the last fire  
9 season.

10 In the oil and gas area, oil and gas revenues  
11 received during 1977 totaled nearly \$21 million,  
12 exclusive of Long Beach Tract 1. This compares with  
13 25,475,000 received in 1976. This \$500 million drop is  
14 due largely in part to the insensitivity of the Federal  
15 Energy Administration on our crude oil pricing.

16 Approval was received for the resumption of  
17 drilling operations in four leases in the Huntington Beach  
18 offshore field, and drilling was commenced. Redrilling  
19 operations also commenced on three leases in the  
20 Summerland and Carpenteria offshore fields, two leases in  
21 the South Elwood Field, one lease in the Rincon Offshore  
22 Field, for which permission had been previously granted  
23 by the Commission.

24 In the area of geothermal, a prospecting permit  
25 was issued to Geothermal Kinetics to prospect for geothermal

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1 resources on Boggs Mountain in Lake County. This calls  
2 for drilling of two exploratory wells and will help really  
3 assess the geothermal potential of the area, as well as  
4 demonstrate that geothermal resource development can be one aspect  
5 of multiple use of State lands.

6 Total revenue to the State of \$3 million continues  
7 to be held in trust fund pending the appeal, or at  
8 least disposition of the appeal, on the Periani case.

9 Annual geothermal royalties to the State is now  
10 about \$3.5 million a year.

11 Two net profit leases were awarded during 1977.  
12 The leases--one in Lake and one in Sonoma County -- brought  
13 the highest bids ever offered for geothermal development  
14 leases in The Geysers area by either the state or federal  
15 government.

16 A subsurface field geological evaluation program  
17 was conducted at California City in response to a  
18 request that the State relinquish its rights of surface  
19 entry. Five 750-foot holes and 12 30-foot holes have been  
20 drilled, and no economic mineral deposits have been uncovered.

21 A bid lease on Owens Lake, Inyo County was  
22 approved for the production of trona and soda ash.

23 The staff of the Commission was authorized to  
24 issue dredging permits for ten thousand cubic yards or less  
25 in an effort to expedite the processing of such permits.

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1 As a further step to speed up the issuing of permits, the  
2 position of Dredging Coordinator was established in  
3 Sacramento.

4 Long Beach Unit tax appeal problems.

5 The Long Beach Unit 1 and 2 contracts provide that  
6 the City Unit expenditures, including payments for county  
7 and state mining rights and property taxables, are  
8 chargeable against net profits. Thus, 96 and one-quarter  
9 percent of tax payments are, in effect, a burden on tideland  
10 oil revenue. Due to the City of Long Beach's \$9 million  
11 annual limitation on the retention of tideland revenue  
12 any incremental change is borne by the State.

13 For the tax year '77-'78, the Los Angeles  
14 County Assessor valued the Long Beach Unit at \$674 million  
15 and levied a tax in the amount of \$16.4 million. This  
16 was a 40-percent increase in the \$483 million valuation of  
17 the previous year. This tax levy was increased by  
18 4.1 million. The increase in assessment reflects the  
19 Assessor's opinion of fair market value -- I certainly wish  
20 he would go talk to FEA -- which is based on the projection  
21 of future revenue of the Long Beach Unit.

22 The participants assert there was no bases in  
23 fact for a 40-percent increase in future revenue in view  
24 of the continuing federal price controls on crude oil and  
25 considering that nearly a \$100 million of value was extracted

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1 from the Long Beach Unit since 1976, and that evaluation  
2 was made at that time.

3 At its August meeting, the Commission authorized  
4 the Executive Officer and the Office of the Attorney  
5 General to take appropriate action to effect the timely  
6 filing of an application for reduction in the 1977  
7 assessment of the Long Beach Unit with the Los Angeles  
8 County Assessment Appeals Board.

9 Participants owning 99 percent of the production  
10 shares in the Long Beach Unit, including all who own  
11 shares in the offshore portion, authorized the staff to  
12 act as their agent for the purpose of signing the  
13 application and appearing before the Assessment Appeals Board  
14 on this matter. On September 15th, the staff filed the  
15 application for reduction of the 1977 assessment.

16 Participants are currently working with  
17 consultants and with Commission staff in gathering relevant  
18 facts and preparing a presentation to the Assessment  
19 Appeals Board.

20 Mr. Chairman, I have got some good news at this  
21 point which you already know about, worked very hard on it.

22 Three years ago, the federal government initiated  
23 an entitlements program. The intent of this program was  
24 to equalize the cost of crude oil between U.S. refiners,  
25 and it was done by imposing a penalty on most domestic

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1 produced oil.

2 In the calculation of these penalties to be paid,  
3 national average costs of lower tier, upper tier and  
4 uncontrolled oil are used. The resulting penalties from  
5 these national averages when applied to California crude  
6 oil create a serious inequity to the extent that foreign  
7 crude oil is cheaper to the refiner than was California  
8 domestic. This imbalance was compounded by the granting  
9 of a foreign import bonus to Alaskan North Slope crude oil  
10 in 1977.

11 The Department of Energy was familiar with  
12 California's problem and held hearings on the entitlement  
13 adjustment early in 1977 when the entitlement treatment for  
14 Alaska was being considered; however, we were disappointed  
15 that no action resulted from those hearings.

16 The Commission has pressed for the past two  
17 years for fair treatment and as a result of the Commission's  
18 tenacity, the Department of Energy ruled that effective  
19 January 1, 1977 the entitlement obligation for lower tier  
20 crude oil produced in California -- and that for the State  
21 is about 75 percent of the oil produced in Tract 1 --  
22 the penalty on that oil is reduced by \$1.74 a barrel. The  
23 entitlement credit on imported crude oil, including  
24 Alaska, will be reduced as necessary to balance this.

25 What we see, Mr. Chairman, here is a decrease

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1 in California entitlement obligation and a resulting  
2 decrease in the subsidy to refine foreign crude.

3 As a result of this action by the Department of  
4 Energy, the purchasers of crude oil from the State granted  
5 in tidelands should have no further reason for not paying  
6 the allowable federal ceiling price for oil.

7 As you are aware, Mr. Chairman, the Commission  
8 has had a full year in the Legislature. Briefly, to recap  
9 our activity and to transmit to you where we are on  
10 legislation, we have followed some 367 pieces of legislation,  
11 and the leading ones are the following:

12 SB 1027 by Roberti, which is a major revision in  
13 the Public Resources Code pertaining to geothermal  
14 development on State Lands. It has now passed out of the  
15 Senate the first time in two years. The Assembly Policy  
16 Committee will take this bill up when it returns in January.

17 Similarly, the Commission's omnibus housecleaning  
18 bill, SB 851 carried by Senator Milton Marks, is before the  
19 Assembly Policy Committee. Both SB 782 by Sieroty, the  
20 granted lands modernization bill, and SB 1017 by Rains,  
21 providing authorization for the Commission to exchange  
22 geological and geophysical data with the federal land  
23 management agencies, will be taken up by the Senate in  
24 early January.

25 Among the legislation that has been enacted

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1 for which the Commission was interested was SB 1081 by  
2 Alquist which provides for the siting of California's  
3 LNG marine terminal; AB 884 by Speaker McCarthy would  
4 develop and permit expanding legislation, would allow  
5 us to respond in a prescribed fashion for in-house  
6 formulation of new legislation; SB 349 by Nejedly, the  
7 recreational pier bill, which will mean we will have to  
8 enact some changes in our Administrative Code; several  
9 granted lands bills, including AB 925 by Barry Keene which  
10 concerns the support of the Eureka waterfront litigation.

11 Finally, the Commission has participated in  
12 three legislative oversight hearings. The Assembly Resource  
13 Committee reviewed the Commission's role in boundary  
14 determination. Two oversight hearings were conducted by  
15 Senate Natural Resources and Wildlife Committee on the  
16 Commission's management of the State's sovereign and granted  
17 inland waterways. In all three hearings it was noted that  
18 this Commission has been aggressive in its management  
19 practices and its policies have been consistent with  
20 resolving past legislative, administrative and public  
21 criticisms.

22 Natural gas hearing.

23 In its ongoing investigation regarding the  
24 determination of reasonable market value for the purpose  
25 of natural gas in Northern California, staff of the

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1 Commission will conduct public hearings on January the 12th  
2 1978, at the Employment Development Department 722 Capitol  
3 Mall, and it is in room 4061. This is a room change from  
4 the Public Notice that went out, and we will change that;  
5 but for the record, I would like to emphasize it's  
6 Room 4061 in Sacramento, commencing at ten a.m. in order to  
7 receive additional comments from the public on this  
8 subject and consultation in public with the consultants.

9 CHAIRMAN CORY: What happened to the room change?

10 SECRETARY JONES: It is a better room.

11 EXECUTIVE OFFICER NORTHRUP: It's a little better  
12 room.

13 CHAIRMAN CORY: It's the same address.

14 EXECUTIVE OFFICER NORTHRUP: Everything's the same.

15 CHAIRMAN CORY: You will have somebody staged  
16 at the first announced room to get people up there for the  
17 length of the hearing?

18 EXECUTIVE OFFICER NORTHRUP: Yes, sir.

19 MR. HIGHT: In addition to sending out another  
20 notice.

21 EXECUTIVE OFFICER NORTHRUP: We'll cover it  
22 both ways.

23 CHAIRMAN CORY: I'm really getting tired that this  
24 issue doesn't get resolved.

25 EXECUTIVE OFFICER NORTHRUP: We intend to bring

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1 it into our January 26th meeting, Mr. Chairman.

2 This completes a rather lengthy report. I  
3 apologize for its length.

4 CHAIRMAN CORY: Okay. Thank you, Mr. Northrup.  
5 Dick, do you have a report?

6 MR. GOLDEN: I have a somewhat shorter report,  
7 Mr. Chairman.

8 CHAIRMAN CORY: I would hope so.

9 (Laughter.)

10 CHAIRMAN CORY: You are hoping to be employed  
11 next year.

12 (Laughter.)

13 MR. GOLDEN: COASTAL COMMISSION MATTERS:

14 Section 30416 of the California Coastal act of  
15 1976 provides in part that "The State Lands Commission . . .  
16 shall . . . review and may comment on any proposed local  
17 coastal program or port master plan that could affect  
18 State Lands."

19 In September of the year, the State Lands Commission  
20 Staff sent a letter explaining its role in the review and  
21 comment phase of the local coastal programs to each of the  
22 local jurisdictions required to complete a local coastal  
23 program.

24 As of today, the State Lands Commission staff has  
25 reviewed and processed 31 Issue Identifications and/or Work

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1 Programs of the various local coastal programs. The  
2 Commission staff can expect to review, at a minimum,  
3 approximately 62 such plans.

4 The primary review responsibility within the  
5 State Lands Commission staff is vested in the Planning  
6 and Environmental Coordination Unit, which in turn  
7 coordinates input from other program areas such as Granted  
8 Lands, Area Projects, Legal, Land Transactions, and so forth.

9 During this review process, the local jurisdictions  
10 have been contacted and comments or problems have been  
11 discussed at the outset. In all cases, staff has worked  
12 directly with the local entities to ensure that our  
13 concerns are addressed.

14 In the area of BCDC, it's expected that the staff  
15 of the Commission, together with BCDC and the U.S. Army  
16 Corps of Engineers will initiate a study of the effects  
17 of dredging and dredge spoil disposal in San Francisco Bay  
18 after the first of the year.

19 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, items  
20 C12 and C14 are off the calendar, and we got a call this  
21 morning on item 16. Mrs. Perry says she's ill and would  
22 appreciate it if we would put it over until next month.

23 CHAIRMAN CORY: Okay. The first items to be taken up  
24 on the Calendar are the Consent Calendar items. These are  
25 items C1 through 13. Items 12 and 14 have been taken off

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1 calendar.

2 Is there anyone in the audience who has any  
3 reason to object to the approval of any of those items.  
4 C1 through 13 with the exception of 12?

5 Without objection --

6 MS. SMITH: No objection.

7 CHAIRMAN CORY: -- the Consent Calendar will be  
8 approved as presented.

9 Item 16 is also off the calendar if there is  
10 anyone in the audience on that matter.

11 Item 15.

12 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman,  
13 Mr. Trout has had more recent communication with Western  
14 Waterways as reflected in the calendar. I wonder if he  
15 could possibly present the item.

16 MR. TROUT: Mr. Farrell, the chairman of the  
17 Board of Western Waterways, has been communicating with us  
18 for over a year regarding the establishment of rental  
19 rates in the Delta. He is also a member of our Waterways  
20 Liaison Committee and has been working with that group.

21 He has asked several times for information  
22 concerning establishment of rental rates and other material  
23 which we sent him last spring. Mr. Farrell was then in  
24 Europe for several months and just recently has gotten back  
25 to digesting the information which we sent him. He has

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1 now asked for rental information relating to a specific  
2 number of leases over the last ten years. We have advised  
3 him this was not relevant because the rates had been fixed  
4 for a period of time at a nominal level in order to bring  
5 all rentals into competition with each other fairly rather  
6 than unfairly.

7 He has asked again for this information, which  
8 we will supply him, but he also indicates that he requires  
9 another postponement of the calendar item so that he can  
10 digest this latest information.

11 We are now almost a year from the date of the  
12 expected rental increase recommended by the staff. I think  
13 that from the staff's standpoint he has been given ample  
14 opportunity, and we would like to recommend that the Commission  
15 go ahead and act on this item.

16 He has paid the rent, however, under protest, and  
17 we could evaluate that and make an adjustment in the future;  
18 however, if the Commission didn't want to do this we could  
19 set this again for the January meeting.

20 CHAIRMAN CORY: Betty, would you prefer to  
21 postpone it? I don't have any strong feelings. Our rights  
22 are protected if we do postpone it, I presume.

23 MR. TROUT: Yes, he has paid the rent.

24 CHAIRMAN CORY: Without objection, except for the  
25 staff, 15 will be postponed.

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1 16 if off calendar.

2 Item 17.

3 EXECUTIVE OFFICER NORTHRUP: This is a permit,  
4 Mr. Chairman, for 300,000 cubic yards of dredge spoil.

5 CHAIRMAN CORY: Anybody in the audience on  
6 Item 17? Questions?

7 MS. SMITH: No questions.

8 CHAIRMAN CORY: Without objection, it will be  
9 approved as presented.

10 Item 18, we are signing a lease from one party  
11 to another?

12 EXECUTIVE OFFICER NORTHRUP: That's correct.

13 CHAIRMAN CORY: Is there anybody in the audience  
14 on Item 18?

15 Any problems with that?

16 MS. SMITH: No.

17 CHAIRMAN CORY: Without objection, Item 18 will  
18 be approved as presented.

19 Item 19, a mariculture lease.

20 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, this  
21 is a request by staff to enter into an agreement for a  
22 mariculture lease, and the agreement is between Chevron  
23 USA/Atlantic Richfield and California Seafarms and an agree-  
24 ment with Exxon and California Seafarms to allow the lessees  
25 to permit the mariculture operation on leased premises

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1 and to provide that the mariculture operation will not  
2 interfere with the oil and gas operations and to hold the  
3 State harmless.

4 We feel this is the second step. We already  
5 have a mariculture operation going on Platform Holly, and  
6 we allow this will perhaps bring abalone back to California  
7 coastal waters again.

8 MS. SMITH: Have the oil and gas lessees given  
9 us any kind of written consent?

10 EXECUTIVE OFFICER NORTHRUP: I think that's what  
11 the calendar item is allowing us to do is to enter into  
12 that kind of agreement so that we can anticipate that  
13 program. If the lessees did not agree, of course we could  
14 not issue a lease.

15 MS. SMITH: And have you been in contact with  
16 the lessees?

17 EXECUTIVE OFFICER NORTHRUP: We haven't been in  
18 contact with the lessees. I think this calendar item  
19 authorizes us to go one step further and authorizes, if the  
20 lessees are willing to accept such an agreement, to enter  
21 into it.

22 CHAIRMAN CORY: Is there anybody in the audience  
23 on Item 19?

24 These leases are really the province of Fish and  
25 Game.

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1 EXECUTIVE OFFICER NORTHRUP: The leases are the  
2 province of Fish and Game. Really what we're asking here,  
3 Mr. Chairman, as it's been explained to me, is merely as a  
4 catalyst on putting these leases together to make sure  
5 they're acceptable to our lessees and to get the State held  
6 harmless.

7 MS. SMITH: Bob, would that require rewording of  
8 the calendar to make our approval contingent on receiving --

9 MR. TROUT: No, number four in the recommendations  
10 would provide for that already.

11 CHAIRMAN CORY: Approval as requested is granted  
12 in Item 19

13 Item 20, disclaimer of interest for a parcel in  
14 Alameda County, cities of Newark and Fremont.

15 Is there anybody in the audience on Item 20?

16 This is somebody has done a title check, and we  
17 don't have any interest in this property?

18 MR. TROUT: That's correct, Mr. Chairman.

19 CHAIRMAN CORY: Without objection, the disclaimer  
20 as presented will be approved.

21 Item 21, land bank agreement.

22 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, we have  
23 a problem with trying to do any work on exchanging land  
24 because of constitutional provision that we have to take  
25 lands of like value. So, what the East Bay Regional Park



1 District has done is bought this island outlined here,  
2 known as Brown Island, and they have acquired it for \$227  
3 an acre. What they are agreeing to do is to hold this until  
4 we can make various settlements and bring that money in to  
5 purchase the entire land. It would be better if the State,  
6 I suppose, bought it, but we have constitutional prohibitions  
7 against it.

8 What this is is a 595 acre island that has been  
9 purchased by East Bay Regional Park District which, eventually  
10 when we get all the properties bought, then we will lease  
11 it back to them for a regional park.

12 CHAIRMAN CORY: The question in my mind with the  
13 concept is that when you're using another governmental  
14 agency with the understanding that we're leasing it back,  
15 we are in essence rededicating and sort of without options  
16 land in other areas to the East Bay Park District.

17 EXECUTIVE OFFICER NORTHRUP: That's true. However,  
18 I don't think inherent in this is a commitment that all of  
19 our resouces be expended in an area to pick this up. When  
20 we find other areas that we would rather have, then we will  
21 use the money wherever the Commission thinks it's important  
22 to use it; but in this one here, we happen to have on the  
23 next item an item for 111 acres of this in which we give up  
24 merely two acres of swamp and overflow land that's been  
25 filled for a long time. So, in this particular one we're

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1 taking this first bite of the 111 acres, or the 595. We  
2 have no -- and if there is, counsel has not advised me yet --  
3 a commitment to here on take whatever they want. If we have  
4 no other place we'd like to go, then this is a nifty place  
5 to go.

6 CHAIRMAN CORY: What happens if we decide we  
7 want it, that there is some State purpose to be used on that  
8 island. Say Fish and Game wants to put tule elk there.

9 EXECUTIVE OFFICER NORTHRUP: We are not committed  
10 to the lease back, are we?

11 MR. TROUT: Yes. The land bank agreement would  
12 provide that any lands that we bought from the District  
13 would be leased to the District for 66 years. That is the  
14 consideration flowing to the District for them being the  
15 banker of this land. However, the District has -- no  
16 guarantee that they would continue to be -- but the District  
17 has been very reasonable in working with us on various kinds  
18 of activity.

19 CHAIRMAN CORY: What is their long range plan for  
20 that property?

21 MR. TROUT: I believe their long range plan is  
22 to lease it basically as it is as open space. Mr. Cook who  
23 has worked on the transaction indicates that that's the case.

24 CHAIRMAN CORY: We have the option of at any time  
25 not using that mechanism.

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1           MR. TROUT: The agreement is only for one year.  
2 At the end of that time both the District and the State  
3 can equalize their positions and decide if they want to  
4 extend it. The commitment is only for one year.

5           MS. SMITH: Jan, have you reviewed this contract?

6           MR. STEVENS: Yes, and the agreement too. In  
7 effect, I think it provides an effective option by which  
8 changes can be made that otherwise we would not have lands  
9 of equal values and comparable and therefore provides a  
10 tool for use by the Commission. I don't think it locks  
11 us in to utilizing the mechanism, but it's available if  
12 we want it.

13           EXECUTIVE OFFICER NORTHRUP: Commissioner Smith,  
14 we have many times in the past been unable to complete a  
15 transaction that would allow us to get out because we could  
16 not find a piece of property that fit the dollar value of  
17 the piece of property we're selling out. So, what this  
18 does is give us a flexible dollar value so we can take  
19 whatever the dollar value is and apply it on a predetermined  
20 basis. So, if we have something that was of very small  
21 value, that meant when you are settling some of this marsh  
22 land out, if you don't, you tend to drive the prices up.  
23 In other words, if you have "X" number of dollars and you  
24 have to find something that fits it, someone will always  
25 give you something that will fit that price range, but you

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1 may be getting a bad value. So, this allows us to keep  
2 from our ourselves forcing up this kind of land. It's the  
3 really important thing to hold that value down.

4 CHAIRMAN CORY: But what do we get in terms of  
5 lease payments? Presumably a nominal lease from the Park  
6 District.

7 MR. TROUT: The lease would be in the public  
8 interest, and under the Commission's regulations, not  
9 normally provide for rent.

10 CHAIRMAN CORY: So for a short run amount of  
11 money, what do they acquire this island for?

12 EXECUTIVE OFFICER NORTHRUP: 227 an acre.

13 CHAIRMAN CORY: \$227 for how many acres?

14 EXECUTIVE OFFICER NORTHRUP: 595.

15 MR. TROUT: \$135,000.

16 CHAIRMAN CORY: What I see happening is they're  
17 paying us back with our money.

18 EXECUTIVE OFFICER NORTHRUP: It happens a lot,  
19 Mr. Cory, particularly on these public parks.

20 CHAIRMAN CORY: I mean I can see where the District  
21 makes out like a bandit. I can see where the landowners  
22 get their property cleaned up, but I'm just wondering, in  
23 terms of the State, we have to accept a concept of giving  
24 a 66 year lease to the East Bay. I mean, why shouldn't --

25 EXECUTIVE OFFICER NORTHRUP: We have to look at

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1 the value of leaving that in its natural condition to the  
2 people of the State of California.

3 CHAIRMAN CORY: But we have no commitment they're  
4 going to do that. If the East Bay Park decides they're  
5 going to rent that to Disneyland for a Northern California  
6 amusement park, we've leased it for 66 years.

7 MR. TROUT: They can't do that, Mr. Chairman.  
8 The lease provides that it has to be used for specific  
9 purposes, and any additional uses would require Commission  
10 approval.

11 MS. SMITH: What purposes?

12 MR. TROUT: My understanding is that it's the  
13 traditional public purposes. Let me make sure I've got  
14 it exactly right rather than guess at it here.

15 "For the management and protection,  
16 for the purposes of preservation of open  
17 space in the natural, near natural and  
18 undisturbed state for wild life and other  
19 environmental enhancement and preservation  
20 and for public use that will not interfere  
21 with the purposes of the lease."

22 The major benefit to the State is that land which  
23 was at one time sold and is now proprietary will be returned  
24 to sovereign character and under the constitutional protection  
25 that the Executive Officer mentioned. That's the major

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1 benefit flowing to the State from this. Therefore, it  
2 would be subject to the trust and within its protection.

3 CHAIRMAN CORY: But it would seem to me that this  
4 is an interim thing. It may make some sense, but we may  
5 be better off to try to go to the Legislature and Fish and  
6 Game and say, why don't we get Fish and Game or some State  
7 agency to acquire bank directly rather than dealing with --

8 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, at  
9 the present the staff is pursuing that with Secretary Johnson  
10 of the Resources Agency at the present time. We are not  
11 far enough along in our conversations to put anything out.  
12 We think that's probably the better way to go.

13 MS. SMITH: What is the rush of approving this  
14 calendar item?

15 CHAIRMAN CORY: Because the next item needs to  
16 be approved to cut the deal, right, and we don't have any  
17 other parcelable lands that we could really cut a deal with.  
18 We will clear up some titles so somebody else can go ahead  
19 with their development, and we do pick up something as long  
20 as it is preserved as natural wildlife area. I guess that's  
21 okay for 66 years. At the end of 66 we could give it to  
22 Fish and Game if we wanted.

23 MR. TROUT: It's quite likely that if Fish and  
24 Game has a use for it we would not have problems with the  
25 Regional Park District because they'll get the money back

1 and invest it somewhere else. Since they are not making  
2 significant investments of capital for improvements, we  
3 don't expect there will be a problem. You can't tell, but  
4 there has never been a problem with the District so far.

5 CHAIRMAN CORY: What do you want to do?

6 MS. SMITH: I think we should try to reach some  
7 agreement with the Fish and Game within a reasonable period  
8 of time.

9 EXECUTIVE OFFICER NORTHRUP: Well, Fish and Game  
10 doesn't own the property. East Bay Regional --

11 MS. SMITH: But some State agency to do this type  
12 of negotiations.

13 CHAIRMAN CORY: To be the intermediary?

14 MS. SMITH: Yes.

15 CHAIRMAN CORY: We're talking about how much land?

16 EXECUTIVE OFFICER NORTHRUP: 595 acres, Mr.  
17 Chairman.

18 CHAIRMAN CORY: If we approve this agreement,  
19 and then you're going to ask us in the next calendar item  
20 to approve another.

21 EXECUTIVE OFFICER NORTHRUP: We've got \$25,000  
22 we want to put on this.

23 MR. TROUT: If this item is approved and the  
24 following item is approved, we would get 18 and two-thirds  
25 percent of the 595 acres, or 111 acres equivalent.

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1 CHAIRMAN CORY: Will that be a specific or an  
2 undivided interest?

3 MR. TROUT: It will be an undivided interest,  
4 although it probably could be made specific if necessary.

5 MS. SMITH: It could.

6 MR. TROUT: I think Mr. Cook might want to say  
7 something if the chairman would agree.

8 CHAIRMAN CORY: Yes.

9 MR. COOK: Mr. Chairman, for the record my  
10 name is Walter Cook of the State Lands Division, and the  
11 the transaction is to allow settlement, in this particular  
12 instance of the next calendar item, of a pending lawsuit  
13 that probably could not otherwise be settled. It allows  
14 other settlements, hopefully acquiring large acres of  
15 estuary-type open space in exchange for the State's on  
16 certain interests in other areas that perhaps should well  
17 be developed, relatively small parcels in most instances.  
18 I should point out with respect to the Department of Fish  
19 and Game that we have been involved in the negotiations  
20 just about from the beginning, in fact from the beginning,  
21 and that the Department of Fish and Game has been satisfied  
22 with this and have felt that rather than a lease to them  
23 in this instance, that because of the lease, for purposes  
24 which are consistent with what they feel would be proper,  
25 that the lease to Fish and Game rather than to the Department

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1 of Fish and Game would be proper (sic).

2 I should also point out that there is a reservation  
3 to the State of mineral rights so long as the upper 500  
4 feet of the surface is not disturbed.

5 CHAIRMAN CORY: Which place?

6 MR. COOK: That's at Browns Island.

7 CHAIRMAN CORY: The mineral rights go at the other?

8 MR. COOK: Yes, sir, they would. In this particular  
9 transaction, the next pending transaction, the mineral  
10 rights are going in about two acres, right within the city  
11 practically of Redwood City. It has commercial development  
12 all around it. The creek in that point is a drainage ditch,  
13 in effect.

14 We feel with the past settlements that have been  
15 presented to the Commission wherein the State has, for the  
16 purpose of settling either litigation or in lieu of what  
17 we know would be litigation, for purpose of settling the  
18 relatively small areas in these high density areas, that  
19 the Commission has approved the acceptance of public title  
20 in large areas. Now, there is a major benefit in the  
21 acceptance of public title. At t present time East Bay  
22 Parks acquired this, and they in effect are the successors  
23 in interest to the private patentees of the swamp land.  
24 There is nothing which would prevent them from making a  
25 conveyance of that interest any time they might desire. Once

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1 the land is acquired by the State as sovereign land, then  
2 the Constitution would prohibit the conveyance of this  
3 land out. So long as the Constitution did in fact continue  
4 in existence, this land would be protected by the Constitution  
5 and would be preserved for the purpose of open space  
6 estuary, and we would have the benefit of an opportunity  
7 to purchase that the District in effect made. At the time  
8 the District made this purchase, it was represented to them  
9 that the land would be reserved for the purpose of conveyances  
10 to the State on this land bank concept.

11 I think that it certainly is a tremendous tool  
12 in providing an ability to resolve the things, as well as  
13 providing the State with large areas which can be preserved  
14 in open space.

15 CHAIRMAN CORY: Is there anybody in the audience  
16 on Item 21?

17 Without objection --

18 MS. SMITH: No objection.

19 CHAIRMAN CORY: Item 21 will be approved as presented.  
20 Item 22.

21 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, Mr. Trout  
22 has some legal language or some language he'd like to have  
23 read into the record.

24 MR. TROUT: Mr. Chairman, since the development  
25 of and the printing of the calendar, the City of Redwood City

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1 has found it necessary to acquire a slightly larger piece  
2 of property than we'd originally contemplated. Because  
3 of these engineering changes that are required to meet  
4 federal flood control standards, the City of Redwood City  
5 has requested that an additional 2000 acre feet on the site  
6 be transferred by the private party to the City and State.  
7 This reduces the amount going to the State and is the small  
8 triangular parcel on the left side of your Exhibit A in  
9 the calendar.

10 Staff has reviewed the request and feels the  
11 change is required for purposes of public safety and has  
12 amended the agreement to include the modification. The  
13 private party has also consented to the change.

14 The additional public acquisition of the parcel  
15 reduces the consideration that the private party must  
16 provide in addition to the onsite exchange from the 29,000  
17 indicated at the top of page 76 to \$25,200. In all other  
18 respects the calendar item is unchanged. The recommendations  
19 remain the same.

20 The \$25,200 acquisition will get an undivided  
21 18.67 percent interest in Browns Island and is equivalent  
22 to 100 acres of the total.

23 CHAIRMAN CORY: On Browns Island plat there is a  
24 map of some sort here, and there is an irregular rectangular  
25 corner clipped off.

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1 MR. TROUT: Which one?

2 MR. McCAUSLAND: It's a nuclear waste storage  
3 facility.

4 (Laughter.)

5 MR. TROUT: The little hole in the middle of the  
6 island is the ownership of the Port of Stockton and is a  
7 dredge disposal site. We think that working with the Port  
8 of Stockton we can probably acquire that interest also.

9 CHAIRMAN CORY: So, we aren't acquiring Browns  
10 Island.

11 MR. TROUT: We're acquiring 595 acres of Browns  
12 Island.

13 EXECUTIVE OFFICER NORTHRUP: 111.

14 MR. TROUT: Well, we are acquiring 111 acres of  
15 the 595 acres of Browns Island acquired by the East Bay  
16 Regional Park District.

17 CHAIRMAN CORY: But they did not acquire the  
18 entire island. I wish that had been explained before because  
19 it seems to me that if you don't have it all, you've got  
20 a problem.

21 MS. SMITH: I move to rescind the action.

22 CHAIRMAN CORY: Do you think you can likely get  
23 that from the District?

24 MR. TROUT: Yes, we do.

25 CHAIRMAN CORY: Are you sure you haven't upped the

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1 price by having agreed to the land bank concept and agreed  
2 to the exchange before you've got them in the chute and  
3 signed up?

4 MR. TROUT: Well, in fact, we think maybe we've  
5 done just the reverse in that with the balance of the island  
6 now dedicated to wild life purposes, it's unlikely or less  
7 likely that the --

8 CHAIRMAN CORY: Awful good gun club site.

9 (Laughter.)

10 MR. TROUT: It's less likely that the Port of  
11 Stockton could actually get environmental clearances to use  
12 it as a dredge disposal site. We think we can work something  
13 out with them because they do need dredge disposal sites,  
14 and many of those sites are on Commission-owned land.

15 MR. McCAUSLAND: That photo was taken in '69.  
16 Has anything basically happened to the topography since  
17 then? Has there actually been dredged soils placed in there?  
18 That photo shows relatively undisturbed land with some what  
19 what appear to be levies in it.

20 MR. COOK: Mr. McCausland, we believe that the  
21 parcel is substantially the same today as it was in '69.  
22 I believe this was acquired many years ago by the Port of  
23 Stockton. I don't believe much, if any, spoils are on there  
24 at the present time. I personally have not walked the islands,  
25 but I've seen it from the city of Pittsburgh. From our

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1 recent photography, in fact, I think it's 1975, I believe  
2 there is nothing to indicate that there are many changes.

3 This island originally was levied. There are  
4 remnants of levee. I think it was farmed. Generally, it's  
5 open space.

6 May I say something, Mr. Cory, with respect to  
7 the value. The \$227 per acre would not drive values up.  
8 In fact, the indications we have are that that would be low.

9 CHAIRMAN CORY: That's not the point. If I'm  
10 a mean, nasty businessman and I know that you've bought  
11 surrounding area and you've committed yourself to the project  
12 and you want the interior and I've got the one piece that  
13 you don't own, my attitude on signing off might be a little  
14 firmer.

15 MR. COOK: That may very well be. Assuming that  
16 the State were unable to obtain that 100 acres in the  
17 center -- which is over and above the 595 -- assuming that  
18 the State were unable to obtain that in the future, although  
19 it would be a smaller area of open space, the remainder,  
20 most of the island, six-sevenths of the island, in effect,  
21 would still be open space preservation.

22 CHAIRMAN CORY: But if you're going to do that,  
23 quite literally, it seems to me, that 100 acres is increased  
24 in value as a gun club. If I were a hunter living in  
25 Pittsburgh, I'd go to the Port and say, hey folks, I mean

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1 what's the State going to pay you? I'll pay you a hundred  
2 bucks more.

3 MR. COOK: I think perhaps Mr. Cory that condition  
4 exists and has existed, in effect, with the acquisition  
5 at this value; but assuming the State were only able, say,  
6 to have obtained, or the District had only been able to  
7 obtain half of the island, the fact that you couldn't get  
8 everything and the fact that perhaps it may have an impact  
9 on the remainder would seem to me not to obviate the benefit  
10 of the part you were using. It is something that is out of  
11 our control. We think that there may be an ability to work  
12 with the Port of Stockton and then, on the other hand, you  
13 should face it. If we don't have it at the present time,  
14 we don't have it; and they could say, no, this is going to  
15 be \$1500 an acre. If they said that, I think that would be  
16 consistent with the island across the channel. I believe  
17 there's one over there that that type of price is being  
18 asked for. In fact, I think all around the whole area, the  
19 whole Suisun marsh, the Delta area that there are some  
20 substantial prices being asked, and the fact that there's  
21 no way that this could happen and obtain all of it at this  
22 time would seem not to eliminate the benefit or reduce the  
23 benefit of obtaining what is possible.

24 CHAIRMAN CORY: Do you think we are okay? Don't  
25 know?

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1           MR. McCAUSLAND: I've always found port districts  
2 to be the most cantankerous entrepreneurs I've ever had  
3 to deal with. They're more arrogant than anybody else.  
4 We probably could strangle them if they decided not to --

5           MR. TROUT: I think the Commission does have some  
6 arrows in its quiver to use in opposition to a development  
7 by the Port in that there would be permits required. We  
8 haven't made a detailed study, the value being low enough  
9 here, as to whether that swamp and overflowed land might  
10 in fact be tideland subject to the trust. I think that  
11 the Port has some real difficulty in blackmailing the  
12 Commission, should that be a course they choose to go.  
13 However, they give no indication of that. They need the  
14 Commission's help if they're going to deepen the channel  
15 up there and use bigger ships or allow bigger ships.

16           CHAIRMAN CORY: That's what they have in mind.

17           MR. TROUT: There is no question. This is the  
18 extension Baldwin ship channel. Past this area and on up  
19 to the Port of Stockton is --

20           CHAIRMAN CORY: We have a way to deal, you say.

21           MR. TROUT: Yes, we certainly do. They would  
22 be tickled pink to give it to us in exchange for something  
23 else.

24           MR. COOK: As an adjoining landowner to the parcel  
25 that they might later intend to use, as an adjoining land-

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1 owner the State Lands would have a very strong voice in  
2 the impact of filling on our adjoining open space area.

3 CHAIRMAN CORY: I would hope that somebody could  
4 start talking to the District about swapping out the center  
5 of this at some point before somebody else gets it without  
6 us knowing about it.

7 EXECUTIVE OFFICER NORTHRUP: We will proceed  
8 with all deliberate speed, Mr. Chairman.

9 CHAIRMAN CORY: On the exchange itself, any  
10 questions, anybody in the audience on the exchange itself?

11 Okay. Without objection, the exchange will  
12 be approved as presented.

13 23, Bair Island.

14 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman,  
15 Mr. Trout will address the Bair Island delay.

16 MR. TROUT: The Commission entered into a  
17 supplement agreement with Mobil --

18 CHAIRMAN CORY: Before we proceed with that, the  
19 Attorney General has participated in all these negotiations,  
20 and you're happy with the deal?

21 MR. STEVENS: We haven't participated in the  
22 negotiations, Mr. Chairman. We've reviewed the agreement,  
23 and we're satisfied as to its legality and propriety and  
24 the fact that it's just one more instrument by which these  
25 odd land exchanges can be made.

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1 CHAIRMAN CORY: Not the landbank, the specific  
2 exchange.

3 MR. STEVENS: Oh, the exchanges, definitely.  
4 Yes, we participated in that. I'm sorry. As a matter of  
5 fact, Mr. Briscoe in our office is standing by now in case  
6 problems arise with respect to Redwood City's acceptance,  
7 but we're satisfied it results in a very good arrangement.

8 CHAIRMAN CORY: You think the overwhelming  
9 public interest is to approve the trade, and a recommendation  
10 that we do proceed with this to get the Redwood City and  
11 conclude it.

12 MR. STEVENS: Yes. It straightens out some very  
13 dubious property along the creek, and it clarifies the  
14 State's interest on the Bay side on the other side of the  
15 bulkhead. We definitely believe it's in the public interest.

16 CHAIRMAN CORY: In flipping the pages, I think  
17 it is probably appropriate to the mood of the time for me  
18 to disclose there was a name on one of the items as to who  
19 the landowner is.

20 EXECUTIVE OFFICER NORTHRUP: Ben Swig.

21 CHAIRMAN CORY: Is it Ben Swig?

22 MR. TROUT: Yes, sir. The pending Superior Court  
23 is Benjamin Swig versus the City of Redwood City, number  
24 207304, and I would assume Mr. Stevens would agree that this  
25 settlement is probably subject to court review.

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1 CHAIRMAN CORY: I just want a disclosure. I  
 2 do not know of every having received a contribution from  
 3 Mr. Swig. He is active in my party. No one has ever  
 4 talked to me about this deal before the meeting today,  
 5 and I just want to put it on the record so everything  
 6 is fair; and if everybody else is happy, if the staff's  
 7 happy, I'll go along with it in spite of any involvement  
 8 I may have had with Mr. Swig. I can't recall any.

9 MR. STEVENS: We recommend acceptance.

10 CHAIRMAN CORY: I guess that disclosure is  
 11 probably be safest way to go given the circumstances.

12 MS. SMITH: I certainly don't know how to  
 13 disclose in this case, not knowing whether Lieutenant  
 14 Governor Dymally has received any contributions or not  
 15 from this gentleman. Perhaps the Attorney General would  
 16 like to advise me as to whether or not I should abstain  
 17 from voting or wait until you have checked.

18 MR. STEVENS: This would not be prohibited in  
 19 any event.

20 MR. McCAUSLAND: It doesn't sound like either  
 21 of you have been heavily lobbied on this matter.

22 (Laughter.)

23 MR. McCAUSLAND: I don't want to be the only vote.

24 CHAIRMAN CORY: That's probably what the safest  
 25 would be, but then under administrative necessity we probably

1 would have to.

2 MS. SMITH: We would have to vote anyway.

3 MR. McCAUSLAND: I'll be happy to meet with  
4 Mr. Swig. I've never met him.

5 (Laughter.)

6 MR. McCAUSLAND: You can disclaim knowing him.  
7 I have to honestly say I never have met him.

8 (Laughter.)

9 CHAIRMAN CORY: We disclosed the facts as we  
10 know them. I think we can live with that.

11 MS. SMITH: We would have had to vote anyway.

12 CHAIRMAN CORY: Bair Island. Tell me about that.

13 MR. TROUT: In the original settlement with Mobil,  
14 Mobil had agreed to give the State an additional minimum  
15 60 acres for environmental purposes on lower Bair Island.  
16 The Commission appointed a task force to advise it on which  
17 of the lands in lower Bair Island would be desirable for  
18 this additional donation. The report of that task force  
19 is before you. Each of you has a package on your desk.

20 However, in the interim, the Port of Redwood City  
21 has asked the Bay Conservation and Development Commission  
22 to approve a special area plan for development of the Port  
23 of Redwood City. Portions of the lands in Bair Island are  
24 either within the District and subject to potential develop-  
25 ment or impacted by that development.

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1           At the request of the City of Redwood City and  
2 with the concurrence of BCDC and with Mobil, the actual  
3 donation and the negotiations toward that donation would  
4 be put off until six months after the conclusion of the  
5 special area plan study. So, we are asking in this calendar  
6 item that the Commission simply accept the agreement, or  
7 the report of the Bair Island Environmental Study Committee  
8 and allow the staff to withhold taking the donation by  
9 agreement until the completion of the Redwood City Special  
10 Area Plan.

11           MS. SMITH: You're asking us to accept the report?

12           MR. TROUT: Yes, ma'am.

13           MS. SMITH: Was this given to us before we were  
14 briefed?

15           MR. TROUT: We did not get the comments of the City  
16 of Redwood City until Friday night at a late hour. We regret  
17 that. In discussions in the briefing, we had discussed  
18 what would happen if the matter were put over a month.  
19 We're not certain that the delay would be fatal. However,  
20 the agreement does expire on December 31st. The report  
21 does not commit the Commission or the staff to anything.  
22 The report is simply a report of a task force appointed by  
23 the Commission with regard to the environmental aspects of  
24 Bear Island. The recommendations are nearly unanimous in  
25 priority order for the donation, but the Commission is not

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1 bound to accept the recommendations of the task force.  
2 All you're doing is accepting the report. You don't have  
3 to take any action on it or anything, just accept the fact  
4 that the Commission has received the report pursuant to  
5 the agreement.

6 MS. SMITH: Okay.

7 CHAIRMAN CORY: Okay. Anybody in the audience?

8 MR. McCAUSLAND: That's not what the calendar  
9 item says. It says we're going to accept the report  
10 "For guidance in the identification of appropriate donation  
11 areas and donation extension for land. . . ."

12 MR TROUT: That is the contractual obligation of  
13 the Regional Bair Island Settlement.

14 MR. McCAUSLAND: My reading of that suggests that  
15 if we accept the report, we have in fact --

16 CHAIRMAN CORY: Approved.

17 MR. McCAUSLAND: -- approved the guidelines.

18 MR. TROUT: No, my understanding of it is that  
19 the report is simply to be used by the Commission in evaluating  
20 the acceptance of a further donation, to guide it in the  
21 negotiations.

22 CHAIRMAN CORY: Jan, what is your view of the  
23 language?

24 MR. STEVENS: I think we'd have to come back to  
25 the Commission for approval of any specific actions.

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1 This would give the report some kind of status as a guide  
2 to the staff in identifying areas, but when those areas  
3 were identified, it would be necessary for the Commission  
4 to take further action and to actually approve their  
5 acquisition or exclusion from any other actions.

6 CHAIRMAN CORY: If our motion is to acknowledge  
7 the existence of the report and except insofar as anybody  
8 had a contractual obligation to produce this document in  
9 fact it is here and their duties were discharged, but  
10 explicitly excluding any value judgment as to the work  
11 product of that report --

12 (Thereupon a brief discussion was held off the  
13 record.)

14 MR. McCAUSLAND: Don't we amend the calendar  
15 Item 23, Mr. Chairman, which is on page 79.

16 "IT IS RECOMMENDED THAT THE COMMISSION:

17 "1. ACCEPT THE BAIR ISLAND ENVIRON-  
18 MENTAL STUDY REPORT. . . ."

19 And strike the next two lines which currently say:

20 ". . . FOR GUIDANCE IN THE IDENTI-  
21 FICATION OF APPROPRIATE DONATION AREAS."

22 Keep Item 2 and Item 3 as they exist.

23 MS. SMITH: I would prefer to put, : "acknowledge  
24 receipt of the report."

25 MR. McCAUSLAND: All right.

1 MS. SMITH: Because that's all we're doing.

2 MR. STEVENS: "Acknowledge receipt" will certainly  
3 spell your intent more explicitly.

4 CHAIRMAN CORY: And then approve the Items 2 and 3  
5 as drafted.

6 MR. McCAUSLAND: Yes.

7 CHAIRMAN CORY: With that amendment, is there  
8 anybody in the audience on Item 23?

9 MR. McCAUSLAND: For the record, Item 1 now  
10 reads:

11 "ACKNOWLEDGE RECEIPT OF THE BAIR  
12 ISLAND ENVIRONMENTAL STUDY REPORT."

13 CHAIRMAN CORY: That's correct. Without objection,  
14 Item 23 is approved as amended.

15 Item 24, beach cleanup.

16 EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, there  
17 exists potentially dangerous oil well remnants on the coastal  
18 beaches of Santa Barbara County near Ellwood and Goleta and  
19 Summerland which have brought personal injury claims against  
20 the State, and this problem has been of great concern to  
21 the Commission. Efforts have been made in the last two  
22 decades to locate these objects. We now have put out a  
23 contract, or went into bid for a contract, and we have on  
24 the agenda the authorization of the execution of that contract  
25 with McClelland Engineers to survey the location of these



1 items and to take steps, as soon as they're located to  
2 remove them, initiate some financial steps to try to get  
3 some money to do it.

4 CHAIRMAN CORY: Anybody in the audience on Item 24?  
5 I'm confused as to what --

6 EXECUTIVE OFFICER NORTHRUP: This contract,  
7 Mr. Chairman, because many of these obstacles aren't readily  
8 discernible to the naked eye, many of them are covered up  
9 by sand; and as the sand shifts, it covers them up only to  
10 be uncovered when the sands blows away and leaves them  
11 very prominent. What we're attempting to do once and for  
12 all is make a survey as to the location of all these hazards  
13 in that area and monument them at least on maps so we know  
14 when we have the funds to clean up where the hazards are  
15 located. When we monument them and get some idea of their  
16 location, we will then be able to bring into focus what  
17 the costs of cleaning up really are.

18 The location is further important because some of  
19 them may well be of existing oil well producers. Others  
20 may be of oil well people who have disappeared, and so the  
21 State or someone else --

22 CHAIRMAN CORY: What is it that whoever gets the  
23 money from this contract is specifically going to do?

24 EXECUTIVE OFFICER NORTHRUP: Mr. Everitts from our  
25 shop designed the contract. I'll let him respond to the

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1 question.

2 MR. EVERITTS: There are probably about 40 or  
3 50 piers in the, say, 1890's.

4 CHAIRMAN CORY: We understand that. What do  
5 we get for our money, was it competitively bid and what  
6 specifically are they going to do and what is going to be  
7 their work product?

8 MR. EVERITTS: McClelland to going to do 36 days  
9 worth of diving, and they're going to use ocean floor  
10 mounted sonar equipment to locate as many piers and as  
11 many wells, as many caissons as we can find offshore. They  
12 will also explore the beach by foot at low tide and when  
13 the sand is out to identify the location of them.

14 Once we locate them, they will give us a report  
15 showing us -- maps showing us where the obstructions are  
16 and what they consist of.

17 CHAIRMAN CORY: How many days?

18 MR. EVERITTS: The total study will take 68 days.

19 CHAIRMAN CORY: Okay. And that was competitively  
20 bid, and they were the low bidder.

21 MS. SMITH: Am I understanding that the bid was  
22 \$86,000?

23 EXECUTIVE OFFICER NORTHRUP: \$86,044, yes. The  
24 next bidder was \$103,941. We had a range bid of \$103,500  
25 to \$150,500 and a fourth bid of \$169,986.

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1           CHAIRMAN CORY: I don't know anything about it,  
2 but looking at those bids, I would get that people were  
3 sort of unclear as to what it was they were supposed to do.

4           MR. EVERITTS: I don't believe so. It's interesting,  
5 but the low bid is using divers and sonar equipment mounted  
6 on tripods sitting on the ocean floor. The high bid was  
7 using sight-scan sonar but using boats to tow it. So, they  
8 had more overhead on their boats, more cost in boats.  
9 Then the one was going to drag a cable. They knew what  
10 they had to do.

11           EXECUTIVE OFFICER NORTHRUP: It is the technology.  
12 Someone had more sophisticated technology that works  
13 cheaper.

14           CHAIRMAN CORY: I've got no problems with it.  
15 Without objection, Item 24 will be approved as presented.

16           Item 25, Long Beach Operations. We have a --

17           EXECUTIVE OFFICER NORTHRUP: Subsidence.

18           CHAIRMAN CORY: -- subsidence. Long Beach is  
19 getting to us for 3,3.

20           EXECUTIVE OFFICER NORTHRUP: 100 percent according  
21 to Mr. Thompson, \$303,318,036.

22           CHAIRMAN CORY: Anybody in the audience on  
23 subsidence in Long Beach. Keep reading the L.A. TIMES.  
24 I think they'd be in favor of it.

25           (Laughter.)

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1           CHAIRMAN CORY: Without objections, Item 25  
2 will be approved as presented.

3           Item 26, Long Beach expenditure of 986,000 on  
4 Marina Basin 3 and Basin 6 facilities. It's a tidelands  
5 trust expenditure.

6           EXECUTIVE OFFICER NORTHRUP: It is a trust purpose.

7           CHAIRMAN CORY: Is there anybody in the audience  
8 on this item? Any questions from the members of the Commission?

9           Hearing none, it will be approved as presented.

10          Item 27 is approval of offshore boundaries of the  
11 proposed corporation of the City of Goleta. This just  
12 approves that there is a boundary and that we don't have  
13 any problems with it?

14          MR. HIGHT: This approves that the boundaries are  
15 legally sufficient, and it will now go to LAFCO and to the  
16 local community to see if it's approved there, and then it  
17 will come back to the Commission for its approval. We're  
18 not approving anything other than the legal sufficiency  
19 of the boundaries.

20          CHAIRMAN CORY: Anybody in the audience on Item 27?  
21 Without objection, it will be approved as presented.  
22 Status of major litigation.

23          MR. STEVENS: Mr. Chairman, we finally have the  
24 high-water issue in the Appellate Court, and we filed an  
25 appeal from an order for injunction that was issued with

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1 respect to Lake Tahoe in one of the three cases in which  
2 the State's high-water boundaries are in dispute on the  
3 nontitle navigable waterways.

4 In litigation concerning Anderson Marsh in Lake  
5 County in Clearlake, the County of Lake has obtained  
6 permission from the court to withdraw as a codefendant  
7 on the side of the State and to reenter the case as a  
8 plaintiff arguing a low-water boundary rather than a  
9 high-water boundary. They are asking for a boundary  
10 somewhat different than the plaintiff.

11 CHAIRMAN CORY: It must have been an interesting  
12 hearing.

13 MR. STEVENS: It was an interesting hearing.  
14 We endeavored to point out that this was rather inconsistent  
15 with their duties as trustee for the State of California  
16 of the bed of Clearlake, but the judge felt that he should  
17 allow them to intervene, and he would decide their trustee  
18 duties later in some other proceeding.

19 We have submitted before the Superior Court in  
20 Nevada County the question of the navigability of Donner Lake.

21 CHAIRMAN CORY: Wait. Let's go back. I've got  
22 some problems with Clearlake. What does the Attorney General  
23 think we should do with a trustee that is moving inconsistent  
24 with the trust?

25 MR. STEVENS: We've spoken with Mr. Hight and

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1 Mr. Northrup for initiating a staff investigation and a  
2 report to the Commission with respect to the County's  
3 trust performance. A legislative report is in order under  
4 Chapter 639 of the Trust statute by January this year, and  
5 the Commission can, if it desires to, hold hearings ascertain  
6 whether the trust should be revoked. The Commission has the  
7 authority to revoke the trust for failure to comply.

8 We expect a staff report on the entire action with  
9 respect to Clearlake to be forthcoming.

10 Apparently there have been a number of permit  
11 approvals, spelling approvals and this sort of thing all  
12 the way around the lake, going well out into the lake, and  
13 there have been apparent violations of the trust. The  
14 Commission has the authority to hold hearings and to  
15 authorize actions in the Superior Court to revoke the trust  
16 if it finds --

17 CHAIRMAN CORY: Given the historical constraints  
18 and problems that they're changing sides on high-water/  
19 low-water in essence; is that what you've told me?

20 MR. STEVENS: Yes.

21 CHAIRMAN CORY: Have you discussed this with  
22 the General and where his head is at on this changing  
23 positions?

24 MR. STEVENS: Not in specific terms, not in this  
25 particular case. Obviously, there is a serious question,

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1 we pointed out to the court, with respect to the county's  
2 duties as a trustee. We're willing to pursue it, but we  
3 haven't.

4 CHAIRMAN CORY: I feel stronger about that issue,  
5 I think philosophically, than I do about high-water/low-water.  
6 I can see the arguments on both sides, and I have publicly  
7 stated I believe it should be litigated to get it resolved  
8 so that everybody can proceed. As I understand your office's  
9 position, that's what it is, in essence. There is uncertainty  
10 which needs to be litigated.

11 MR. STEVENS: As soon as possible.

12 CHAIRMAN CORY: That's what we have proceeded to do.  
13 But to find the trustee to take a different position than  
14 the Attorney General's position and the Land Commission's  
15 position is a bitter pill to swallow, and I would appreciate  
16 it if you could check with Charlie and or the General as to  
17 where their heads are at because I understand the down side  
18 risk in the future of where that might be taking us. But  
19 I think it might be well for the administration of public  
20 trust lands that we meet that problem with a united front.

21 MR. STEVENS: We've stated in court already we  
22 think it's a clear trust violation.

23 CHAIRMAN CORY: I just think we better get together  
24 on that one and advise the other Commissioners because I  
25 just don't see how we can allow one trustee to behave one

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1 way and then start kicking the bejesus out of another  
2 trustee on something that would be a far lesser transgression.

3 MR. STEVENS: Apparently when the County Supervisors  
4 took this up, the only concern they expressed was this  
5 might result in a loss of the trust. Apparently they  
6 considered the possibility and decided to go in on the other  
7 side.

8 CHAIRMAN CORY: I don't know about the other  
9 Commissioners, but since there is sort of a treaty of  
10 Guadalupe Hidalgo or something between the Commission and  
11 the Attorney General on this difficult position we're in,  
12 I'd just like to know where he's at; and I just don't think  
13 we can let the trustee do that.

14 MR. STEVENS: We don't either. We're happy to  
15 work with you.

16 CHAIRMAN CORY: Okay. Go ahead. I'm sorry.

17 MR. STEVENS: Basically that's it. The navigability  
18 of Donner Lake for title purposes is before the Superior  
19 Court in Nevada County on our motion for summary judgment.  
20 We hope to get a decision on that and proceed to a determi-  
21 nation of the actual boundaries there.

22 CHAIRMAN CORY: What is the name of the case that  
23 you're on at Tahoe?

24 MR. STEVENS: Fogarty versus State of California.

25 CHAIRMAN CORY: Is that a clean issue fact situation

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1 or not?

2 MR. STEVENS: We think there is a vehicle for  
3 determination of the high-water issue there. The appeal  
4 that we have taken is from the injunction against the  
5 Commission's taking any action, recording maps or making  
6 statements in support of the high-water boundary. So, we  
7 think that this presents the high-water issue squarely  
8 before the Appellate Court, and we filed a notice of appeal  
9 and designated the record already.

10 CHAIRMAN CORY: It was my understanding that  
11 the injunction was against us filing maps and doing things  
12 like that. I was unaware anybody had enjoined me from  
13 speaking my mind on the subject.

14 MR. STEVENS: No, it only covers filing maps and  
15 notices. It doesn't cover speeches or any First Amendment  
16 Rights, very definitely.

17 CHAIRMAN CORY: Okay.

18 MR. STEVENS: But it is broad enough to present  
19 this issue, and we've invited the other side to join with  
20 us in augmenting the record if they so choose in the interest  
21 of fairness to present the court with the whole picture.  
22 We haven't heard from them in response to our invitation,  
23 so we proceeded to the appeal.

24 CHAIRMAN CORY: Okay. Any other items?

25 MR. STEVENS: We've asked the California Supreme

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1 Court to hear the Murphy decision with respect to the Berkeley  
2 waterfront in hopes that they would be willing to clear  
3 this up before we proceeded there.

4 CHAIRMAN CORY: That's the decision we didn't  
5 like.

6 MR. STEVENS: That's right, the partial summary  
7 judgment against us.

8 CHAIRMAN CORY: What do you think about that?  
9 What's your prognosis?

10 MR. STEVENS: First District Court of Appeal  
11 held our petition for about 30 days and then dismissed it  
12 without comment. Of course, in the Supreme Court's interest  
13 in economy and having cases fully litigated first, they  
14 may decide that we should proceed in trial court and decide  
15 the entire issue at the Berkeley waterfront patents before  
16 the matter is certified in Appellate Court. We've attempted  
17 to point out that this is sufficiently important that they  
18 should give us guidance beforehand, before we proceed we  
19 proceed with the rest of the trial. We're guardedly  
20 optimistic.

21 CHAIRMAN CORY: Any other?

22 EXECUTIVE OFFICER NORTHRUP: That completes our  
23 agenda, Mr. Chairman.

24 CHAIRMAN CORY: Our next meeting is Thursday, the  
25 26th in Sacramento at ten a.m.

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1 EXECUTIVE OFFICER NORTHRUP: We hope we will have  
2 natural gas pricing on the agenda.

3 CHAIRMAN CORY: Any other items for us? We  
4 stand adjourned.

5 (Thereupon the meeting of the State  
6 Lands Commission was adjourned at  
7 11:15 a.m.)

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

3 I, WENDY E. SCHILLER, 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, Wendy E. Schiller, a Shorthand Reporter  
 9 of the State of California and thereafter transcribed into  
 10 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 11th day of January, 1978.

16  
 17  
 18  
 19  
 20   
 21 Wendy E. Schiller  
 22 Notary Public in and for  
 23 the County of Sacramento,  
 24 State of California  
 25

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