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MEETING
STATE LANDS COMMISSION

STATE CAPITOL
ROOM 2170
SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 27, 1978
2:10 P.M.

Paul D. Ramshaw
C.S.R. License No. 3434

MEMBERS PRESENT

1
2 Mr. Kenneth Cory, State Controller, Chairperson

3 Mr. Sid McCausland, representing Roy M. Bell,
4 Director of Finance, Commissioner

5 Mr. Mervyn M. Dymally, Lieutenant Governor, Commissioner

MEMBER ABSENT

6 None

STAFF PRESENT

7
8 Mr. William Northrop, Executive Officer

9 Mr. R. S. Golden, Assistant Executive Officer

10 Mr. Robert C. Hight, Staff Counsel

11 Mr. James Trout

12 Mr. Donald J. Everitts

13 Ms. Diane Jones, Secretary, State Lands Commission

ALSO PRESENT

14
15 Mr. Jan Stevens, Assistant Attorney General

16 Mr. Gregory Taylor, Deputy Attorney General

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P R O C E E D I N G S

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3 CHAIRPERSON CORY: I will call the meeting to
4 order. My apologies for starting late, but this morning
5 has been a somewhat unusual morning.

6 Given the circumstances of the previous week and
7 today in San Francisco, it would probably be appropriate to
8 make some acknowledgment of the problems that are
9 confronting us as a nation and as a people. It might be
10 appropriate if we just, each in our own way, silently reflect
11 upon those difficulties as each of us sees fit. Two deaths
12 in San Francisco are more than I can understand, and nine
13 hundred in Guyana are more than anybody can cope with. I
14 think it might be appropriate if everybody would sit still
15 and think about it. Maybe each of us in our own way might
16 be able to make some sense or find some way to approach the
17 problem better.

18 (Thereupon followed a few minutes
19 of silence.)

20 CHAIRPERSON CORY: Thank you.

21 The first item on the agenda is the confirmation
22 of the minutes of the meeting of October 26. Are there any
23 corrections or additions?

24 COMMISSIONER DYMALLY: I move they be adopted.

25 CHAIRPERSON CORY: Without objection, it is so

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1 ordered.

2 Mr. Northrop.

3 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, there
4 are two items on the agenda for which you have no material
5 in front of you. The first is that this morning we had a
6 sell-off in the Long Beach office for approximately 1,700
7 barrels of oil from the Huntington Beach field, from the
8 Aminoil Lease E 392.1. The following companies submitted
9 bids: Basin Petroleum, Alliance Oil Trading, Kern County
10 Refining, Lunday-Thagard, Sunland Refining, DeMenno
11 Resources, and USA Petroleum. In drawing by lot, the
12 successful bidder was Basin Petroleum.

13 We have some other parcels to place. We have
14 about five more parcels that could be sold off, some more
15 in that same area. We are proceeding to sell those off.

16 CHAIRPERSON CORY: Questions?

17 EXECUTIVE OFFICER NORTHROP: There is a second
18 item, Mr. Chairman and members. As you will recall, last
19 month in a much lighter vein, we discussed the relocation of
20 the osprey in Huntington Beach. That has been done.
21 Mr. Charles Fullerton, who is the executive director of the
22 State Department of Fish and Game, is here to discuss that
23 with the commissioners. I'd like to introduce Mr. Fullerton
24 at this time, Commissioners.

25 MR. FULLERTON: First, on behalf of the ospreys

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1 we want to present the commission with a certificate of
2 appreciation for the work they did. I think it's great they
3 could get something done in such a short period of time. As
4 a result, I'm sure the osprey is going to be indebted to you
5 if she can find a mate.

6 (Laughter.)

7 CHAIRPERSON CORY: How is the dating service going?

8 MR. FULLERTON: Not very well.

9 CHAIRPERSON CORY: This really goes to the staff
10 of the State Lands Commission and to the staff of Fish and
11 Game, who are really the people who got off the dime and got
12 something done. I want to thank all the people over at Fish
13 and Game for everything they did to make it happen.

14 MR. FULLERTON: Thank you, Mr. Chairman. Without
15 you we couldn't have done it.

16 CHAIRPERSON CORY; Thank you very much. We
17 appreciate it.

18 Mr. Northrop, don't get mad; get even.

19 (Laughter.)

20 EXECUTIVE OFFICER NORTHORP: Mr. Chairman, that
21 completes my report.

22 CHAIRPERSON CORY: Charlie, there is not a mate in
23 the area yet?

24 MR. FULLERTON: Not yet, no. But she has taken to
25 the new nest very well. We expect that there is one some

1 place around. It's just a little early. It's about a month
2 ahead of the regular mating season.

3 CHAIRPERSON CORY: But she has taken to the nest?

4 MR. FULLERTON: Yes, she has taken to the nest,
5 and the transfer went very well.

6 EXECUTIVE OFFICER NORTHROP: May I report that in
7 the interim, during this last month, they dedicated the
8 Bolsa Chica. Charlie had his pet clapper rail and his pet
9 harvest field mouse down there. We did see an osprey in
10 the area. I don't know whether it was a real one or one he
11 let got just for the day.

12 MR. FULLERTON: Bill, you've got to quit telling
13 our secrets.

14 (Laughter.)

15 CHAIRPERSON CORY: My pheasant hunt wasn't too
16 good this last year.

17 (Laughter.)

18 CHAIRPERSON CORY: Mr. Northrop.

19 EXECUTIVE OFFICER NORTHROP: That completes my
20 report, Mr. Chairman.

21 CHAIRPERSON CORY: Mr. Golden.

22 MR. GOLDEN: Thank you, Mr. Chairman.

23 Two items of major interest relate to our
24 coordination effort with the Coastal Commission and the
25 San Francisco Bay Conservation and Development Commission.

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1 The Coastal Commission item is the requests for public trust
2 determinations.

3 The number of requests from the Coastal Commission
4 and its regional commissions for State Lands assistance in
5 making public trust determinations is growing as the
6 commissions get more deeply involved in the preparation and
7 certification of local coastal programs pursuant to the
8 California Coastal Act of 1976.

9 Most recently, we have had requests for
10 determinations of the extent of the public trust in the
11 Sweetwater Marsh Area in San Diego Bay and in the Ballona
12 Wetlands Area in Los Angeles County.

13 While we will be sharing with the commissions'
14 staffs what factual information we have regarding these
15 areas, we have notified Mr. Michael Fischer, the executive
16 officer of the state commission, that in order to do
17 additional research necessary to make public trust
18 determinations within the Local Coastal Program certification
19 timeframe, we will need to obtain additional funding from
20 some source. We have asked Mr. Fischer to meet with his
21 staff to discuss such possible funding through the Coastal
22 Commission. We will report to you our progress on obtaining
23 such additional funding.

24 The second item is on Pickleweed Associates. As
25 you will recall, several months back I called to your

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1 attention that there was a permit application pending before
2 BCDC which posed major title problems to state lands.

3 The staff of the Lands Commission has just
4 reached a tentative agreement with Pickleweed Associates in
5 settlement of the titles to the land proposed for
6 development. We are prepared to recommend a settlement of
7 the title dispute between the state and Pickleweed in lieu
8 of litigation and its accompanying costs and uncertainties.

9 This matter will be placed on your December agenda
10 for review and, hopefully, approval. Once the title issue
11 has been cleared, this applicant can proceed with his
12 application before BCDC.

13 That completes my report, Mr. Chairman.

14 CHAIRPERSON CORY: I think it's a real tragedy for
15 the legal profession that this thing is going to be
16 negotiated and not litigated. Can you imagine having a
17 US Supreme Court case called Pickleweed?

18 (Laughter.)

19 CHAIRPERSON CORY: It's a tough one to pass up.

20 COMMISSIONER DYMALLY: Pickleweed vs. Cory.

21 (Laughter.)

22 CHAIRPERSON CORY: Any questions of Mr. Golden?

23 I have a question that relates to the Coastal
24 Commission and the fires at Malibu. There were newspaper
25 reports that for those people to rebuild, they were going to

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1 have to dedicate. Is that an erroneous report?

2 MR. GOLDEN: Yes, it is, Mr. Chairman. I
3 investigated that, and it was actually just a misstatement
4 in a fast sum-up of the situation. If they intend to
5 expand, then they'd have to --

6 CHAIRPERSON CORY: But they can rebuild what they
7 had without the government extracting any blackmail from
8 them?

9 MR. GOLDEN: That's correct.

10 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Agenda
11 Items C8, 43, 44, and 50 are off calendar for various
12 reasons. Agenda Item 55 will be in executive session.

13 CHAIRPERSON CORY: Okay. The next item is the
14 consent calendar. These are the items on the printed agenda
15 that is available which are designated with the letter "C".
16 They are C1 through C23, excluding C8.

17 Is there anyone in the audience who has any
18 disagreement with the proposed staff recommendations on any
19 of those items? They will be taken up in one group and
20 voted on all together unless someone wants any of them
21 excluded.

22 Do the commissioners have any problems with them?

23 Hearing none from the audience, and without
24 objection, the consent calendar, excluding Item C8 will be
25 approved as presented.

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1 Item 24: Western LNG Terminal Associates, a 30-
2 year general lease at Point Conception for 260 acres of
3 coastal tide and submerged land. This is pursuant to the
4 LNG Terminal Act?

5 EXECUTIVE OFFICER NORTHROP: That's correct,
6 Mr. Chairman.

7 CHAIRPERSON CORY: As I understand it, our options
8 at this point are that we can approve this as it is before
9 us, or we have a deadline at which it will be --

10 EXECUTIVE OFFICER NORTHROP: -- done for us.

11 CHAIRPERSON CORY: -- done for us.

12 EXECUTIVE OFFICER NORTHROP: I might add that we
13 had requested last month to put it over. We have since
14 received a communication from William B. Wallace, who is a
15 county supervisor. You have that letter in front of you.
16 Counsel advises me that Supervisor Wallace's letter requested
17 to have some additional language inserted in our standard
18 form lease. Unfortunately, we do not have that luxury.

19 COMMISSIONER DYMALLY: Is Mr. Wallace here?

20 CHAIRPERSON CORY: Is Mr. Wallace here?

21 EXECUTIVE OFFICER NORTHROP: No.

22 CHAIRPERSON CORY: The LNG Siting Act provides that
23 we shall use the standard form lease; is that right?

24 MR. STEVENS: That's right. It requires it.

25 COMMISSIONER DYMALLY: When this act was being

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1 debated, if I recall correctly, this commission attempted to
2 get some language to provide some flexibility in the
3 negotiating process. We were not fortunate.

4 EXECUTIVE OFFICER NORTHROP: Your memory serves
5 you correctly.

6 COMMISSIONER DYMALLY: You're saying I have to
7 vote for this because the Legislature has so mandated?

8 EXECUTIVE OFFICER NORTHROP: We were very lucky to
9 get this much into the law, because this way we are allowed
10 to set our rents. Otherwise, that might have been done for
11 us.

12 CHAIRPERSON CORY: Is there anyone in the audience
13 who wishes to address the commission on Item 24?

14 COMMISSIONER DYMALLY: Before we vote on it,
15 Mr. Chairman, let me say that I am going to vote for it, but
16 I want the record to show that I have never been terribly
17 excited about the Point Conception site. I felt there were
18 some alternative sites that might have been better. But in
19 view of the dictates of the Legislature, I have no
20 alternative but to join with the rest of you, I hope, in
21 voting for the lease.

22 CHAIRPERSON CORY: As I understand, the siting act
23 provided that the location would be determined by the PUC,
24 and that after they made that determination, then we could
25 extract our pound of flesh in terms of revenue for the state.

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1 If we don't do that, then it gets approved without a revenue
2 component.

3 EXECUTIVE OFFICER NORTHROP: That's the way it
4 looks.

5 CHAIRPERSON CORY: So we are not approving the
6 site per se. That has been done by the PUC. We are just
7 saying, "As long as they are going to put it there, they
8 ought to pay rent."

9 EXECUTIVE OFFICER NORTHROP: That's correct,
10 Mr. Chairman.

11 COMMISSIONER McCAUSLAND: I will second the
12 Lieutenant Governor's motion.

13 CHAIRPERSON CORY: It has been moved and seconded
14 that the proposed lease be approved as presented. All those
15 in favor signify by saying "Aye".

16 (Ayes)

17 CHAIRPERSON CORY: Those opposed?

18 It is carried.

19 COMMISSIONER DYMALLY: Let the record show that
20 my "Aye" was a very soft one.

21 (Laughter.)

22 CHAIRPERSON CORY: Item 25: the termination of
23 three leases and combining them into one lease with Chevron.

24 EXECUTIVE OFFICER NORTHROP: That is really four
25 terminal leases that were covered in three leases and now

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1 will be in one, Mr. Chairman. This is the result of
2 considerable negotiation between Chevron and staff.

3 CHAIRPERSON CORY: Is there anybody in the audience
4 on this item?

5 (Pause.)

6 CHAIRPERSON McCAUSLAND: No objection.

7 CHAIRPERSON CORY: Without objection, Item 25 will
8 be approved as presented.

9 Mr. Taaffe.

10 MR. TAAFFE: Yes, sir.

11 CHAIRPERSON CORY: There is a rumor running
12 around, if you could please come forward, that at the
13 conclusion of this lease you are saying "Sayonara".

14 MR. TAAFFE: At the conclusion of this week, I will
15 be, yes. That's after 39 years.

16 CHAIRPERSON CORY: You've caused enough trouble.

17 (Laughter.)

18 CHAIRPERSON CORY: We have here a State Lands
19 Commission resolution. I don't read out loud that well, but
20 I will try.

21 "WHEREAS the State Lands Commission and staff
22 have had numerous opportunities to transact
23 business with E. J. "Ed" Taaffe, representing
24 Chevron USA, Incorporated; and

25 "WHEREAS this relationship has been exemplified

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1 by Mr. Taaffe's unrefined and, basically,
2 crude approach to business; and
3 "WHEREAS his liberal attitude is highlighted
4 best by his profligate use of his Shell credit
5 card; and
6 "WHEREAS he has demonstrated his aptitudde for
7 change by learning how to spell and define
8 'environment'; and
9 "WHEREAS Ed once displayed a knack for
10 flexibility by shelving Chevron's plan to
11 build a refinery in the middle of Forest Lawn
12 Cemetery; and
13 "WHEREAS Ed has played a key leadership role
14 in promoting energy conservation by driving an
15 electric cart around his palatial home; and
16 "WHEREAS Ed has decided to call it quits after
17 an exemplary career to do some wildcatting --
18 or is it 'tomcatting'? -- on his own;
19 "NOW THEREFORE BE IT RESOLVED that the government
20 of Irelandbe warned immediately of Ed's
21 impending vacation and visit;
22 "FURTHER BE IT RESOLVED that a letter of thanks
23 be forwarded to Chevron, USA, Incorporated, in
24 gratitude for their having accepted his letter
25 of resignation; and

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1 "BE IT FURTHER RESOLVED -- and sincerely
2 resolved -- that the State Lands Commission
3 and its staff wish Ed many happy and healthy
4 retirement years."

5 (Laughter interspersed throughout.)

6 CHAIRPERSON CORY: Ed, it's been a pleasure
7 working with you.

8 MR. TAAFFE: I very much appreciate it. Thank you
9 very, very much.

10 CHAIRPERSON CORY: I hope you take it in the terms
11 it's offered.

12 (Laughter and applause.)

13 CHAIRPERSON CORY: Item 26.

14 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
15 a recommendation of a denial of a general permit to Robert
16 Sieglitz. Mr. Hight and his legal staff, as well as
17 Mr. Trout, have done considerable work on this, and I'd like
18 to have Mr. Hight review it.

19 MR. HIGHT: Mr. Chairman, this is a recommendation
20 of a denial of a permit for Mr. Sieglitz. Mr. Sieglitz,
21 unfortunately, is unable to obtain the necessary insurance
22 for the occupation of the proposed site, and we are placed
23 in kind of a precarious position, where the staff doesn't
24 believe it can recommend to the commission that it go ahead
25 with the lease without insurance.

1 I believe Mr. Sieglitz is here and would like to
2 address the commission.

3 CHAIRPERSON CORY: Mr. Sieglitz.

4 MR. SIEGLITZ: I am the subject in question. My
5 name is Bob Sieglitz.

6 As staff just mentioned, I have contacted numerous
7 insurance companies attempting to obtain liability insurance
8 as required by the lease prepared by counsel for the
9 commission, and I have been unable to do it for any
10 reasonable cost.

11 Last Wednesday afternoon I got a call from Alan
12 Scott of the commission office stating there may be one last
13 resort. I called them. I got a call back this morning that
14 there is no insurance available for a reasonable cost from
15 that particular company.

16 I would like to request that the commission approve
17 the lease, the modified lease as prepared by staff counsel,
18 with the exception of two items. One of those items is the
19 \$100,000 combined-single-limit-coverage policy. The other
20 item is the right-of-inspection item on the lease.

21 Other than the fact that I cannot obtain the
22 insurance at a reasonable cost, the reasoning is that one
23 of the suggestions made within the calendar item is that it
24 is possible that I could find berthing space in a marina. I
25 called every marina listed in the Sacramento phone directory

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1 this morning and got an answer from all but three of them,
2 and every one of them said that there is no space available
3 for my vessel.

4 The reason I would like to have the inspection
5 item eliminated is that I feel it infringes upon my
6 constitutional rights as far as having my property inspected.
7 That clause basically says the State Lands personnel have
8 the right to come up on lands owned by me at any time. There
9 is no land that's owned by me that is subject to this lease.
10 I'm not adjacent to a parcel of land that's owned by me.
11 I'm leasing that parcel. All the other lands and property
12 that I own throughout the state I don't feel come under the
13 jurisdiction of the State Lands Commission.

14 COMMISSIONER DYMALLY: Is the Lands Commission
15 requesting to inspect the vessel or the land?

16 MR. SIEGLITZ: The wording is "to inspect the
17 land".

18 COMMISSIONER DYMALLY: Is the land your land or
19 the state's land?

20 MR. SIEGLITZ: The land that I'm parked at right
21 now is leased property. It does not belong to me. However,
22 as soon as practical -- I own property on the Sacramento
23 River, and I will be moving my vessel to my property.

24 MR. HIGHT: Mr. Chairman, I believe the land
25 referred to in the lease is the state land and what the

1 lease intends is that the area of the lease and the
2 occupation of the lease be open to inspection by the
3 commission staff at reasonable opportunities.

4 I think the major question that the commission
5 faces is the insurance problem.

6 CHAIRPERSON CORY: Where are we in terms of our
7 liability if something goes awry, if somebody gets
8 injured? This is to protect the state's general fund from
9 liability by having leased the state's property to a private
10 person. Is that the purpose of it?

11 MR. HIGHT: Correct, Mr. Chairman.

12 CHAIRPERSON CORY: If somebody gets on the vessel
13 and gets injured --

14 MR. HIGHT: -- they would naturally sue the state
15 in addition to Mr. Sieglitz, and the state having the deeper
16 pocket -- we would naturally have a lawsuit against
17 Mr. Sieglitz to recover, but depending upon the value of that
18 suit, it might not be too fruitful.

19 COMMISSIONER DYMALLY: Is the state pocket
20 "deeper"? I understood it was "obscene".

21 (Laughter.)

22 COMMISSIONER McCAUSLAND: It's not a question of
23 exposure.

24 (Laughter.)

25 MR. SIEGLITZ: In speaking with my attorney, he

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1 sees no action that could create a liability for the state
2 in that my boat is floating on the river -- any more so than
3 a water skier or fisherman on the river.

4 I am the only boat, individual boat, I believe,
5 that is actually not attached in any way to state lands that
6 I understand this particular action is taking effect against
7 in the Sacramento area -- that the lease is being required of
8 in the Sacramento area.

9 CHAIRPERSON CORY: What is the uniqueness of his
10 position?

11 MR. HIGHT: The commission initiated a program in
12 1975 to find trespassers of state land. There may be other
13 vehicles or other vessels on the waterway. Unfortunately,
14 we just haven't gotten to them. Mr. Sieglitz is in the
15 position of being the speeder that got caught. We will
16 eventually get to every person in similar circumstances.

17 CHAIRPERSON CORY: What is the circumstance?

18 COMMISSIONER DYMALLY: A little background would
19 be helpful to me.

20 MR. HIGHT: He has a minesweeper that's
21 approximately 120 --

22 MR. SIEGLITZ: 136.

23 MR. HIGHT: -- 136 feet long moored by means of
24 cables to the bank of the Sacramento River.

25 COMMISSIONER DYMALLY: When you talk about

1 "reasonable" and "unreasonable" premiums, give us some
2 ballpark figure.

3 MR. SIEGLITZ: For a definite premium I got a cost
4 of \$3,800 a year. One quote said it would possibly be under
5 \$500 after a marine survey, but a marine survey would require
6 taking the 136-foot vessel out of the water, which would
7 cost approximately \$4,000.

8 CHAIRPERSON CORY: My problem is that if somebody
9 is on the vessel while it's moored there and gets injured,
10 or runs into it and their boat sinks, and they say we
11 shouldn't have allowed you to moor there --

12 MR. SIEGLITZ: Just as far as history, Mr. Cory,
13 the boat has been there since 1951 off and on. It has never
14 been involved in a litigation matter and has never subjected
15 the state to any litigation matter. My attorney does not
16 believe there is anything that could occur that --

17 CHAIRPERSON CORY: But our attorneys are saying
18 we have the liability, and given the insurance premium rates
19 for a liability policy, the insurance company must think
20 there is some liability that might accrue.

21 MR. SIEGLITZ: I can get the insurance for free,
22 without any additional charge, after I move the vessel up
23 to my property and build a house. It would be an automatic
24 extension of my homeowner's policy. So they consider it no
25 liability on that basis.

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1 COMMISSIONER DYMALLY: Let me ask counsel: Is
2 there such a thing as waiving liability where the state is
3 concerned?

4 MR. STEVENS: I don't believe a waiver would be
5 held binding, Governor. That's the problem we have with
6 that.

7 MR. SIEGLITZ: In the lease that was originally
8 presented to me, there is wording to the effect that
9 insurance would be required "if so specified". There is
10 wording to that effect four or five times throughout the
11 lease. That indicates to me that there are possibly times
12 when insurance would not be specified and has not been
13 specified, based on this boilerplate lease.

14 COMMISSIONER DYMALLY: Let me tell you my problem.
15 I'm half with you and half with the state. I have great
16 sympathy for you, but then as a commissioner I have a
17 responsibility to follow the advice of counsel to protect
18 the state's interests. If you could help in resolving that
19 in the next two minutes --

20 CHAIRPERSON CORY: That's where we all are. It
21 would seem to me that now, having been put on notice of the
22 proposed problem, not to require the insurance would be
23 knowingly accepting the risk, and I think that puts the state
24 in a very adverse position in such a lawsuit.

25 MR. SIEGLITZ: I don't think it has been

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1 demonstrated that the state has a risk.

2 CHAIRPERSON CORY: \$3,800 is a substantial
3 demonstration of risk.

4 MR. SIEGLITZ: But it's zero dollars on the
5 extension of a homeowner's policy.

6 CHAIRPERSON CORY: Virtually ever major homeowner's
7 policy excludes licensed vehicles of various kinds in them.
8 There was a recent court case, and there was legislation
9 subsequent to it, that limited that extension that the courts
10 put on that. Having been in the insurance business, I doubt
11 that you are really going to be covered under your home-
12 owner's policy.

13 COMMISSIONER DYMALLY: Even if he were, that's
14 tomorrow, not today.

15 CHAIRPERSON CORY: That's right. We are still
16 sitting here with some risk. I don't see how I could reach
17 that far for you. I appreciate your concern.

18 COMMISSIONER DYMALLY: What would happen if we
19 deny this permit?

20 MR. HIGHT: Mr. Sieglitz would be forced to remove
21 his vessel to a marina of some description some place.

22 COMMISSIONER DYMALLY: Can we give him adequate
23 time to do that?

24 MR. HIGHT: Yes.

25 COMMISSIONER DYMALLY: I've got great sympathy for

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1 you, Mr. Sieglitz.

2 MR. SIEGLITZ: What type of "adequate time"? I
3 could be moved up to property belonging to me within a six-
4 month period or so. Can we say that this lease would not be
5 necessary and go on a general recreational permit for that
6 period of time?

7 COMMISSIONER DYMALLY: Can you make it shorter?

8 COMMISSIONER McCAUSLAND: Let me ask if our
9 exposure is any different on the property owned by you than
10 it is on this property. Would you still be moored on state
11 land, although the state land is adjacent to property in
12 your name?

13 MR. SIEGLITZ: I would still be moored on water
14 in the Sacramento River.

15 CHAIRPERSON CORY: What does that do to the
16 liability question?

17 MR. HIGHT: If in fact Mr. Sieglitz could obtain
18 insurance through a homeowner's policy, then the state would
19 be covered and he would meet the requirements to obtain a
20 permit.

21 CHAIRPERSON CORY: What happens if he gets there
22 and he is not covered on that homeowner's?

23 MR. HIGHT: That would be the same problem we're
24 faced with now: no insurance.

25 CHAIRPERSON CORY: What actually happens in terms

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1 of looking at the legislation? Does he file a copy of the
2 policy or where it's listed?

3 MR. HIGHT: Yes, we require a rider on the policy,
4 a copy of that, as proof of insurance.

5 MR. SIEGLITZ: I did make that suggestion, but
6 there is the problem that there is presently no home on that
7 property or building on that property for a homeowner's
8 policy. So you are correct in assuming that there still is
9 a real problem.

10 CHAIRPERSON CORY: What length of time can we
11 allow?

12 COMMISSIONER DYMALLY: I have a suggestion,
13 Mr. Chairman. Give him until the next commission meeting in
14 December.

15 MR. HIGHT: December 20.

16 COMMISSIONER DYMALLY: Give him till then to look
17 for a marina. Give him one last shot.

18 CHAIRPERSON CORY: He should come in with a
19 proposal at the next meeting as to a time certain?

20 MR. SIEGLITZ: I appreciate the concern. Unless,
21 though, staff counsel has positive indication that there are
22 marinas available for me to moor at pursuant to their
23 recommendation on the calendar item, I don't think there are
24 any local places where it can be moored. Possibly I could
25 go to Sausalito and add mine to 50,000 others, but I'm sure

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1 that wouldn't be acceptable to either me or the commission.

2 COMMISSIONER DYMALLY: I am very sympathetic, and
3 I'm not prepared to be tough today. Perhaps just before
4 Christmas when my pocket is empty and I'm mad at everybody
5 -- I'd like not to make a decision today, I'd like to give
6 you a little more time.

7 COMMISSIONER McCAUSLAND: Fine.

8 CHAIRPERSON CORY: I guess we can put this over.
9 You are buying some time until the next meeting. The
10 indications are that unless you come in with some specific
11 concept of time certain -- the question goes through my mind;
12 I don't see how you could have a homeowner's policy in effect
13 in six months in terms of actually having a structure
14 occupied and meeting those requirements.

15 You ought to come back with a specific plan. If
16 I had to vote at this point, my vote would be for denial.

17 MR. SIEGLITZ: Thinking in other terms, is it
18 possible -- I am the only boat in this specific instance,
19 and there are two other boats of the exact same size as mine
20 in the Sacramento River that have been there for at least as
21 long as mine have -- well, I take that back: for at least
22 ten years for the shortest one, I am still the only boat
23 being required to obtain a lease, insurance, et cetera.

24 If the state drops its requirement of having a
25 lease, does it then drop also its responsibility for

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1 liability -- in the same sense that it would any other boats
2 on the river?

3 MR. HIGHT: I don't understand your question,
4 Mr. Sieglitz. The state would not drop its requirement for
5 a lease.

6 MR. SIEGLITZ: It's been working on me now for
7 about three years, but it hasn't had time to go after any of
8 these other boats.

9 CHAIRPERSON CORY: That's going to happen. They
10 are going to get theirs.

11 MR. SIEGLITZ: But that would give me enough time.

12 MR. HIGHT: One of the others I think you referred
13 to is in a marina, and I don't know about the third one.

14 MR. SIEGLITZ: One of them is adjacent to
15 Discovery Park. It's within two miles of my boat. The other
16 is Captain Palmer's boat. It was on the shore for a long
17 time. It's now floating because they got another high water.
18 He was able to float it this year. It's on the Yolo side.
19 They're identical size. They are sister ships.

20 CHAIRPERSON CORY: That other one was the one that
21 precipitated this inquiry.

22 MR. SIEGLITZ: He hasn't been contacted by the
23 State Lands Commission yet. I was.

24 CHAIRPERSON CORY: I think he was.

25 MR. SIEGLITZ: He claims he wasn't. That's possible.

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1 CHAIRPERSON CORY: I think he was. That's at the
2 confluence of the American and the Sacramento?

3 MR. SIEGLITZ: No, that isn't Palmer's. That's
4 the other one I was mentioning. Fairly close to the
5 confluence, right.

6 CHAIRPERSON CORY: If the other one is in a marina,
7 the marina's insurance policy covers the liability.

8 MR. TROUT: That's in litigation now.

9 COMMISSIONER DYMALLY: Today I have no choice but
10 to vote denial. Next month may be a different story.

11 COMMISSIONER McCAUSLAND: Just for the sake of my
12 personal knowledge, would you stipulate that the vessel is
13 currently seaworthy?

14 MR. SIEGLITZ: No.

15 COMMISSIONER McCAUSLAND: Is it your intent to
16 make it seaworthy --

17 MR. SIEGLITZ: Yes.

18 COMMISSIONER McCAUSLAND: -- within five years?

19 MR. SIEGLITZ: Yes.

20 COMMISSIONER McCAUSLAND: Within four years?
21 You're going to build a house first?

22 MR. SIEGLITZ: I plan on making it seaworthy
23 within three. However, I've owned the boat now for three
24 years and I'd planned on having it seaworthy within about
25 two and a half, and I haven't done anything for a year on it.

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1 COMMISSIONER McCAUSLAND: Is it possible to keep
2 the vessel afloat at the current time?

3 MR. SIEGLITZ: Oh, yes.

4 COMMISSIONER DYMALLY: I move that this item be
5 put over to the next meeting of the Lands Commission.

6 COMMISSIONER McCAUSLAND: No objection.

7 CHAIRPERSON CORY: Without objection, that will be
8 the order.

9 Try to come up with some kind of plan given the
10 impossible constraints you're under.

11 Item 27: Formation of a Santa Barbara Channel ad
12 hoc study group on oil and tar seeps.

13 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, since
14 the recent earthquake in Santa Barbara, some people have
15 felt that there has been an increase in seeps in the area.
16 I am asking permission to form an ad hoc study group
17 comprised of industry, county, state, and cities to take a
18 look at this and to come up with some solution to this
19 problem, or at least to take a second or third look at it.

20 CHAIRPERSON CORY: You will be contacting the
21 commissioners for membership on this?

22 EXECUTIVE OFFICER NORTHROP: Right.

23 CHAIRPERSON CORY: Any questions?

24 Without objection, Item 27 is approved as
25 presented.

1 Item 28. Mr. Hight, is this one yours?

2 MR. HIGHT: I pass to Mr. Trout.

3 CHAIRPERSON CORY: Okay. Mr. Trout.

4 This involves Huntington Harbour and the change in
5 the Nejedly Act.

6 MR. TROUT: That's correct. Some time ago
7 Huntington Harbour requested a number of general permits for
8 recreational use on lots they were selling. As part of that,
9 the commission authorized the staff to make subsequent
10 assignments from Huntington Harbour to the ultimate
11 purchasers of the lots.

12 What's happened is that the Nejedly Bill provided
13 for recreational pier permits without charge, and the prior
14 authority does not seem to cover the new situation. We're
15 simply asking that the commission authorize the staff to
16 issue recreational pier permits on specified lots where
17 they've been previously subject to commission review.

18 It's fairly simple, although the calendar item is
19 kind of complicated.

20 CHAIRPERSON CORY: Are there questions on this?

21 Is there anybody in the audience on this item?

22 Without objection, the proposed amendments
23 requested by the staff are granted.

24 Item 29: A proposed title settlement and boundary
25 line agreement in lieu of litigation, Parkwood 101 along

1 Belmont Slough.

2 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
3 58 acres plus a 50-foot easement and 199 acres off-site to
4 come to a compromise agreement on the Parkwood 101/Belmont
5 Slough (San Mateo County) exchange.

6 CHAIRPERSON CORY: Anybody in the audience on this
7 item? Any questions from commissioners?

8 Without objection, Item 29 will be approved as
9 presented.

10 Item 30: Settlement of title and boundary
11 problems in Union City, Alameda County (Ortiz Parcel) and
12 exchange of interests for portions of Brown's Island and
13 Point Edith parcel, Contra Costa County. Brown's Island is
14 the land bank?

15 EXECUTIVE OFFICER NORTHROP: Yes, Mr. Chairman.

16 CHAIRPERSON CORY: And is there anybody in the
17 audience on Item 30? Questions from commissioners?

18 Without objection, Item 30 is approved as
19 presented.

20 Item 31: Extension of a substantial compliance
21 provision in a boundary line agreement along the Colorado
22 River near Blythe, Riverside County.

23 EXECUTIVE OFFICER NORTHROP: A two-year extension
24 to place riprap.

25 CHAIRPERSON CORY: Anybody in the audience on this

1 item? Questions from commissioners?

2 Without objection, Item 31 will be approved as
3 presented.

4 Item 32: Consideration of proposed findings and
5 policy concerning environmental impacts of piers, buoys,
6 and other structures on the ecology of Lake Tahoe.

7 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
8 an item that was on calendar last time. It's Mr. Trout's
9 concepts in reply to the bills which allow the proliferation
10 of recreational piers. Lake Tahoe seems to be in some
11 trouble. Jim has prepared this map.

12 MR. TROUT: There are two aspects of it. Our
13 environmental processing unit has -- I think, properly --
14 pointed out that up to now the commission has been
15 approving leases for recreational structures and other piers
16 and buoys at Tahoe on the basis of categorical exemptions,
17 which authorizes structures under 3,000 square feet and a
18 few other kinds of things.

19 On the basis of a study that was done a year ago at
20 the commission's request, there is some uncertainty as to
21 the effect of these things. The study was called "The
22 Cumulative Impacts of Shorezone Development at Lake Tahoe".

23 Fish and Game in California and Nevada have
24 prepared studies. The exhibit there on the easel shows
25 areas of sensitive fish habitat and spawning areas, and then

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1 the little things that look like pins show significant
2 inlets that have fish habitat potential.

3 What needs to be done is we need to have an
4 environmental study made -- as was done in Huntington
5 Harbour and over in the San Francisco Bay Area along Corte
6 Madera Creek, I believe -- of the cumulative impact. In
7 other words, how many piers can you build at Lake Tahoe
8 without having a significant adverse environmental effect?

9 The commission really has a couple of alternatives
10 We could seek the funds, or at least go through the
11 Resources Agency to see what the possibilities are for
12 making such a study. We thought we had it with this one,
13 but the prior study really, as consultants often do, said,
14 "There isn't enough information, so we need another study."
15 That's what has to be done.

16 CHAIRPERSON CORY: Who paid for that study?

17 MR. TROUT: It was a combination of the State of
18 Nevada, the State of California, and the United States
19 Government: the Corps of Engineers, the State Lands
20 Commission, and I think it was the Nevada Environmental
21 Protection Agency.

22 CHAIRPERSON CORY: Did they meet their contractual
23 obligations?

24 MR. TROUT: Yes, under the constraints. There was
25 only a limited amount of money available, and based on that

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1 limited amount of money, yes, we think they did. They were
2 not allowed to develop their own data. They were pretty
3 much compelled to use readily available data, and then they
4 went out and did some questioning of people, and they put
5 that all together.

6 The commission is now faced with a backlog of
7 applications for leases that it has to deal with under the
8 timeframe constraints of AB 884.

9 We can do a couple of things. We've tried to
10 outline these options in the calendar item.

11 I think the staff is leaning a little bit toward
12 the finding that we don't have enough data and that pending
13 completion of a cumulative EIR, applications be rejected so
14 that we don't end up with time running -- with the exception
15 of mooring buoys outside of the areas of sensitive habitat
16 shown on that map.

17 CHAIRPERSON CORY: I have a question on that.
18 There is a blank piece of shore between Carnelian Bay and
19 Agate Bay. There is no cross-hatching there. So somebody
20 could have one there?

21 MR. TROUT: A mooring buoy, I think --

22 CHAIRPERSON CORY: But not a pier?

23 MR. TROUT: That's right.

24 An exception also would be, perhaps, a multiple-
25 use structure where a full EIR were done, such as a structure

1 that might be owned and shared by a number of homeowners in
2 lieu of individual structures. That is the Alternative B in
3 the calendar item.

4 Then there is the question of whether the
5 commission would authorize a budget change proposal, for
6 example, seeking funds to prepare a cumulative EIR or ask
7 the Resources Agency to do it or to make the funds available
8 from the license plate fund or something like that.

9 That's where we are. I think our staff's concern
10 is the recognition of the fact that we think there needs to
11 be some suspension of leasing activity for piers at Tahoe if
12 we are going to live up to the spirit of the Environmental
13 Quality Act.

14 COMMISSIONER DYMALLY: Would you need legislation
15 to use Lands Commission money, or could we do it without
16 legislation?

17 MR. TROUT: The commission's revenue all goes into
18 the general fund, and it would require an appropriation in
19 some form: either a special bill or a budget item in the
20 commission's budget or the Resources Agency or Fish and Game,
21 or somebody who is willing to take it on.

22 COMMISSIONER DYMALLY: What's the ballpark figure?

23 MR. TROUT: Staff has been working on that. I
24 don't know whether Dwight Sanders, who is in that program,
25 has a figure or not. I would think it would be in the

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1 neighborhood of maybe \$50,000 to \$100,000, maybe.

2 CHAIRPERSON CORY: That's a lot of money. It
3 appears it needs to be done.

4 What specifically do you want us to do? To pick
5 which option you go for to get the money?

6 MR. TROUT: That's only part of it. If the
7 commission is willing to make a decision today, I think the
8 decision needs to be made as to whether or not lease
9 applications will be returned as a commission policy until
10 the cumulative EIR is done -- other than for mooring buoys
11 and possibly consideration of multiple-use facilities.

12 COMMISSIONER DYMALLY: You are talking then about
13 a July 1st starting date if you are going to augment the
14 budget?

15 MR. TROUT: That's correct.

16 COMMISSIONER DYMALLY: So you are talking about a
17 suspension from January 1 to June 30?

18 MR. TROUT: As a minimum. Then of course the
19 study would probably take another six to nine months, some-
20 thing like that.

21 COMMISSIONER DYMALLY: Nine months is too long.
22 Make it six months. So you are talking about a suspension of
23 about a year.

24 EXECUTIVE OFFICER NORTHROP: At least.

25 MR. TROUT: I think that's right, Governor.

1 CHAIRPERSON CORY: This whole concept we didn't
2 agree to, but the Legislature said, "This is the law; you're
3 wrong; go do it this way." We've got the problem if we do
4 this as to how they are going to react to our interpretation.

5 COMMISSIONER DYMALLY: I have a suggestion,
6 Mr. Chairman: that we do this in two stages. We have a
7 suspension from January 1 to June 30. Then if the money is
8 in the budget, at our June or July meeting we initiate
9 another six-month suspension. If the money is not in the
10 budget, there is no point in moving any further.

11 MR. TROUT: Governor, if that's your motion, staff
12 would suggest that it might be expanded a little bit to take
13 care of applications now in-house. Till June 30 we could
14 give the applicant the option of either leaving it in
15 abeyance without the time running or we would return it
16 without prejudice and they could resubmit it in July.

17 COMMISSIONER DYMALLY: If the money is in the
18 budget, they'll just have to wait another six months.

19 CHAIRPERSON CORY: Anybody in the audience on this
20 item?

21 COMMISSIONER McCAUSLAND: I'd like to move the
22 staff recommendations with the modifications described by
23 the Lieutenant Governor and Mr. Trout.

24 MR. TROUT: I think that would be Alternative B
25 with the Governor's suggestion regarding the budget.

1 CHAIRPERSON CORY: Okay. Without objection, we
2 will approve Alternative B with the Dymally-Trout
3 amendments.

4 Item 33: American River Report. Do you want us
5 to concur in the American River Report?

6 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
7 a report that follows a resolution from the Legislature. The
8 Legislature was unclear whether we own the American River.
9 The report said, basically, that yes, we own the American
10 River, but it is not specific as to the lines from Nimbus
11 Dam to the confluence with the Sacramento River.

12 CHAIRPERSON CORY: So this report says that we own
13 the riverbed, but we don't know where the riverbed is.

14 EXECUTIVE OFFICER NORTHROP: That's correct,
15 Mr. Chairman.

16 CHAIRPERSON CORY: Do we need action on that?

17 EXECUTIVE OFFICER NORTHROP: We want you to concur
18 in that.

19 COMMISSIONER McCAUSLAND: There is a bed in the
20 American River.

21 EXECUTIVE OFFICER NORTHROP: And it belongs to the
22 state.

23 CHAIRPERSON CORY: And it belongs to the state,
24 wherever the courts find it.

25 MR. STEVENS: This is at least a starting point,

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1 Mr. Chairman, for a dialogue.

2 COMMISSIONER DYMALLY: I move concurrence.

3 CHAIRPERSON CORY: Without objection, it will be
4 approved as presented.

5 Item 34: The CEIP contract.

6 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
7 the result of discussions we have had at previous commission
8 meetings regarding the request for federal coastal impact
9 monies to conduct a marine terminal safety study. This is
10 a two-year study in excess of \$303,000.

11 CHAIRPERSON CORY: Anybody in the audience on
12 Item 34? Questions from commissioners?

13 Without objection, it will be approved as
14 presented.

15 Item 35: Wickland Oil. They want to have an EIR
16 for --

17 EXECUTIVE OFFICER NORTHROP: -- building a
18 terminal.

19 CHAIRPERSON CORY: At Carquinez Straits?

20 EXECUTIVE OFFICER NORTHROP: Yes, in the Carquinez
21 Straits, near the bridge.

22 CHAIRPERSON CORY: Any questions from the
23 commissioners? Anybody in the audience?

24 Without objection, Item 35 will be approved as
25 presented.

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1 Item 36: A resolution relative to leases and
2 permits deemed approved under Government Code Section 65956.

3 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, if we
4 miss an 884 cutoff on time, this defines which leases and
5 permits go into effect.

6 CHAIRPERSON CORY: This is a mechanism that if
7 something falls through the cracks in the time limit, there
8 is a lease and conditions that people have to comply with,
9 the same as other people who did in fact have a lease
10 approved.

11 EXECUTIVE OFFICER NORTHROP: We hope we don't have
12 to exercise it.

13 CHAIRPERSON CORY: Anybody in the audience on this
14 item?

15 Without objection, the resolution in Item 36 will
16 be adopted.

17 Item 37: Addition to application lists and
18 criteria adopted pursuant to 65942.

19 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we have
20 no criteria on seawalls. What this does is give us criteria
21 for seawall programs.

22 CHAIRPERSON CORY: Anybody in the audience on
23 seawalls?

24 Mr. McCausland.

25 COMMISSIONER McCAUSLAND: This is an addition to

1 application lists and criteria. What is the status of the
2 EIR requirement on this kind of permit application?

3 EXECUTIVE OFFICER NORTHROP: It must be addressed.
4 We must assess the environmental impact.

5 COMMISSIONER McCAUSLAND: So on the basis of the
6 filed application, you determine whether or not an
7 environmental impact report is required or a negative
8 declaration?

9 EXECUTIVE OFFICER NORTHROP: Yes, that's correct.

10 COMMISSIONER McCAUSLAND: Thank you.

11 CHAIRPERSON CORY: Are there further questions?

12 COMMISSIONER McCAUSLAND: No objection.

13 CHAIRPERSON CORY: Without objection, Item 37 will
14 be approved as presented.

15 Item 38: Authorization for refund to
16 Mr. S. E. Ryerson of an excess royalty payment. Is there
17 anybody in the audience on this item? Any questions from
18 members of the commission?

19 Without objection, Item 38 will be approved as
20 presented.

21 Item 39: Prospecting permit on school land near
22 Glamis, Imperial County, for the American Copper and Nickel
23 Company. That is for uranium. They are going to add some-
24 thing to their name.

25 Is there anybody in the audience on this item?

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1 Questions from the commissioners?

2 Without objection, Item 39 will be approved as
3 presented.

4 Item 40: Certification of negative declaration
5 for prospecting permit near Pine Valley, San Diego County,
6 for Denby Jackson. Anybody in the audience on this item?

7 Questions from commissioners?

8 Without objection, Item 40 will be approved as
9 presented.

10 Item 41: Leucadia County Water District and
11 Trinity Sand and Gravel; maintenance dredging permits for
12 10,000 cubic yards or less in San Diego County and Trinity
13 County.

14 EXECUTIVE OFFICER NORTHROP: This is informative
15 only, Mr. Chairman.

16 CHAIRPERSON CORY: Okay. It has been noticed.

17 Item 42: Morris Tug and Barge; a mineral
18 extraction lease on 1,560 acres of sovereign lands in South
19 San Francisco Bay, Alameda and San Mateo Counties.

20 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, there
21 is a question on this, particularly in my own mind, as to
22 whether an EIR prepared -- the staff prepared the bulk of
23 the EIR, I am informed, but we did get some information and
24 help from one of the bidders, who was not successful. I
25 understand that Kay Bell, Jr., from Morris Tug and Barge is

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1 here. For the record, we would like to understand that they
2 are willing to underwrite the costs that were incurred by
3 another party in helping us prepare this.

4 In a conversation with their representative before
5 the meeting, Mr. Francis Hortig, Jr., we understand they are
6 amenable to making this, but I would like to have that from
7 them in the record.

8 CHAIRPERSON CORY: Frank, as I understand it, the
9 question is that somebody else did some work on the EIR and
10 they may end up wanting to get their money back since they
11 lost the bid. Is that the hassle?

12 MR. HORTIG: That is correct, Mr. Chairman. The
13 lease was offered for bid subject to the condition that the
14 successful bidder pay for the EIR, and my client, Morris Tug
15 and Barge Company, is willing to pay for the costs of the
16 preparation of the EIR.

17 CHAIRPERSON CORY: And you know what that is?
18 That's a finite amount?

19 MR. HORTIG: We have an estimate from staff, sir,
20 and that is acceptable.

21 CHAIRPERSON CORY: For the record, what is that
22 estimate -- so they don't get sandbagged when it comes in
23 at \$84 zillion.

24 MR. HORTIG: It was reported in the range of two
25 to three thousand dollars.

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1 EXECUTIVE OFFICER NORTHROP: Is that correct,
2 Mr. Everitts?

3 MR. EVERITTS: We don't know exactly how much
4 Mr. Bell has expended, but that would be in the range.

5 CHAIRPERSON CORY: Okay. As long as we know,

6 MR. BELL: My name is Kay Bell. I don't represent
7 Morris Tug and Barge at all.

8 EXECUTIVE OFFICER NORTHROP: I'm sorry. Forgive
9 me. Have a chair and identify yourself for the record, and
10 we will straighten it out.

11 MR. BELL: My name is Kay Bell, Jr. I'm the
12 original applicant for the lease in question. My purpose
13 in being here today is to suggest --

14 I had a lower bid factor than Mr. Morris in this
15 bid. Mr. Morris bid a bid factor of 1.81; my bid factor was
16 1.6 or something like that.

17 I would suggest that the commission review this
18 further before they award this lease because, to my
19 knowledge, Morris Tug and Barge doesn't have an Army Corps
20 of Engineers permit for mineral extraction, whereas I have
21 done that. I've had an Army Corps permit for some time.

22 I've held back my mining operation waiting for all
23 these permits and for this lease to go through without
24 extracting any minerals for many years now: four or five
25 years on this State Lands Commission lease, for one thing. I

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1 have an expensive piece of equipment sitting at the dock
2 waiting to make some money. Mr. Morris has been dredging.

3 I wonder also about his arrangement with the State
4 Lands Commission where he has been extracting minerals for
5 some amount of time and how he has been doing this. This
6 information has not been made available to me, although I've
7 asked for it.

8 I'm trying to say that I think it needs more
9 looking into, and I haven't had any input at all in the
10 decision-making part of this, although I spent all this time
11 on the permits and the leases. I've had no input at all to
12 the commission regarding the final outcome here.

13 CHAIRPERSON CORY: You are contending that Morris
14 Tug and Barge is extracting minerals from state lands with-
15 out licensing permit?

16 MR. BELL: I don't know what licensing permit they
17 have. To my knowledge, they have not applied for a mineral
18 extraction lease. I know for sure they don't have a lease
19 like this.

20 CHAIRPERSON CORY: Do you have knowledge that they
21 are in fact extracting minerals?

22 MR. BELL: Yes, I do.

23 CHAIRPERSON CORY: In what location?

24 MR. BELL: In a similar location as to this area
25 in my lease package.

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1 MR. TAYLOR: Mr. Chairman, I understand that this
2 company is a successor to Pioneer Shell Company. Pioneer
3 Shell has been harvesting shells from the --

4 MR. HORTIG: No. They are separate.

5 MR. TAYLOR: The only company I know of that is
6 taking shell at the present time is Pioneer Shell, which we
7 had an agreement with some time ago when we caught them
8 trespassing. Their operation went back to a time prior to
9 the time of the requirement of leases. They agreed to make
10 a settlement with us over the situation.

11 We entered into an interim agreement whereby we
12 were impounding the money derived from those operations. One,
13 we had a problem establishing a price for the shell.
14 Secondly, they had to go get their permits. Thirdly, that
15 lease will go out for public bid in the next few months, now
16 that the situation has been taken care of as far as
17 preliminary processing is concerned.

18 It was my understanding that there will be at
19 least one and perhaps two other bid offerings for shell in
20 the Bay, and that will take care of the situation. It was
21 because of the long-standing nature of the operation of
22 Pioneer Shell and the fact that when they originally started
23 the operation they weren't required to get any permits.

24 The other factor, which complicated the picture
25 for Pioneer, is the fact that they claimed that the only

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1 authority they did need for that operation was from Ideal
2 Cement Company or, as it was then called, Pacific Portland
3 Cement. They did do some shell-harvesting on a contract
4 with them. Ideal Cement claimed ownership to all the Bay,
5 which was the subject of our West Bay lawsuit.

6 So it was a combination of a long-standing
7 operation and the fact that they claimed they had permission
8 to be operating in those areas from the Ideal Cement Company,
9 which claimed ownership to the area by virtue of patents. It
10 was because of those two circumstances that they were
11 allowed to continue on an interim basis.

12 As I say, they will be coming before the commission
13 for approval. There will be a bid offering package coming
14 in, at which time they may continue to operate or they may
15 be put out of business, depending on how that bid offering
16 goes.

17 There was considerable dispute over title to the
18 bed of the Bay until we recently settled the West Bay case.
19 That is the background.

20 CHAIRPERSON CORY: Mr. Bell, is the extraction
21 you're talking about being done under the name Pioneer?

22 MR. BELL: Not that I know of. As far as I know,
23 Pioneer Shell Company is an inactive corporation. As far as
24 I know, Mr. Morris's vessel, the South Bay, has been the one
25 extracting the shells. If he is operating under the name of

1 Pioneer Shell -- he sure may be. Mr. Hortig mentioned to me
2 that he did not operate under the name of Pioneer Shell when
3 I asked him that down at the State Lands Commission meeting
4 when we submitted the bids. Pioneer Shell Company is out of
5 business as near as I know.

6 As I mentioned, the information to me is very
7 limited in this respect, and it has been made difficult for
8 me to obtain information from the State Lands Commission.

9 CHAIRPERSON CORY: In what way?

10 MR. BELL: I asked for this information --

11 CHAIRPERSON CORY: What information?

12 MR. BELL: -- when I was down there, as to who
13 Pioneer Shell was and what the arrangements were under which
14 minerals have been extracted in the last few years by Morris
15 and what arrangements other than through the regular lease
16 form were available for extraction of minerals in the area.
17 It was mentioned that this was private information and it
18 wasn't available to me.

19 CHAIRPERSON CORY: Whom did you make that request
20 of?

21 MR. BELL: His name slips me for a second.
22 Ken Willard?

23 CHAIRPERSON CORY: Al Willard?

24 MR. BELL: Al Willard. This was at this last
25 meeting.

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1 CHAIRPERSON CORY: Is there any reason why that
2 should be confidential information?

3 MR. BELL: I also asked at that time if I could
4 inspect the bid packages and stuff like that to see whether
5 Mr. Morris did have these Corps of Engineers permits. These
6 Army Corps permits, it takes a long time to get them. For
7 example, the Army Corps on May 23, 1977, withdrew Pioneer
8 Shell's permit application because they hadn't been actively
9 pursuing it.

10 CHAIRPERSON CORY: Our leases require they have the
11 Corps of Engineers permits before they can function; isn't
12 that correct?

13 MR. HIGHT: That could be a condition precedent.
14 They could obtain the lease, but it would be a condition
15 precedent to them actually dredging.

16 MR. BELL: Which would be moot if he's already
17 dredging anyway.

18 CHAIRPERSON CORY: The question I would like
19 answered here at this meeting is: If a member of the public
20 comes in and asks for information, they should be able to
21 get it.

22 MR. TAYLOR: Mr. Chairman, the only argument I'm
23 aware of with regard to this situation is whether the bid
24 packages of the individual bidders were available for public
25 inspection, and the answer to that question is: No, they are

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1 are no. They are working papers of the staff until such
2 time as a determination is made by the staff as to which bid
3 package they will recommend. At that time that package
4 which is recommended becomes a public document, which is
5 available for inspection. The gentleman here was informed
6 of that by a letter signed by Mr. Willard. When that
7 recommendation was made, those records should have been made
8 available to him.

9 As an unsuccessful bidder, his package in our
10 opinion, would still be staff working papers and would not
11 be available for anyone's inspection. It's only when the
12 recommendation is made that the one package selected becomes
13 public.

14 That was the only thing I was aware of with
15 regard to this situation. Now if Pioneer Shell has no
16 relationship with this company that was the successful
17 bidder, and if that company has been out in the Bay
18 dredging, then we may have a trespass or damage action
19 against them for an accounting of all past minerals. That's
20 something different. That's a different action.

21 Eight years or ten years ago, when we started the
22 West Bay lawsuit, we surveyed the Bay for any trespassers
23 out there. Pioneer Shell was the only one we found
24 operating, with the exception of one other company, Bay
25 Shell, down in Alviso, and they went bankrupt about the time

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1 we got to them and they shut down their operations.

2 It's very difficult to find those people out there.
3 They come out in the early morning or at various times of
4 the day. The only reason for the special circumstances
5 with regard to Pioneer is primarily because they asserted
6 they had a right from the Ideal Cement Company and also the
7 fact that they had been in prior to any leasing program
8 being authorized by the state.

9 CHAIRPERSON CORY: It is Mr. Bell's contention
10 that we should not proceed with this in case this Morris
11 Tug and Barge is trespassing and hasn't paid us in the past
12 and that they don't have a necessary permit. Is that right?

13 MR. BELL: That, and also the fact that our
14 dredging equipment is not similar. My equipment loads a
15 barge with a dry material and has a discharge system that --

16 CHAIRPERSON CORY: What does that mean?

17 MR. BELL: It means that there is far less water
18 involved in my operation per ton in moving material. There
19 is less overflow and less surface discharge of water. All
20 the discharge of water off my vessel is discharged through
21 an anti-turbidity overflow system, which runs in the center
22 of the vessel and which contains the water for long enough
23 time so that it goes down without reaching the surface again.
24 We've tested this, and it meets the California wastewater
25 discharge requirements for surface turbidity as we have them

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1 now.

2 To my knowledge, and from what I heard from the
3 regional water quality control board, with them calling me
4 and asking me if it were my vessel out creating surface
5 turbidity, Mr. Morris's vessel makes much more surface
6 turbidity than mine.

7 It's my opinion that the surface turbidity is only
8 an eyesore and it doesn't do any damage to the fish, but
9 this is a regulated function that did cost me a lot of
10 money to engineer around, and it does to some degree slow
11 down production in the operation. It was represented
12 partially in my bid factor.

13 CHAIRPERSON CORY: Do the lease requirements
14 provide that they must conform to all of the standards?

15 MR. TAYLOR: Yes.

16 CHAIRPERSON CORY: So that question is moot.

17 MR. BELL: Except that if you award a lease, you
18 have to award it to somebody that can comply with the
19 standards. Otherwise you don't have a valid lease. Other-
20 wise you have the situation that's going on right now.

21 CHAIRPERSON CORY: To put this in perspective,
22 the lease will require that they meet the standards. If
23 they don't meet the standards, they will not be able to
24 operate on the lease. If they can't do it, then we will be
25 back up for another bid and you can come in and bid on it

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1 and get it. I think that's really where we're at.

2 I miss the humour in this.

3 MR. BELL: I don't know. I guess I just don't
4 know how to deal with the government so well. I've done
5 this all myself and done my own EIR's and paid for them and
6 done this paperwork. I'm sure it would have been a lot
7 easier to hire an expert or something. I'm just laughing
8 at myself.

9 COMMISSIONER DYMALLY: You have the feeling it's
10 you against the system, right?

11 MR. BELL: Yes, that's how it feels. Right.

12 COMMISSIONER DYMALLY: You don't feel that the
13 whole process was fair.

14 MR. BELL: That's what I feel like, right.

15 COMMISSIONER DYMALLY: You believe that we ought
16 to take into consideration other factors than the price.

17 MR. BELL: Yes, I think that's so. Also, I think
18 the general lease form of someone setting out to do a
19 business that takes this much expense in capital investment
20 -- I think there's plenty of room for plenty of leases and
21 plenty of workers and people can extract things everywhere.
22 But there should be a more businesslike method where
23 someone can negotiate a certain extraction per the state
24 formula for a certain area where no one had applied for any
25 lease extractions.

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1 I'm not against Mr. Morris operating. There's
2 plenty of material for everybody and plenty of market.
3 There's no problem with that. But I can't see petty
4 arguments and competitive bidding over a lease with the
5 state on something that takes so much capital investment and
6 market-building and time.

7 I have requested and mentioned this from the very
8 inception. It was only told to me that there is going to
9 be competitive bidding on this this last year or so. That
10 was the first time. Before that it was mentioned to me that
11 we could negotiate a lease, because the precedent was being
12 set by Pioneer, who had talked about this before and in a
13 situation where the mineral quantities in exact spots
14 weren't well known -- which they aren't. They're different.
15 I find it different myself in just exploring.

16 COMMISSIONER DYMALLY: Staff, prior to this
17 bidding, we had a lease arrangement, another lease bidder?
18 Is that what Mr. Bell is saying?

19 MR. TAYLOR: Our office was consulted about
20 whether or not the competitive bidding procedures could be
21 avoided.

22 EXECUTIVE OFFICER NORTHROP: We tried to avoid it.

23 MR. TAYLOR: Our advice to them was that we
24 couldn't find any precedent for avoiding it. We worked
25 very hard on that. We have some hard circumstances

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1 presented here.

2 There might be some consideration to amending the
3 statutes, but those are the only statutes we have at the
4 present time. We are going to require Pioneer to also
5 submit itself to competitive bidding. That's the only way
6 we know to handle the situation, unless there can be some
7 liberalization or under situations enumerated by the
8 Legislature we be permitted to do it in some other way.
9 There is no other statutory authority.

10 EXECUTIVE OFFICER NORTHROP: The climate for
11 negotiated leases -- we're just unable to do it.

12 COMMISSIONER DYMALLY: Do you understand what the
13 lawyers are saying?

14 MR. BELL: Right. I'm not writing the laws. I'm
15 just saying a criticism I have. That's all. I'm not a
16 lawyer, and I don't want to be, and I don't want to write
17 the laws for you, because they may be wrong. I'm just
18 trying to say, "They don't fit my operation, and they don't
19 fit many people who are looking at doing some capital-
20 intensive efforts at developing some state lands."

21 COMMISSIONER DYMALLY: Who is your assemblyman?

22 CHAIRPERSON CORY: Where do you live?

23 MR. BELL: I live in Belmont.

24 COMMISSIONER DYMALLY: You have a new assemblyman
25 and a new senator, which is not to your advantage. This is

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1 a matter that could be corrected by the Legislature. It
2 seems to me that the issue you raise is quite legitimate and
3 could be corrected by the Legislature. It would be well to
4 talk with them about it.

5 MR. BELL: I'm trying to make a living. I can't
6 wait another ten years for them to correct it. I've waited
7 five years for State Lands to get around to my lease. I
8 think the only reason they got around to it now is prodding
9 from Mr. Hortig. Otherwise it might have been another year
10 or two. I don't know.

11 MR. TAYLOR: Mr. Everitts, isn't it true that
12 there are going to be two more bid offerings for shells in
13 San Francisco Bay? There will be at least one coming up
14 shortly, which he will be free to bid on.

15 COMMISSIONER DYMALLY: How short is "shortly"?

16 MR. EVERITTS: Shortly. Six months.

17 COMMISSIONER DYMALLY: Could we expedite that?
18 Could we do it in 90 days?

19 MR. EVERITTS: Possibly.

20 COMMISSIONER DYMALLY: To give him a chance to get
21 another crack at it.

22 MR. BELL: If this lease is awarded to Morris, I'm
23 going to go broke if I don't start operating. How would I
24 operate? On the same basis that Pioneer has operated on for
25 this number of years? Just go out and tell them how much I

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1 took?

2 I don't even know how that deal goes. There must
3 be some method for somebody to operate while his new lease
4 is being done or something.

5 CHAIRPERSON CORY: I would guess with the Pioneer
6 thing there is auditing being done of how many shells are
7 being moved. Is that what's happening?

8 MR. TAYLOR: They dropped significantly in the
9 quantity they are taking. I think at the present time they
10 are only taking one load a week to Petaluma for chicken
11 feed. At the time we started this operation, they were
12 taking a tremendous number of loads, because the Ideal
13 Cement plant was still operating in Redwood City, and they
14 were taking shells in there and selling them to the cement
15 plant. That operation closed down due to thermal pollution
16 probably six or eight years ago.

17 MR. BELL: Twelve or thirteen years ago.

18 MR. TAYLOR: Maybe it was that long. Time flies.
19 But whenever that closed down, we got into the tail end of
20 that, and then it immediately dropped off. There is not a
21 significant operation at the present time to my under-
22 standing.

23 CHAIRPERSON CORY: Where we are in this thing is
24 that we are about to put the shaft to Mr. Bell. The law
25 says the thing needs to go to competitive bid. We've gone

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1 to competitive bid, and somebody else was the successful
2 bidder. We don't really have the option of doing a
3 negotiated lease. That's where we are, right?

4 EXECUTIVE OFFICER NORTHROP: Generally stated,
5 Mr. Chairman, I think that's a fair statement of where it
6 is.

7 CHAIRPERSON CORY: Is somebody going to pursue
8 the allegation that Morris Tug and Barge is taking shells
9 without a lease and without a permit?

10 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, that
11 will be one of the first things Mr. Everitts will be
12 instructed to do when this meeting is over.

13 MR. EVERITTS: I understood I was already so
14 instructed.

15 EXECUTIVE OFFICER NORTHROP: He is.

16 CHAIRPERSON CORY: That's all we can do about
17 that part of it, Mr. Bell. I appreciate your concern. You
18 have some money coming back, which is probably not enough to
19 make you whole if you've already bought equipment.

20 MR. BELL: As I mentioned, I'm going to be forced
21 to operate somehow or other.

22 EXECUTIVE OFFICER NORTHROP: In that case, we will
23 be looking for Mr. Bell to trespass as well.

24 MR. BELL: Right. You can look for me to trespass
25 tomorrow. Come on down.

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1 Thank you for your time.

2 CHAIRPERSON CORY: I have been on that side of the
3 table with government myself, so I feel for you. That
4 doesn't help you any, though, does it?

5 Without objection, the proposed lease to Morris
6 Tug and Barge will be approved as presented.

7 Mr. Hortig, you might have you and your client
8 confer with the staff in the relatively near future as to
9 whether or not somebody is engaged in trespass.

10 MR. HORTIG: We will be very happy to cooperate
11 completely.

12 CHAIRPERSON CORY: Thank you, Frank.

13 Item 43.

14 EXECUTIVE OFFICER NORTHROP: Off calendar, and so
15 is Item 44, Mr. Chairman.

16 CHAIRPERSON CORY: Item 45: Proposed KGRA
17 classification and geothermal lease in Lake and Sonoma
18 Counties. Anybody in the audience on Item 45? Any questions
19 from commissioners?

20 Without objection, it will be approved as
21 presented.

22 Item 46: First modification of the plan of
23 development, Long Beach Unit.

24 COMMISSIONER DYMALLY: Mr. Chairman, I just have
25 to tell you a human interest story. I went to Lake County

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1 to campaign, and I was confronted with the question of
2 whether they owned the lake or we owned it. I said we owned
3 the lake, and needless to say, I lost in Lake County.

4 (Laughter.)

5 CHAIRPERSON CORY: The first modification.

6 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
7 basically covers the first increment of tax payments, county
8 tax payments, in the Long Beach Unit.

9 CHAIRPERSON CORY: Any questions from the
10 commissioners? Anybody in the audience?

11 Okay. Item 47.

12 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
13 a fiscal review of Parcel "A", Long Beach. The estimates are
14 in front of you for the fiscal year.

15 CHAIRPERSON CORY: Questions from the commissioners?
16 Thank you.

17 Item 48: Authorize the Attorney General to file
18 a disclaimer of interest in the lands to be condemned in
19 United States of America v. 43.2 Acres of Land, More or Less,
20 in the United States District Court. We don't have an
21 interest?

22 MR. HIGHT: No interest, Mr. Chairman.

23 CHAIRPERSON CORY: Without objection,
24 authorization is granted.

25 Item 49: Another one on 116.07 acres. Anybody in

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1 the audience on this item?

2 Without objection, Item 49 will be approved as
3 presented.

4 Item 50 is off calendar.

5 Item 51: Settlement of litigation and issuance of
6 a 25-year commercial lease on a 2.7-acre parcel in Yolo
7 County. This is a trespass item, I believe, that was
8 negotiated out?

9 MR. HIGHT: Yes, Mr. Chairman.

10 CHAIRPERSON CORY: Any questions from
11 commissioners? Anybody in the audience on this item ?

12 Without objection, Item 51 will be approved as
13 presented.

14 Item 52: Authorization for staff counsel and/or
15 the AG to take all steps necessary to stop trespass and
16 taking of state-owned minerals from the bed of the Smith
17 River in Del Norte County.

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
19 not unlike Item 42, where there is trespass of minerals
20 going on.

21 CHAIRPERSON CORY: Anybody in the audience on this
22 item?

23 Without objection, Item 52 will be approved as
24 presented. Authorization is granted.

25 Item 53: Boatworks Marina, Lake Tahoe.

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1 MR. HIGHT: Mr. Chairman, in addition, it has just
2 come to the staff's attention that Boatworks Marina may not
3 be under lease and is refusing to accept an assignment from
4 a prior tenant. So we would like to expand that
5 authorization to include the right, in addition, to sue him
6 to come under the lease.

7 CHAIRPERSON CORY: Without objection, Item 53 will
8 be approved as presented.

9 Item 54: Alamitos Bay; nonsubstantive technical
10 corrections and revisions.

11 EXECUTIVE OFFICER NORTHROP: Taylor has left the
12 room.

13 Mr. Chairman, Mr. Taylor indicates that this is a
14 nonsubstantive technical correction. What I think he really
15 means is he has covered his expenses for going down to
16 Long Beach.

17 (Laughter.)

18 MR. TAYLOR: The settlement agreement that was
19 approved by the commission a few months ago provided that it
20 had to become effective by December 31st. That has not
21 proven to be possible.

22 The county, due to reorganizations in the
23 engineer's office, for a number of reasons, haven't
24 completed their review. The county has not acted on the
25 agreement. A number of other parties haven't been able to

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1 sign it and are not anticipated to be able to sign it before
2 the end of the year.

3 In addition, there is going to have to be a
4 lawsuit to clear out one interest before one party will sign.

5 The primary purpose of this calendar item is to
6 amend the agreement or to revise the agreement to provide
7 that we have an additional year for it to become effective.

8 There are other changes in the agreement of a
9 nontechnical nature; grammatical or corrected references
10 to the public record.

11 CHAIRPERSON CORY: Nontechnical or nonsubstantive?

12 MR. TAYLOR: Nonsubstantive.

13 CHAIRPERSON CORY: I thought maybe you were
14 slipping one in there.

15 (Laughter.)

16 CHAIRPERSON CORY: The nontechnical ones are the
17 ones we've got to worry about, right?

18 MR. TAYLOR: It is needed before the end of the
19 year so we can save some of the signatures on the agreement.

20 CHAIRPERSON CORY: Anybody in the audience on this
21 item? Questions from commissioners?

22 Okay. We will let you win one.

23 (Laughter.)

24 CHAIRPERSON CORY: In Item 54, authorization is
25 granted as requested.

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1 Item 55.

2 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 55
3 should probably be handled in executive session, along
4 with --

5 CHAIRPERSON CORY: -- another item on litigation.

6 EXECUTIVE OFFICER NORTHROP: Correct.

7 CHAIRPERSON CORY: This will conclude our public
8 portion of the meeting. We would like our audience to
9 please, with some alacrity, absent themselves from the
10 meeting room.

11 (Thereupon the public portion of this
12 meeting of the State Lands Commission
13 was concluded, and the meeting room
14 was cleared for an executive session
15 of the commission. The time was
16 3:25 p.m.)

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